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Section 1.0 Purpose, Interpretation, Statutory Authority & Application

1.1 Purpose

The purpose of this ordinance shall be minimum requirements adopted to promote the health, safety, morals comfort, prosperity and general welfare of the Town of Lamartine through provisions designed to:

A. Encourage an appropriate use of the land.

B. Conserve the value of land and buildings.

C. Prevent the overcrowding of land and the congestion of streets by enforcing regulations that protect the traffic-carrying capacity, safety and efficiency of all existing and future town, county, and state roadways.

D. Provide for adequate light and air.

E. Secure safety from fire, flooding, pollution, contamination, panic, and other dangers.

F. Avoid undue concentration of population.

G. Stabilize and protect existing and potential property values.

H. Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible development.

I. Promote the goals and objectives, consistency of the Land Use Plan, and any other aspects of the Town of Lamartine's Comprehensive Plan, and all amendments thereto.

J. Further the wise use, conservation, protection, and proper development of the Town's natural resources.

K. Preserve and protect the beauty and open space of the Town of Lamartine.

L. Conserve and protect the agricultural lands in the Town.

M. Protect and maintain safe and ample supply of groundwater.

N. Provide for the timely consideration of development permit review applications.

O. State the method for appeal of land-use decisions.

1.2 Interpretation

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, or agreements between parties, or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this ordinance shall govern.

1.3 Statutory Authority

These regulations are adopted under the authority granted by 60.62, 61.35, 62.23, 66.0103, 91.10, 295.14 of the Wisconsin Statutes; ATCP 51 (Livestock Siting) of the Wisconsin Administrative Code; amendments thereto, and referred to, or cited as the ZONING ORDINANCE for the Town of Lamartine, Fond du Lac County, Wisconsin.

1.4 Compliance

The Town Board or other owner or owners of property within the town who are affected by a particular regulation, Variance or Conditional Use under this Ordinance may sue to enforce, by injunctional order, compliance with this Ordinance.

Section 2.0 Districts

2.1 Districts

For the purposes of this ordinance, the Town of Lamartine, Fond du Lac County, Wisconsin is hereby divided into the following nine (9) districts and their map designations:

A. Intensive Farmland Preservation District (FP-I)
B. Concentrated Farmland Preservation District (FP-C)
C. Moderate Farmland Preservation District (FP-M)
D. General Agriculture (AG)
E. Conservancy District (CON)
F. Residential District (R-1)
G. Rural Residential District (R-2)
H. Business District (BUS)
I. Industrial District (IND)

2.2 Establishment of Zoning Map

The location and boundaries of the districts established shall be as shown on the map entitled the Official Farmland Preservation Zoning Map of the Town of Lamartine, Fond du Lac County, Wisconsin, which map is made a part of this ordinance and is on file in the office of the Clerk of said township. The Official Zoning Map with all notations, dimensions, designations, references and other data shall accompany and is part of this ordinance, and upon adoption shall be signed by the Town Board Chairman and attested to by the Town Clerk. The amendment process for the Official Zoning Map is described in Section 22 of this ordinance.

2.3 Interpretation of District Boundaries

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

A. Boundaries as indicated as approximately following the center lines of streets, streams, and highways shall be construed to follow such center lines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Where boundaries do not follow property lines and distances are not specified on the Official Zoning Map, boundaries shall be determined by the use of an engineer's scale on the Official Zoning Map.

D. Legal descriptions of property, when available, shall be controlling as to the zoning of any property, or the property proposed to be rezoned in accordance with the terms of the ordinance.

Section 3.0 Glossary of Terms

3.1 General Terms

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

Words used in the present tense include the future; the singular number includes the plural number, and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory. Any words not herein defined shall be construed as defined in the state building code or State Administrative Code.

3.2 Definition of Terms

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

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

Adult-Oriented Establishment shall have the meaning given in the Town of Lamartine Adult Oriented Establishments Ordinance, and allowed only after applying for and being considered as a conditional use permit in this ordinance.

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

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

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

A. Crop or forage production.
B. Keeping livestock.
C. Beekeeping.
D. Nursery, sod, or Christmas tree production.
E. Floriculture.
F. Aquaculture.
G. Fur farming.
H. Forest management.
I. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
J. Any other use that DATCP, by rule, identifies as an agricultural use.

Agriculturally Related Residence means a residence which are occupied by (1) 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 land, or (2) a parent or child of the owner of the farm.

Agricultural Processing and Packaging means an establishment primarily engaged in refining, processing or otherwise adding value to raw agricultural goods, including but not limited to washing, sorting, cutting, bagging, freezing, canning, packing, bottling or butchering.

Agricultural Research and Development means the use of land or buildings for agriculture research and the cultivation of new agricultural products.

Agricultural Sales and Service means an establishment primarily engaged in (1) the sale or rental of farm tools and implements, feed and grain, tack, animal care products, farm supplies and the like, or (2) performing agricultural or horticultural services on a fee or contract basis, including but not limited to crop dusting and spraying services, harvesting and plowing services, agricultural land grading services, farm equipment service and repair, and large animal veterinary services.

Agricultural Storage means grain elevators and other facilities for the warehousing and storage of agricultural products.

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

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

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

Source: DATCP 2006

Automobile Wrecking Yard - Any premises on which two or more automotive vehicles, not in operating condition, are stored in the open.

Base Farm Tract:

A. All land, whether one parcel or 2 or more contiguous parcels, that is in a farmland preservation zoning district and that is part of a single farm on the date that DATCP under Wis.Stat. 91.36(1) first certifies the farmland preservation zoning ordinance covering the land, regardless of any subsequent changes in the size of the farm.
B. Any other tract that DATCP by rule defines as a base farm tract.

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

Board of Appeals means a body designated by the legislative body to hear appeals from land-use decisions (see section 19.0 of this ordinance).

Building - Any structure used, designed or intended for the protection, shelter, enclosure, or support of persons, animals or property. When a building is divided into separate parts by solid walls extending from the ground up, each part shall be deemed a separate building.

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

Building, Height - The vertical distance from the average ground level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gable, hip or pitch roof.

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

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

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

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

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

[NOTE: Land is deemed to be under "common ownership," for purposes of this ordinance, if it is all owned by the same individual, married couple, joint tenants, tenants in common, corporation, LLC, partnership, estate or trust If land parcels are owned by separate legal entities, but those legal entities are all wholly owned by exactly the same person or persons, those land parcels are deemed to be under "common ownership" for purposes of this ordinance (but not necessarily for other purposes.)]

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

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

Conditional Use means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by the Town of Lamartine.

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

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

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

Department means the Department of Agriculture, Trade, and Consumer Protection

Dog Kennel - A place where more than two adult dogs are boarded for a fee on a recurrent basis, or a place where more than five dogs are kept for any purpose and meets the requirements of an accessory use as defined in the accessory use definition.

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

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

Dwelling Unit - A building or portion thereof which provides or is intended to provide living quarters exclusive for one family.

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

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

Family means one or more individuals, related or unrelated by blood, marriage, adoption, or guardianship (but not exceeding 4 unrelated persons), living together under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

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

A. All of the land is under common ownership.
B. More than half of the entire land area is assigned for property tax purposes to one or more of the following use classifications as defined by the Wisconsin department of revenue pursuant to s. 70.32(2), Wis. Stats.:
    1. Agricultural land (class 4).
    2. Agricultural forest (class 5m).
    3. Productive forest (class 6).

Farm Acreage means the combined total acreage of all farm and open space parcels in the base farm tract.

Farmland Preservation Plan means a plan for the preservation of farmland in a county. Fond du Lac County has an adopted Farmland Preservation Plan that is certified through 2022.

Farmland Preservation Zoning District means a farmland preservation zoning district designated under s.91.38 (1) (c) in an ordinance described in s.91.32 (2).

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

A. A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:

   1. An owner or operator of the farm.

   2. A parent or child of an owner or operator of the farm.

   3. An individual who earns more than 50 percent of his or her gross income from the farm.

B. A migrant labor camp that is certified under s. 103.92.

Frontage - All the property abutting on one side of a road or street between two intersecting roads or streets or all of the property abutting on one side of a road or street between an intersecting road or street and the dead end of a road or street.

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

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

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

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

Home Occupation - A gainful occupation conducted by members of the family only within their place of residence; provided that such occupation is accessory to and clearly incidental and subordinate to the principal use as a residence, that no article is sold or offered for sale on the premises except such as is produced by such occupation, that no stock in trade is kept or sold, or displayed on the premises, that no mechanical equipment is used other than such as is permissible for purely domestic purposes, and that signage be limited based on restrictions in Section 14 of this ordinance.

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

***Livestock:**

A. For use in determining compliance with Wis. Stat. Chapter 91.01 Farmland Preservation, livestock means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.

B. For use in determining compliance with Wis. Stat. 51.01 Ag Siting Regulations, livestock means domestic animals traditionally used in Wisconsin in the production of food, fiber or other animal products. “Livestock” includes cattle, swine poultry, sheep and goats. “Livestock” does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.

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

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

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

Lot, Corner A lot located:

A. At the junction of and abutting 2 or more intersecting streets; or

B. At the junction of and abutting a street and the nearest shoreline of high-water line of a storm or floodwater runoff channel or basin; or

C. At the junction of and abutting 2 or more storm or flood water runoff channels or basin or

D. At and abutting the point of abrupt change of a single street where the interior angle is less than 135 degrees and the radius of the street is less than 100 feet.

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

Lot, Interior - A lot other than a corner lot.

Lot Width - The width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street right-of-way) and the rear most points of the side lot lines in the rear, provided however that the width between the side lot lines at their foremost points in the front shall not be less than eighty (80%) percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the width shall not be less than sixty (60%) percent of the required lot width.

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

Manufactured Home means a structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the Federal Department of Housing and

Urban Development (HUD) as complying with the standards established under 42 USC 5401 to 5425, or a mobile home, unless a mobile home is specifically excluded under the applicable statute, and:

A. Is set on an enclosed continuous foundation in accordance with Sec. 70.043(1), Wis. Stats., and COMM 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure

B. Is installed in accordance with the manufacturer's instructions

C. Is properly connected to utilities

D. Meets other applicable standards of this Chapter

In the purpose of this ordinance, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, and even though assessable value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed 50% of the assessable value of the mobile home.

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

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

Nonfarm Residence means a single-family or two-family residence other than a farm residence.

Nonfarm Residential Acreage. means, for purposes of section 16.10 B 1.a. the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which the Town of Lamartine has approved nonfarm residences, all parcels that do not qualify as farms, and the parcel to which the conditional use permit application pertains.

Nonfarm Residential Cluster - The Town of Lamartine Zoning Ordinance contains a provision that a conditional use permit can be applied for to allow more than one nonfarm residence in a qualifying nonfarm residential cluster.

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

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

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

Livestock Facility Operator means a person who applies for or holds a local approval for a livestock facility.

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

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

Permit Officer – A government official or designated agent which administers and enforces the Lamartine Farmland Preservation Zoning Ordinance and land development regulations, including the issuance of building permits.

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

***Person** means an individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

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

Prime Farmland means any of the following:

A. An area with a class I or class II land capability classification as identified by the natural Resources Conservation Service of the Federal Department of Agriculture.

B. Land, other than land described in par. (A), that is identified as prime farmland in the Fond du Lac County Farmland Preservation Plan.

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

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

Protected Farmland means land that is located in the farmland preservation zoning district, is covered by a farmland preservation agreement, or is otherwise legally protected from nonagricultural development.

Qualified Nutrient Management Planner means a person qualified under s. ATCP 50.48.

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

A. They are located on the same tax parcel or adjacent tax parcels of land.

NOTE: The mere acquisition of a neighboring livestock facility does not constitute an "expansion" unless more animal units are added to the combined facilities.

B. They use one or more of the same livestock structures to collect or store manure.
C. At least a portion of their manure is applied to the same land spreading acreage.

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

Roadside Stand - A structure not permanently fixed to the ground that is readily removable in its entirety covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than 50 square feet in ground area and there shall not be more than one roadside stand on any one premises.

***Separate Species Facility** means a livestock facility that meets all of the following criteria:

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

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

Sign - Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, fraternal or similar organization, or any sign indicating address. Each display surface of a sign shall be considered a sign. A sign also includes outdoor advertising attached to, made a part of, or placed in front, rear, sides, or top of any structure or on any land to announce the name or nature of a farm business including a roadside stand. Refer to Section 14 of the Town of Lamartine Zoning Ordinance for provisions regarding the regulation of such signage. Each display surface of a sign shall be considered a sign:

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

Stable - "Stable" shall have the same meaning as "garage", one draft animal being considered the equivalent of one self-propelled vehicle.

Stable, Commercial means a building or land where horses are kept for remuneration, hire, sale, boarding, riding, or show.

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

Street Line - A dividing line between a lot, tract or parcel of land and a contiguous public right-of-way.

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

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

Temporary Structure - A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term and not to be habitable.

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

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

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

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

A structure used to collect and store waste under a livestock housing facility.

A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

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

A. An area, other than a pasture, where livestock are kept during the period from May 1 to September 30.

B. An area which at any time has an average of more than 4 livestock animal units per acre.

C. An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water.

D. An area in which manure deposited by livestock causes nutrient levels to exceed standards in ATCP 51.16.

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

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

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

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

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

Section 4.0 General Provisions (Except as otherwise provided)

4.1 Application of Regulations

After the effective date of this Ordinance, the following regulations shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

A. No structure, land or water shall be developed, and no structure or part thereof shall be relocated, erected, moved, reconstructed, enlarged, extended, converted or structurally altered without a building permit and without full compliance with this Ordinance and all other applicable Town, County and State regulations.

B. The regulation and restriction of lot coverage, size and location of all structures, so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and storm drainage.

C. No alterations to any building, except uncovered steps, shall project into the front yard established at the time of the original construction of such building beyond a line connecting the nearest points on the setback lines of the next existing buildings on each side of such building.

D. Every part of a required yard shall be open to the sky unobstructed, except the accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 24 inches, and/or up to 48 inches for solar heating systems.

E. All dwellings shall conform to minimum floor size and be securely anchored to a permanent footed foundation or slip, as required by the state uniform dwelling code.

F. Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof the construction of which shall have been started prior to the effective date of this ordinance.

G. Any damage to Town roads that is incurred during building construction or due to heavy equipment such as, but not limited to, manure hauling equipment, sludge tankers, etc., the person or persons responsible shall be held liable for the road repair.

H. Any new residence located a distance greater than 500 feet from the center of the public roadway must have a 16 feet wide driveway and a turn-around reviewed by the Lamartine Fire Department before a building permit is issued. Any driveway greater than 800 feet from the center of a public road will need to have a passing lane, also reviewed by the Lamartine Fire Department.

4.2 Exceptions

The regulations contained herein relating to the heights of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

A. Churches and other public and quasi-public buildings may be erected to a height not exceeding 65 feet nor 5 stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least 1 foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

B. Chimneys, cooling towers, elevator bulkheads, fire towers, silos, monuments, penthouses, setbacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, micro-wave radio relay structures, and necessary mechanical appurtenances are hereby excepted from the height regulations of this ordinance and may be erected in accordance with the state uniform dwelling code.

C. Residences in the Residential and Farmland Preservation Districts may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by 1 foot for each foot by which such building exceeds the height limit of the district in which it is located.

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

E. Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets are complied with.

F. Accessory structures which are not a part of the primary structure shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 10 feet to any lot line. Where an accessory structure is a part of the primary structure or is substantially attached thereto, the side yard and the rear yard regulations applicable to the main building shall be applied to the accessory structure.

G. Open or enclosed fire escapes and fire towers may project into a required yard not more than 5 feet provided they are so located as not to obstruct light and ventilation.

4.3 Lot Area

A. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.

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

C. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one main building on one lot.

D. Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.

4.4 Vision Corners

A. Vision corners for driveways must be free of all obstructions at each access point in accordance with the vision corner diagram shown at the end of this ordinance. Vision corners must be measured from a point 3.5 feet above the centerline of the proposed access, 15 feet back from the edge of pavement of the public road, to two points 4.5 feet above the centerline of the nearest oncoming lane of the public road in each direction, at a

distance of "D" (as shown in Appendix A) from the point where the public road meets the centerline of the proposed access. Distance shall correspond to the speed limit of the road.

B. Vision corners for public road intersections must be free of all obstructions in accordance with the vision corner diagram shown at the end of this ordinance. Vision corners must be measured from a point at distance "B" back from the edge of pavement of the major public road. The second measuring point must be from a point at distance "A" back from the edge of pavement of the minor public road. The area toward the road from a line drawn between the points above is the vision triangle that must be kept free of obstructions. In the case of two minor roads, the one with the higher traffic count shall be considered the major road. Distance shall correspond to the speed limit of the road. See diagram at end of document.

4.5 Manufactured Home Requirements

(Applicable in all farmland preservation, agricultural transition, and residential zoning districts). A manufactured home moved into the Town of Lamartine following the adoption date of this ordinance must meet the following requirements:

A. That the manufactured home is secured to a full basement or other permanent enclosed foundation that meets all applicable state building codes, having not more than 12 inches of exposed concrete foundation above the exterior finished grade of the lot. An exception is when the grade of the lot slopes, in which case only that portion of the foundation which is on the highest point of the lot must meet the requirements of this paragraph.

B. Ground floor area. Minimum ground floor area shall be 960 square feet.

C. Minimum structure width (i.e. short side) shall be at least twenty-five (25) feet. Attached garages, carports and open decks shall not be included in the measurement of the width of the dwelling.

D. The structure shall have a minimum of a 4/12 pitched roof on a minimum of seventy-five (75) percent of the structure.

E. Manufactured home must be built on or after January 1, 1985, in compliance with either American National Standards Institute of Housing and Urban Development Coded as enforced by the Wisconsin Department of Industry, Labor and Human Relations.

F. Any manufactured home, which has been previously occupied as a dwelling, must have a current fair market value of not less than 60 per cent of its original list price.

4.6 Fences and Walls

In residential districts, the following fence and wall regulations apply:

A. No boundary fence or wall, including a hedge or row of planting, shall be permitted in excess of two and a half feet within the vision-corner clearance triangle or within 20 feet from the right-of-way line.

B. A boundary fence or wall shall not be more than six feet in height.

C. Barbed wire fencing are prohibited in residential districts, except between residential and agricultural properties.

D. Electric fences may only be used between agricultural and residential properties when agreeable to both parties.

E. Fence material must be either naturally resistant or treated wood board, vinyl, galvanized and/or vinyl coated chain link material, wrought iron, brick, natural stone, or masonry.

Fences shall be maintained in good repair as to structure and appearance. Fences shall be set back two feet from the property line. Building permits must be obtained from the town permit issuer for all fences in residential districts except for temporary seasonal fences (e.g. snow fences).

4.7 Nonconforming Uses

A. Nonconforming Uses of Land (or Land with Minor structures Only)

Where, at the effective date of the originally adopted Zoning Ordinance, or on the effective date of an amendment to this Zoning Ordinance, a use of land exists which would not be permitted or permissible in the district as adopted or amended , such use may be continued subject to the following restrictions:

1. Such use shall not be enlarged, increased, nor extended to occupy a greater area of the lot than was occupied at the effective date of adoption or amendment of this ordinance.

2. Such use shall not be moved in whole or in part to any other portion of the lot other than that portion occupied by such use at the effective date of adoption of this ordinance.

3. When such use of land is discontinued or abandoned for a period of more than 180 consecutive days for any reason whatever or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.

4. No additional structure in connection with such use shall be erected.

B. Nonconforming Use of Structures

Where, at the effective date of the originally adopted Zoning Ordinance or on the effective date of an amendment to this Zoning Ordinance, the use of a structure exists which would not be permitted or permissible in the district as adopted or amended, such use may be continued subject to the following restrictions:

1. Such use shall not be enlarged or extended to more than 50 percent of the floor area devoted to such use at the effective date of adoption or amendment of this ordinance.

2. When such use of a structure is discontinued or abandoned for a period of 12 consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, the nonconforming use shall thereafter not be resumed and shall conform to this ordinance.

C. Nonconforming Structures

Where at the effective date of the originally adopted Zoning Ordinance or on the effective date of an amendment to this Zoning Ordinance, a structure exists which could not be erected in the district as adopted or amended by reason of restriction on height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence subject to the following restrictions:

1. Such structure shall not be altered in any manner which would increase the degree of nonconformity of structural conditions, height, or yard setback.

2. If such structure is destroyed due to violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, the structure may be restored to the size and use that it had immediately

before the damage or destruction occurred or to a larger size if necessary for the structure to comply with applicable state or federal requirements.

D. Nonconforming Characteristics of Use

If characteristics of use such as lighting, parking or other matters pertaining to the use of land, structures and premises are made nonconforming by the provisions of this ordinance as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.

E. Nonconforming Lots of Record

If a single lot or two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are of record on the effective date of the originally adopted Zoning Ordinance being June 8, 1998, the lands involved shall be considered to be an individual parcel for the purpose of this ordinance, and such parcel shall be allowed for developmental use even though it does not meet the lot area and lot width requirements for the district in which it is located.

F. Repairs and Maintenance

Nothing in this ordinance shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.

G. Changes to a Nonconforming Use or Structure

Anyone wishing to change or enlarge a nonconforming use or structure shall apply for a variance from the Board of Appeals, as provided in Section 19 of this ordinance.

4.8 Farmland Preservation Program

When a certified ordinance is repealed and replaced by a new ordinance, the State of Wisconsin Department of Agriculture, Trade and Consumer Protection will consider the new ordinance as a “comprehensive revision” and will need to certify the new ordinance. The provisions of this Zoning Ordinance amendment have been filed with the State of Wisconsin Department of Agriculture, Trade and Consumer Protection. Once certified, owners of farms in Lamartine (in any of the three Farmland Preservation Districts) may claim tax credits under the Farmland Preservation Program.

4.9 Summary of Agricultural Regulations and Livestock Siting Requirements

A. Four distinct agricultural zoning districts exist which share a variety of common regulations with respect to livestock operations based on the passage of ATCP 51. For the reader’s information, these components have:
   1. been summarized in the following table
   2. been placed in the definitions section (Section 3.2) of the ordinance, and;
   3. have been placed in 4.10 of this zoning ordinance.

B. In addition to provisions described within each district, these Appendices should be referred to for any livestock siting proposals that fall under the Town’s jurisdiction.

Table 2
Summary of Zoning District Requirements for Livestock Operations

District Name	Allowed Use	Conditional Use	Road Setback	Property Setback
Intensive Farmland Preservation District (FP-I)	Livestock Operations LESS THAN 500 A.U. (new or expanded.) Property Dev. Standards do not apply. Livestock Operations BETWEEN 500 and 1,000 A.U. (new or expanded) Property Dev. Stds. do not apply.	Livestock Operations EQUAL TO OR MORE THAN 1,000 A.U. (new or expansion) Property Dev. Standards apply. Application Process to be followed.	100' if < 1,000 A.U. 150' if >= 1,000 A.U.	100' if < 1,000 A.U. 200' if >= 1,000 A.U.
Concentrated Farmland Preservation District (FP-C)	Livestock Operations LESS THAN 500 A.U. (new or expansion) Property Dev. Stds. do not apply	Livestock Operations BETWEEN 500-1,000 A.U. (new or expansion) Property Dev. Standards apply. Application Process to be followed.	100' if < 1,000 A.U.	100' if < 1,000 A.U.
Moderate Farmland Preservation District (FP-M)	Livestock Operations LESS THAN 500 A.U. (new or expansion) Property Dev. Stds. do not apply		n/a	n/a
General Agriculture (AG)	Livestock Operations LESS THAN 250 A.U.			

Note: Other uses are also permitted, or allowed by Conditional Use within each of these districts. This table only summarizes aspects of the Districts related to livestock facilities and residential uses.

4.10 Ordinance Incorporating State Livestock Facility Siting Regulations

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

Article 1 Purpose, Authority, and Abrogation

A. Purpose. The purpose of this Ordinance is to incorporate and apply the livestock facility siting law requirements found in Wis. Stats.93.90 and ATCP 51 of the Wisconsin Administrative Code and to prohibit the siting of new livestock facilities (with an excess of 500 animal units) and the expansion of existing livestock facilities by more than 20% (and over 500 animal units) in any other zoning district other than the Farmland Preservation Zoning Districts within the Town of Lamartine.

B. Authority. This Ordinance is adopted pursuant to the Town's zoning powers found in Wis. Stats. 60.62, 62.23(7) and 93.90, together with the administrative provisions set forth in ATCP 51 of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of these statutes and administrative rules.

C. Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

Article 2 Local Livestock Regulation

A. Incorporation of State Law. Pursuant to the provisions of Wis. Stats. 93.90, the Town of Lamartine does hereby adopt and incorporate into its existing Zoning Ordinance the provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code. The Town of Lamartine's Zoning Ordinance hereby reflects the provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative code as if said statutory and administrative provisions were set forth in their entirety within the text of the Town's Zoning Ordinance.

B. Additional Town Requirements. The Town Board hereby declares the following more stringent local standards are deemed necessary to protect the public health, safety, welfare or convenience and, to that end, adopts the following legislative findings of fact:

1. In large portions of the Town of Lamartine, the water table can be at a depth of 0 to 30 inches when adjacent to wetlands, streams, and ponds. Pollutants that reach these waters may contaminate the groundwater that is consumed by local residents that may have shallow wells (public health).

2. Concentrated farm operations of greater than 500 animal units will result in a higher level of traffic moving raw materials into and finished products out of such large farm operations. More traffic generated by a large farm operation increases the likelihood of accidents and the endangerment of local residents and operators of trucks or farm equipment traveling on the same roadways within the Town of Lamartine (public safety).

Article 3 Definitions

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

Article 4 Conditional Use Permit Required

A. General. A conditional use permit issued by the Town of Lamartine is required for new or expanded livestock facilities based on Table 2 and identified in the three Farmland Preservation Zoning categories.

B. Conditional Use Permit for Existing Livestock Facilities.

1. A conditional use permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
   a. The applicable size threshold for a conditional use permit established in the zoning district where the facility is located.
   b. The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number that existed on May 1, 2006 or on the effective date of the conditional use permit requirement, whichever date is later.
2. A conditional use permit is not required for livestock facility that existed before May 1, 2006 or before the effective date of the conditional use permit requirement in this ordinance, except as provided in paragraph b.
3. A conditional use permit is not required for livestock facility that was previously issued a conditional use permit, or other local approval, except as provided in paragraph b. A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.

Article 5: Setbacks and Separations

A. Public Road Right-of-Way.

1. Except as provided for waste storage structures, livestock structures must be located at least 100 feet from public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and at least 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units.

2. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the public road right-of-way

B. Waste Storage Structure.

A new waste storage structure may not be located any closer than 350 feet from a property line, or any closer than 350 feet of the nearest point of any public road right-of-way. A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

1. Located on the same tax parcel as a waste storage structure in existence before May 1, 2006.
2. No larger than the existing structure.
3. No further than 50 ft. from the existing structure.

4. No closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line or road may not expand toward that property line or road.

C. Well Separation Distances.

1. **Based on NR 811.16.** Wells (4) Well sites (d), (d) a well shall be one-thousand (1,000) feet, from a manure stack, livestock structure, or storage structures, regardless of whether the livestock facility operator owns the land on which the well or wells are located. The only exception is if a hydrogeologic investigation indicates lesser separation distances would provide adequate protection of a well from contamination.

2. **Based on NR 812.08.** Well, reservoir and spring location, paragraph 4, states **"**relation to contamination sources". Minimum separating distances between any new potable or nonpotable well, reservoir or spring and existing sources of contamination; or between new sources of contamination and existing potable or nonpotable wells, reservoirs or springs shall be maintained as described in this subsection. The minimum separating distances of this subsection do not apply to dewatering wells approved under s. NR 812.09 (4) are as follows:
   a. Greater separation distances may be required for wells requiring plan approval under s. NR 812.09. Separation distance requirements to possible sources of contamination will not be waived because of property lines. The following setbacks apply to livestock siting applications:
      i. Twenty−five feet between a well or reservoir and a:
      ii. Buried gravity manure sewer;
      iii. Liquid−tight barn gutter;
      iv. Animal barn pen with concrete floor;
      v. Buried pressurized sewer pipe conveying manure provided that the pipe meets ASTM specification D−2241, with standard dimension ratio of 21 or less or pressure pipe meeting the requirements of s. NR 110.13 (6) (f) or 811.62
   b. Fifty-feet between a well or reservoir and a Manure loading area.
   c. One hundred feet between a well or reservoir and a:
      i. Liquid−tight, fabricated manure or silage storage structure, in ground or at ground surface;
      ii. Dry fertilizer or pesticide storage building or area when
      iii. more than 100 pounds of either or both materials are stored;
      iv. Stormwater infiltration basin;
      v. Uncovered storage of silage on the ground surface;
      vi. Water−tight silage storage trench or pit; or
      vii. Lift station.

   d. One hundred fifty feet between a well or reservoir and a temporary manure stack.

   e. Two hundred fifty feet between a well or reservoir and a:
      i. Manure stack.
      ii. Earthen or excavated manure storage structure.

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

Article 7. Conditional Use Permit Application

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

Article 8. Conditional Use Permit Application Fee

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

Article 9. Application Procedure

A. Pursuant to ATCP 51.30 (5), within 45 days after the Town of Lamartine receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the Town of Lamartine shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.

B. Pursuant to ATCP 51.30 (6), within 14 days after the Town of Lamartine notifies an applicant that the application is complete, the Town of Lamartine shall notify adjacent landowners of the application. The Town of Lamartine shall use the approved notice form in ATCP 51, and mail by first class mail a written notice to each adjacent landowner.

C. Upon determination of completeness the Town of Lamartine clerk shall give notice of a public hearing to receive information from the applicant and receive public input on the application. Public notice shall be a class 2 notice the last of which is at least a week before the date of the public hearing. The public hearing may be continued, but final decision shall be made within the time limits described in the next paragraph.

D. Pursuant to ATCP 51.32, a Town of Lamartine shall grant or deny an application within 90 days after the Town of Lamartine gives notice that the application is complete under paragraph 2 above. The Town of Lamartine may extend this time limit for good cause, including any of the following:
   a. The Town of Lamartine needs additional information to act on the application.
   b. The applicant materially modifies the application or agrees to an extension.

E. The Town of Lamartine shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Town of Lamartine will act on the application.

Article 10. Criteria for Issuance of a Conditional Use Permit

A. A conditional use permit shall be issued if the application for the proposed livestock facility:
   1. Complies with this ordinance, and
   2. Is complete, and
   3. Contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this ordinance, specifically Article 6 above.

B. A conditional use permit shall be denied if any of the following apply:
   1. The application, on its face, fails to meet the standard for approval in the previous paragraph,
   2. The Town of Lamartine finds, based on other clear and convincing information in the record that the proposed livestock facility does not comply with applicable standards in this ordinance.
   3. Other grounds authorized by s. 93.90, Stats., that warrant disapproving the proposed livestock facility.

Article 11. Record of Decision

A. The Town of Lamartine must issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record. Findings may be based in part on the presumptions created by ATCP 51.

B. If the Town of Lamartine approves the application, it must give the applicant a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.

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

Article 12. Transferability of Conditional Use Permit

A. A conditional use permit and the privileges granted by a conditional use permit would run with the land approved under the Conditional use permit and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.

B. The Town of Lamartine requests that upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town of Lamartine clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

Article 13. Expiration of Conditional Use Permit

A. A conditional use permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under conditional use permit, and regardless of whether the livestock operator exercises the full authority granted by the approval.

B. However, the Town of Lamartine may treat a conditional use permit as lapsed and withdraw the conditional use permit if the permit holder fails to do all of the following within 2 years after issuance of conditional use permit:
   1. Begin populating the new or expanded livestock facility.
   2. Begin constructing all of the new or expanded livestock housing or waste storage

structures proposed in the application for local approval.

Article 14. Conditional Use Permit Terms and Modifications

A conditional use permit and the privileges granted by a conditional use permit issued under this ordinance is conditioned on the livestock operator's compliance with the standards in this ordinance, and with commitments made in the application for a conditional use permit. The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the Town of Lamartine shall not withhold authorization for those changes. A violation of the conditional use permit or a failure to comply with the commitments made in the application may result in suspension and/or termination of the conditional use permit as provided in Article 13 of this ordinance

Article 15. Compliance Monitoring

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

A. Upon notice to the livestock facility owner request the right of the Town of Lamartine Livestock Facility Siting Administrator, under Article 5 of this ordinance, to personally view the permitted premises at a reasonable time and date to insure that all commitments of the application as approved are being complied with.

B. If the livestock facility owner refuses the Town of Lamartine Zoning Administrator the right to view the permitted premises, the Administrator may request the assistance of the Sheriff or a deputy Sheriff to obtain an inspection warrant from the circuit court to inspect the permitted premises for the purpose of protection of the public health and safety under Sec. 66.0119 of Wis. Statutes.

C. If a permitted premises is found not to be in compliance with the commitments made in the approved application, the Zoning Administrator shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application and conditional use permit be complied with in a reasonable amount of time stated in this written notice.

D. If non-compliance of the conditional use permit conditions as described in the written notice given by the Administrator continue past the stated reasonable time to comply, the Administrator may take further action as provided in this ordinance, including but not limited to issuance of a citation or seeking of injunctive relief.

E. If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five days of receipt of the notice of non-compliance. The Town of Lamartine shall schedule a hearing within five days to determine if the conditions of the conditional use permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists.

Article 16. Penalties

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

B. Upon conviction by a court of law, pay a forfeiture of not less than $500 nor more than $1,000

plus the applicable surcharges assessments and costs for each violation.

C. Each day a violation exists or continues shall be considered a separate offense under this ordinance.

D. The Town of Lamartine may also seek injunctive relief from a court of record to enjoin further violations.

E. The Town of Lamartine may suspend or revoke the local approval of a conditional use permit under this ordinance after due notice to the livestock facility owner and a public hearing to determine whether the conditional use permit should be suspended or revoked.

F. The Town of Lamartine shall exercise sound judgment in deciding whether to suspend or revoke a conditional use permit. The Town of Lamartine shall consider extenuating circumstances, such as adverse weather conditions, that may affect an operator's ability to comply.

G. In addition to any other penalty imposed by this ordinance, the cost of abatement of any public nuisance on the permitted premises by the Town of Lamartine may be collected under this ordinance or Sec. 823.06 of Wis. Statutes against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Sec. 66.0627 of Wis. Statutes unless paid earlier.

Article 17. Appeals

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

B. Any appeal to the State Livestock Facility Siting Review Board shall comply with Sec. 93.90 of Wis. Statutes and administrative rules of said board.

Article 18. Severability

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

Section 5.0 Intensive Farmland Preservation District (FP-I)

5.1 District Purpose and Finding of Fact

A. The FP-I Intensive Farmland Preservation District is intended to preserve and promote a full range of agricultural uses, secure land for livestock production and other agricultural uses that may be more intensive than crop production, strengthen agriculture's contribution to an area's economic base (including new employment opportunities), support processing, value added, and other activities closely allied to the agricultural industry, and prevent conversion of land identified as a valuable agricultural resource to uses that are not consistent with agriculture.

B. The district's uses and regulations are designed to implement the Town of Lamartine Comprehensive Plan goals by encouraging larger livestock and other more intense agricultural uses in areas where conditions are best suited to these agricultural pursuits, and discouraging non-agricultural residential development to avoid potential land use conflict.

C. Minimal residential development will be allowed, based on the density standards (Chapter 16) and the definition of non-farm residences/non-farm residential cluster (as defined in Section 3.2).

D. The guiding principles of land in the FP-I Intensive Farmland Preservation District are as follows:
   1. Consistency with the Town of Lamartine Comprehensive Plan, Fond du Lac County Comprehensive Plan and the Fond du Lac County Farmland Preservation Plan.
   2. If applicable, a permit for any new Livestock Facility as required as part of this ordinance.
   3. Meeting the requirements of the state runoff law for farms (NR 151, Wis. Adm. Code, ATCP 50).
   4. Compliance with standards contained in Chapter 91, Wisconsin Statutes to permit eligible landowners to receive tax credits for farming and includes lands currently cropped or pastured on NRCS soil capability classes 1, 2 and 3 that generally correspond with the current Fond du Lac County Farmland Preservation Plan.
   5. In the interest of public health and safety, the Town of Lamartine has chosen to restrict the location of large-scale livestock operations (1,000+ animal units) to areas of lesser existing or planned population and residential growth as they may impose negative impacts on the safety of local roads. Whereas the Town desires to reduce the potential for negative impacts, while still allowing for economic opportunities associated with such uses, it has, for the purposes of this district, excluded large livestock operations (1000+ animal units) unless sought through a Conditional Use process.

5.2 Lands Included Within This District

Lands within the FP-I District are identified on the official Town of Lamartine Farmland Preservation Zoning Map and are generally located in the western and southeastern areas of the Town.

5.3 Permitted Uses

A. The following uses are permitted by right in the FP-I district without any further notice to, or approval from the local unit of government:
   1. Agricultural Uses, as defined in 3.2 of this ordinance, including livestock facilities under 1,000 animal units
   2. Accessory uses means any of the following.
      a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This includes:

i. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
ii. A facility used to keep livestock on the farm.
iii. A facility used to store or process inputs primarily for agricultural uses on the farm.
iv. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm,
v. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
vi. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
vii. A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm. Solar energy systems will be subject to the provisions of the Town of Lamartine Solar Energy Systems Ordinance.

b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
c. A farm residence, including normal residential appurtances.
d. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
   i. It is conducted by the owner or operator of a farm
   ii. It requires no buildings, structures, or improvements other than those described in par. (a) or (c)
   iii. It employs no more than 4 full-time employees annually
   iv. It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
e. Roadside stands for the sale of farm products produced on the farm, further defined in this section and subject to the conditions of paragraph “d” above.

3. Agriculture-Related Uses is a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:
   a. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district.
   b. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the farmland preservation zoning district.
   c. Marketing livestock to or from farms, including farms in the farmland preservation zoning district.
4. Undeveloped natural resource and open space areas
5. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a Special use permit for that use.
6. Other uses identified by DATCP rule.

5.4 Conditional Uses

A. The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance (see Section 16 for regulations):
   1. Livestock facilities equal to or more than 1,000 animal units, subject to the Property Development Standards and Livestock Siting Application Process contained in Section 4.10 of this ordinance.
   2. Nonfarm residences that qualify under Wis. Stat. Ch. 91.46 (1) (d) and defined in Section 3 (Definitions).
   3. Nonfarm residences constructed in a rural residential cluster in accordance with an approval of the cluster as a conditional use under Wis. Stat. Ch. 91.46 (1) (e) and defined in Section 3 (Definitions).
   4. Transportation, communications, pipeline, electric transmission, utility, or drainage uses, subject to conditions in section 16.
   5. Governmental, institutional, religious, or nonprofit community uses, other than uses covered by paragraph 4 above, subject to conditions in section 16.
   6. Nonmetallic mineral extraction, subject to conditions in section 16.
   7. Oil and gas exploration or production that is licensed by the department of natural resources under sub ch. II of ch. 295, subject to conditions in section 16.
   8. Other uses allowed by the Department of Agriculture, Trade, and Consumer Protection, by rule.
   9. Dog Kennel, provided it meets 91.01(1)(d) of the state statutes.
   10. Cemeteries, both public and private, subject to 16.10 B.4. of the Conditional Use regulations.

5.5 Non-Conforming Uses

See section 4.7 regarding non-conforming regulations of this ordinance.

5.6 Rezoning of Land Out of a Farmland Preservation Zoning District

(From sec. 91.48 Wis. Stats) The Town of Lamartine may rezone land out of a FP-I District without having the rezoning certified under s. 91.36, if all of the following findings are made after a public hearing:

1. The land is better suited for a use not allowed in the farmland preservation zoning district.
2. The rezoning is consistent with any applicable comprehensive plan.
3. The rezoning is substantially consistent with the Fond du Lac County certified farmland preservation plan.
4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

The Town shall by March 1 of each year provide DATCP and Fond du Lac County Planning Department a report of the number of acres that the Town has rezoned out of a farmland preservation zoning district during the previous year and a map that clearly shows the location of those acres.

5.7 Application Process for Approval of Livestock Facilities

See 4.10 for Livestock Facility Siting regulations and application information.

5.8 Minimum Lot Size, Height, and Yard Requirements

A. Minimum Lot Size. The following conditions apply toward the minimum lot sizes for a farm, farm residence, and nonfarm residence:
   1. Ten (10) acre minimum acreage for a farm.

2. Lot area for a non-farm residence (including surrounding buildings) created by conditional use shall be a minimum of one (1) acre.
3. An existing platted lot that was legally subdivided prior to the adoption of the Lamartine Zoning regulations (June 8, 1998), may be issued a permit for a nonfarm residence.

B. Front Yard (Road)Setback. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).

C. Side Yards. The minimum side yard for residential structures shall be 25 feet from the nearest lot line, and 10 feet for all accessory structures.

D. Rear Yard. The minimum rear yard for all structures shall be 25 feet from the nearest lot line for primary structures and 10 feet for all accessory structures.

E. Frontage. Structures shall be located so as to abut a public highway and have a minimum of fifty (50) feet of frontage thereon.

F. Height. Maximum height shall be 35 feet or three stories.

G. Minimum Residential Structure Size: 960 Sq. ft. (Habitable Floor Area)

H. Accessory Structures. Accessory structures which are not a part of the primary structure shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 10 feet to any lot line.

I. Separation. Where an additional residence for persons whose majority of income is from farming and is not on a separate parcel, such residence shall be at least 100 feet from other residences. The minimum lot size for farm residences or structures which existed prior to June 8, 1998 shall apply.

Section 6.0 Concentrated Farmland Preservation District (FP-C)

6.1 District Purpose and Finding of Fact

A. The Concentrated Farmland Preservation (FP-C) District is intended to preserve and enhance land for agricultural uses.

B. Medium sized (500-1000 animal units) confined livestock operations and agriculture-related single-family residences are regulated as Conditional Uses to ensure compatibility on the ground. The district's uses and regulations are designed to implement the Town of Lamartine Comprehensive Plan goals by encouraging agricultural uses in areas where soil and other conditions are best suited to these agricultural pursuits, and controlling residential development to avoid potential conflict with Agricultural uses.

C. Minimal residential development will be allowed, based on the density standards (Chapter 16) and the definition of non-family residences/non-farm residential cluster (as defined in Section 3.2).

D. The guiding principles of land in the FP-C Concentrated Farmland Preservation District are as follows:
   1. Consistency with the Town of Lamartine Comprehensive Plan, Fond du Lac County Comprehensive Plan and Fond du Lac County Farmland Preservation Plan.
   2. If applicable, a permit for any new Livestock Facility as required as part of this ordinance.
   3. Meeting the requirements of the state runoff law for farms (NR 151, Wis. Adm. Code, ATCP 50).
   4. Compliance with standards contained in Chapter 91, Wisconsin Statutes to permit eligible landowner to receive tax credits for farming and includes lands currently cropped or pastured on NRCS soil capability classes 1, 2 and 3 that generally correspond with the Fond du Lac County Farmland Preservation Plan in effect.
   5. In the interest of public health and safety, the Town of Lamartine has chosen to restrict the location of large-scale livestock operations (1,000+ animal units) to areas of lesser existing or planned population as they may impose negative impacts on the safety of local roads. Whereas the Town desires to reduce the potential for negative impacts, while still allowing for economic opportunities associated with such uses, it has, for the purposes of this district, excluded large livestock operations (1000+animal units) from this district.

6.2 Lands Included Within This District

Lands within the FP-C District are identified on the official Town of Lamartine Farmland Preservation Zoning Map and are generally located in the central and western portions of the Town along STH 23, CTH C, Giebel Road, Forest Avenue Road, CTH T and Orchard Road as shown on the Town's Land Use Plan.

6.3 Permitted Uses

A. The following uses are permitted by right in the FP-C district without any further notice to, or approval from, the local unit of government:
   1. Agricultural Uses, as defined in this ordinance including livestock facilities of less than 500 animal units.
   2. Accessory uses means any of the following.
      a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This includes:

i. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
ii. A facility used to keep livestock on the farm.
iii. A facility used to store or process inputs primarily for agricultural uses on the farm.
iv. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm,
v. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
vi. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
vii. A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm. Solar energy systems will be subject to the provisions of the Town of Lamartine Solar Energy Systems Ordinance.

b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
c. A farm residence, including normal residential appurtances.
d. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
   i. It is conducted by the owner or operator of a farm
   ii. It requires no buildings, structures, or improvements other than those described in par. (a) or (c)
   iii. It employs no more than 4 full-time employees annually
   iv. It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
e. Roadside stands for the sale of farm products produced on the farm, further defined in this section and subject to the conditions of paragraph “d” above.

3. Agriculture-Related Uses is a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:
   a. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district.
   b. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the farmland preservation zoning district.
   c. Marketing livestock to or from farms, including farms in the farmland preservation zoning district.
4. Undeveloped natural resource and open space areas
5. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a Special use permit for that use.
6. Other uses identified by DATCP rule.

6.4 Conditional Uses

A. The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance:
   1. Livestock facilities equal to or more than 500 animal units and less than 1,000 animal units, subject to the Property Development Standards and Livestock Siting Application Process contained in Section 4.10 of this ordinance.
   2. Nonfarm residences that qualify under Wis. Stat. Ch. 91.46 (1) (d) and defined in Section 3 (Definitions).
   3. Nonfarm residences constructed in a rural residential cluster in accordance with an approval of the cluster as a conditional use under Wis. Stat. Ch. 91.46 (1) (e) and defined in Section 3 (Definitions).
   4. Transportation, communications, pipeline, electric transmission, utility, or drainage uses, subject to conditions in section 16.
   5. Governmental, institutional, religious, or nonprofit community uses, other than uses covered by paragraph 4 above, subject to conditions in section 16.
   6. Nonmetallic mineral extraction, subject to conditions in section 16.
   7. Other uses allowed by the Department of Agriculture, Trade, and Consumer Protection, by rule.
   8. Dog Kennel, provided it meets 91.01(1)(d) of the state statutes.
   9. Cemeteries, both public and private, subject to 16.10 B.4. of the Conditional Use regulations.

6.5 Non-Conforming Uses

See section 4.7 regarding non-conforming regulations of this ordinance.

6.6 Rezoning of Land Out of a Farmland Preservation Zoning District.

(From sec. 91.48 Wis. Stats) The Town of Lamartine may rezone land out of the FP-C District without having the rezoning certified under s. 91.36, if all of the following findings are made after a public hearing:
   1. The land is better suited for a use not allowed in the farmland preservation zoning district.
   2. The rezoning is consistent with any applicable comprehensive plan.
   3. The rezoning is substantially consistent with the Fond du Lac County certified farmland preservation plan.
   4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

The Town shall by March 1 of each year provide DATCP and Fond du Lac County Planning Department a report of the number of acres that the Town has rezoned out of a farmland preservation zoning district during the previous year and a map that clearly shows the location of those acres.

6.7 Application Process for Approval of Livestock Facilities

See 4.10 for Livestock Facility Siting regulations and application information.

6.8 Minimum Lot Size, Height, and Yard Requirements:

A. Minimum Lot Size. The following conditions apply toward the minimum lot sizes for a farm, farm residence, and nonfarm residence:
   1. Ten (10) acre minimum acreage for a farm.
   2. Lot area for a non-farm residence (including surrounding buildings) created by conditional use shall be a minimum of one (1) acre.

3. An existing platted lot that was legally subdivided prior to the adoption of the Lamartine Zoning regulations (June 8, 1998), may be issued a permit for a nonfarm residence.

B. Front Yard (Road)Setback. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).

C. Side Yards. The minimum side yard for residential structures shall be 25 feet from the nearest lot line, and 10 feet for all accessory structures.

D. Rear Yard. The minimum rear yard for all structures shall be 25 feet from the nearest lot line for primary structures and 10 feet for all accessory structures.

E. Frontage. Structures shall be located so as to abut a public highway and have a minimum of fifty (50) feet of frontage thereon.

F. Height. Maximum height shall be 35 feet or three stories.

G. Minimum Residential Structure Size: 960 Sq. ft. (Habitable Floor Area)

H. Accessory Structures. Accessory structures which are not a part of the primary structure shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 10 feet to any lot line.

I. Separation. Where an additional residence for persons whose majority of income is from farming and is not on a separate parcel, such residence shall be at least 100 feet from other residences. The minimum lot size for farm residences or structures which existed prior to June 8, 1998 shall apply.

Section 7.0 Moderate Farmland Preservation District (FP-M)

7.1 District Purpose and Finding of Fact

A. The FP-M Moderate Farmland Preservation District (FP-M) is intended to provide for continued phasing of agricultural uses from concentrated Farmland Preservation to General Agriculture and support other uses that maintain the rural characteristics of the area.
B. Land in this zoning category is intended to allow farm operations, provided they do not exceed 500 animal units.
C. Minimal residential development will be allowed, based on the density standards (Chapter 16) and the definition of non-family residences/non-farm residential cluster (as defined in Section 3.2).
D. The district's use and development regulations are designed to implement the Town of Lamartine Comprehensive Plan goals by discouraging urban and suburban development in areas that are suited to agricultural uses and that are not well served by public facilities and services.
E. The guiding principles of land in the FP-M Moderate Farmland Preservation District are as follows:
   1. Consistency with the Town of Lamartine Comprehensive Plan, Fond du Lac County Comprehensive Plan and Fond du Lac County Farmland Preservation Plan.
   2. Meeting the requirements of the state runoff law for farms (NR 151, Wis. Adm. Code, ATCP 50).
   3. Compliance with standards contained in Chapter 91, Wisconsin Statutes to permit eligible landowner to receive tax credits for farming and includes lands currently cropped or pastured on NRCS soil capability classes 1, 2 and 3 that generally correspond with the Fond du Lac County Farmland Preservation Plan in effect.
   4. In the interest of public health and safety, the Town of Lamartine has chosen to restrict the location of livestock operations over 500, due to increased density of residential development and that intensive farm operations may impose negative impacts on the safety of local roads and ground water supply. Whereas the Town desires to reduce the potential for negative impacts, while still allowing for economic opportunities associated with such uses, it has, for the purposes of this district, excluded large livestock operations in excess of 500+ animal units.

7.2 Lands Included Within This District

Lands within the FP-M Moderate Farmland Preservation District are identified on the official Town of Lamartine Farmland Preservation Zoning Map and are located between the Concentrated Farmland Preservation District and the General Agriculture District.

7.3 Permitted Uses

A. The following uses are permitted by right in the FP-M District without any further notice to, or approval from, the local unit of government:
   1. Agricultural uses (as defined in 3.2) including livestock facilities of less than 500 animal units.
   2. Accessory uses means any of the following.
      a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This includes:
         i. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
         ii. A facility used to keep livestock on the farm.
         iii. A facility used to store or process inputs primarily for agricultural uses on the farm.
         iv. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm,

v. A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm. Solar energy systems will be subject to the provisions of the Town of Lamartine Solar Energy Systems Ordinance.
vi. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
vii. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.

b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
c. A farm residence, including normal residential appurtances.
d. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
   i. It is conducted by the owner or operator of a farm
   ii. It requires no buildings, structures, or improvements other than those described in par. (a) or (c)
   iii. It employs no more than 4 full-time employees annually
   iv. It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
e. Roadside stands for the sale of farm products produced on the farm, further defined in this section and subject to the conditions of paragraph “d” above.

3. Agriculture-Related Uses is a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:
   a. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district.
   b. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the farmland preservation zoning district.
   c. Marketing livestock to or from farms, including farms in the farmland preservation zoning district.
4. Undeveloped natural resource and open space areas
5. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a Special use permit for that use.
6. Other uses identified by DATCP rule.

7.4 Conditional Uses

A. The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance:
   1. Nonfarm residences that qualify under Wis. Stat. Ch. 91.46 (1) (d) and defined in Section 3 (Definitions).
   2. Nonfarm residences constructed in a rural residential cluster in accordance with an approval of the cluster as a conditional use under Wis. Stat. Ch. 91.46 (1) (e) and defined in Section 3 (Definitions).
   3. Transportation, communications, pipeline, electric transmission, utility, or drainage uses, subject to conditions in section 16.
   4. Governmental, institutional, religious, or nonprofit community uses, other than uses covered by paragraph 3 above, subject to conditions in section 16.
   5. Nonmetallic mineral extraction, subject to conditions in section 16.
   6. Oil and gas exploration or production that is licensed by the department of natural resources under sub ch. II of ch. 295, subject to conditions in section 16.

7. Other uses allowed by the Department of Agriculture, Trade, and Consumer Protection, by rule.
8. Dog Kennel, provided it meets 91.01(1)(d) of the state statutes.
9. Cemeteries, both public and private, subject to 16.10 B.4. of the Conditional Use regulations.

7.5 Non-Conforming Uses

See section 4.7 regarding non-conforming regulations of this ordinance.

7.6 Rezoning of Land Out of a Farmland Preservation Zoning District. (From sec. 91.48 Wis. Stats) The Town of Lamartine may rezone land out of the FP-M District without having the rezoning certified under s. 91.36, if all of the following findings are made after a public hearing:

1. The land is better suited for a use not allowed in the farmland preservation zoning district.
2. The rezoning is consistent with any applicable comprehensive plan.
3. The rezoning is substantially consistent with the county certified farmland preservation plan.
4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

The Town shall by March 1 of each year provide DATCP and Fond du Lac County Planning Department a report of the number of acres that the Town has rezoned out of a farmland preservation zoning district during the previous year and a map that clearly shows the location of those acres.

7.7 Application Process for Approval of Livestock Facilities

See 4.10 for Livestock Facility Siting regulations and application information.

7.8 Minimum Lot Size, Height, and Yard Requirements

A. Minimum Lot Size. The following conditions apply toward the minimum lot sizes for a farm, farm residence, and nonfarm residence:

1. Ten (10) acre minimum acreage for a farm.
2. Lot area for a non-farm residence (including surrounding buildings) created by conditional use shall be a minimum of one (1) acre.
3. An existing platted lot that was legally subdivided prior to the adoption of the Lamartine Zoning regulations (June 8, 1998), may be issued a permit for a nonfarm residence.

B. Front Yard (Road)Setback. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).

C. Side Yards. The minimum side yard for residential structures shall be 25 feet from the nearest lot line, and 10 feet for all accessory structures.

D. Rear Yard. The minimum rear yard for all structures shall be 25 feet from the nearest lot line for primary structures and 10 feet for all accessory structures.

E. Frontage. Structures shall be located so as to abut a public highway and have a minimum of fifty (50) feet of frontage thereon.

F. Height. Maximum height shall be 35 feet or three stories.

G. Minimum Residential Structure Size: 960 Sq. ft. (Habitable Floor Area)

H. Accessory Structures. Accessory structures which are not a part of the primary structure shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 10 feet to any lot line.

I. Separation. Where an additional residence for persons whose majority of income is from farming and is not on a separate parcel, such residence shall be at least 100 feet from other residences. The minimum lot size for farm residences or structures which existed prior to June 8, 1998 shall apply.

Section 8.0 General Agriculture (AG)

8.1 District Purpose and Finding of Fact

The purpose of this district is to discourage the development of livestock operations that would exceed 250+ animal units and to allow the gradual transition of land use from farming to a nonfarm residence, and that the following would be promoted:

A. The overall phasing of agricultural uses in the Town of Lamartine from intensive or concentrated Farmland Preservation on the western portion of the town to General Agriculture on the eastern, more developed portion of the Town.
B. The guiding principles of land in the AG, General Agriculture District are as follows:
   1. Consistency with the Town of Lamartine Comprehensive Plan, Fond du Lac County Comprehensive Plan and Fond du Lac County Farmland Preservation Plan.
   2. In the interest of public health and safety, the Town of Lamartine has chosen to restrict the location of livestock operations over 250, due to the encouragement of a transition from farming to residential development, and that farm operations may impose negative impacts on the safety of local roads, ground water supply, and the increased conflict that can occur from more nonfarm residential development in this transitional district.

8.2 Lands Included Within this District

This district is generally intended to apply to lands located adjacent to urbanized areas where such lands are predominantly in agricultural or related open space use but where conversion to non-agricultural use is expected to occur in the foreseeable future.

8.3 Permitted Uses

A. The following uses are permitted by right in the AG District without any further notice to, or approval from, the local unit of government:
   1. Nonfarm residences platted as a CSM or Subdivision.
   2. Agricultural Uses, as defined in this ordinance, provided livestock facilities are less than 250 animal units.

   3. Accessory uses means any of the following.
      a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This includes:
         i. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
         ii. A facility used to keep livestock on the farm.
         iii. A facility used to store or process inputs primarily for agricultural uses on the farm.
         iv. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm,
         v. A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm. Solar energy systems will be subject to the provisions of the Town of Lamartine Solar Energy Systems Ordinance.
      b. A farm residence, including normal residential appurtances.
      c. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
         i. It is conducted by the owner or operator of a farm
         ii. It requires no buildings, structures, or improvements other than those described in par. (a) or (b)
         iii. It will not create a detrimental impact on nonfarm residences in the future.
      d. Roadside stands for the sale of farm products produced on the farm

4. Utility, Minor
5. Undeveloped natural resource and open space areas.
6. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a license for that use.
7. Cemeteries, both public and private

8.4 Conditional Uses

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

1. Dog Kennel
2. Commercial Riding Stable boarding 3 or more horses
3. Farm Consolidation which is any separation of farm residences or structures from the larger farm and parcel and meets all of the following requirements:
   a. The separation is for the purpose of farm consolidation;
   b. The residence or structures existed prior to the adoption of the ordinance;
   c. The separated parcel is no larger than reasonably necessary to accommodate the proposed use.

8.5 Non-Conforming Uses

See section 4.7 regarding non-conforming regulations of this ordinance.

8.6 Minimum Lot Size, Height, and Yard Requirements:

A. Minimum Lot Size. The following conditions apply toward the minimum lot sizes for a farm, farm residence, or nonfarm residence.

1. Ten (10) acre minimum acreage for a farm.
2. An existing platted lot that was legally subdivided prior to the adoption of the Lamartine Zoning regulations (June 8, 1998), may be issued a permit for a one-family detached dwelling and its accessory structures.

B. Front Yard (Road)Setback.

1. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).
2. 30 feet from the right-of-way on interior roads of a platted subdivision.

C. Side Yards. The minimum side yard for all structures shall be 25 feet from the nearest lot line, and 10 feet for all accessory structures.

D. Rear Yard. The minimum rear yard for all structures shall be 25 feet from the nearest lot line, and 10 feet for all accessory structures.

E. Frontage. Structures shall be located so as to abut a public highway and have a minimum of fifty (50) feet of frontage thereon.

F. Height Maximum height shall be 35 feet or three stories.

G. Minimum Residential Structure Size: 960 Sq. ft. (Habitable Floor Area)

H. Accessory Structures. Accessory structures which are not a part of the primary structure shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 10 feet to any lot line.

Section 8.9 Conservancy District (CON)

8.91 Purpose

The purpose of this district is to provide designated areas in the Town where the enhancement and preservation of significant natural resource areas will be maintained. This district will contain designated wetland areas, wildlife habitat areas in the form of food and cover; and other low-lying land areas that make up the Eldorado Marsh or other areas of the Town that may want to be preserved in their natural state.

8.92 Permitted Principal Uses and Structures

A. Grazing and the raising of crops, harvesting of wild crops, hunting, fishing and trapping and forestry

B. Non-residential buildings and structures used for the raising of wildlife and fish and the practice of forestry

C. Publicly owned parks and recreational areas

8.93 Permitted Accessory Uses

A. Uses customary and incidental to the permitted principal uses and structures

8.94 Minimum Lot Size, Height, And Yard Requirements

A. Minimum lot area: 10 acres

B. Minimum lot width: 200 feet

C. Frontage: Structures shall be located so as to abut a public highway and have a minimum of fifty (50) feet of frontage thereon.

D. Side Yards The minimum side yard for all structures shall be 25 feet from the nearest lot line.

E. Rear Yards: Minimum of 25 feet for all structures.

F. Maximum height: not exceeding 35 feet

Section 9.0 Residential District (R-1)

9.1 Purpose

The R-1 Residential District is intended to provide areas of low-density residential development and ancillary uses.

9.2 Permitted Uses

Within the R-Residential District the following uses are permitted:

A. One-family dwellings.

B. Two-family dwellings.

D. Public parks, playgrounds.

E. Conversion of any existing building to a permitted use.

F. Home occupations

9.3 Accessory Uses

A. The following accessory uses are permitted if located on the same lot with the permitted use:
   1. Customary home occupation or professional offices conducted by the resident only, provided there is no external evidence of such use, except an announcement or professional sign not exceeding requirements established in Section 14
   2. Detached accessory buildings such as detached garages,
   3. Detached carports, storage sheds, tool/garden sheds, gazebos, children's play houses, pavilions or similar buildings.
   4. Decks and patios.
   5. Swimming pools and pool houses including, but not limited to, pool service structures, pumping equipment, and filtering equipment accessory to a principal building and limited to use by the occupants thereof and their guests.

9.4 Conditional Uses

A. The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance:
   1. Bed and Breakfast
   2. Multi-Family Housing, subject to the following dimensional and site improvement restrictions:
      a. Minimum area and width for a 3-family unit shall be a minimum of 45,000 square feet with a minimum lot width of 200 feet.
      b. For more than a 3-family unit, 45,000 square feet plus 7,500 square feet per family unit in excess of 3 with a minimum lot width of 250 feet.
      c. Side Yard. Sum of the required side yards shall be 15 feet per unit with a maximum of 40 feet; no single side yard shall be less than 40% of the required total. A two-unit building would require total side yard width of 30 feet, approximately 15 feet on each side.
      d. Refuse disposal shall be in metal containers in the rear yard and appropriately screened and accessible for removal from a driveway or a yard serviced driveway.
      e. Such additional screening shrubbery and the like as shall be necessary and reasonable in order to retain the esthetic values of the area and to protect adjacent property.

f. Such fencing as may be necessary for the safety of the occupants and the public generally.

3. Non-profit community uses

9.5 Non-Conforming Uses

See section 4.7 regarding non-conforming regulations of this ordinance.

9.6 Minimum Standards, Lot Size, Height, And Yard Requirements

The following standards shall apply to all dwellings:

A. Occupancy. Residential occupancy per dwelling unit shall be limited to one-family and not more than 2 roomers or boarders.

B. Location. Dwellings shall be located so as to abut a public highway and lots shall have a minimum of 50 feet of frontage thereon.

C. Habitable Floor Area. The minimum habitable floor area per dwelling unit shall be 960 square feet.

D. Off-Street Parking. See Section 5

E. Dimensions of Building Sites.

1. Minimum area and width for each unsewered dwelling:
   a. The minimum lot area shall be one (1) acre and the minimum lot width shall be 100 feet at the building line; on riparian lots, 75 feet at the water's edge.
   b. Where soil conditions are such as to require larger lot sizes for subdivisions of land under the provisions of Section H62.20 and/or H65, Wisconsin Administrative Code or the Sanitary Ordinance of Fond du Lac County, then such larger lot sizes shall be considered as required by the Zoning Ordinance.
   c. The Permit Officer shall require a sanitary permit issued by the County Sanitarian under the County Sanitary Ordinance, prior to the issuance of a building permit. No construction shall commence prior to issuance of these permits.
   d. An erosion control plan for the building site shall be provided and approved by the Permit Officer before the issuance of a building permit.
2. Building permits are good for 12 months from the date of issuance.

F. Height. Not to exceed 35 feet or 3 stories.

G. Side Yard. 25 feet and 10 feet for all accessory buildings

H. Front Yard.

1. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).
2. 30 feet from the right-of-way on interior roads of a platted subdivision.

I. Rear Yard. 25 feet and 10 feet for all accessory buildings. On riparian lots, rear yards shall comply with applicable county ordinances and state law.

J. Accessory Structures. Accessory structures which are not a part of the primary structure shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 10 feet to any lot line.

Section 10.0 Rural Residential District (R-2)

10.1 Purpose

The purpose of the Rural Residential District is for those people who want to operate a non-income hobby farm, and is land that is not highly suited to productive long-term crop uses due to location, soils, existing development, ownership patterns or other physical or environmental characteristics.

10.2 Permitted Uses

Within the R-2 Rural Residential District the following uses are permitted:

A. Agricultural uses and related structures.

B. Single-family dwellings.

C. Hobby farms and farm homes and structures remaining from any farm consolidation.

10.3 Accessory Uses

A. The following accessory uses are permitted if located on the same lot with the permitted use:
   1. Customary home occupation or professional offices conducted by the resident only, provided there is no external evidence of such use, except an announcement or professional sign not exceeding requirements established in Section 14
   2. Detached accessory buildings such as detached garages,
   3. Detached carports, storage sheds, tool/garden sheds, gazebos, children's play houses, pavilions or similar buildings.
   4. Decks and patios.
   5. Swimming pools and pool houses including, but not limited to, pool service structures, pumping equipment, and filtering equipment accessory to a principal building and limited to use by the occupants thereof and their guests.

10.4 Conditional Uses

A. The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance:
   a. Bed and Breakfast

10.5 Non-Conforming Uses

See section 4.7 regarding non-conforming regulations of this ordinance.

10.6 Minimum Standards, Lot Size, Height, And Yard Requirements

The following standards shall apply to all dwellings:

A. Occupancy. Residential occupancy per dwelling unit shall be limited to 1 family and not more than 2 roomers or boarders.

B. Location. Dwellings shall be located so as to abut a public highway and lots shall have a minimum of 50 feet of frontage thereon.

C. Habitable Floor Area. The minimum habitable floor area per dwelling unit shall be 960 square feet.

D. Dimensions of Building Sites. Minimum area and setbacks for each family unit and accessory building shall be:

1. 5 acres

2. Where soil conditions are such as to require larger lot sizes for subdivisions of land under the provisions of Section H62.20 and/or H65, Wisconsin Administrative Code or the Sanitary Ordinance of Fond du Lac County, then such larger lot sizes shall be considered as required by the Zoning Ordinance.

3. The building inspector shall require a sanitary permit issued by the County Sanitarian under the County Sanitary Ordinance, prior to the issuance of a building permit. No construction shall commence prior to issuance of these permits.

4. Building permits are good for 12 months from the date of issuance.

E. Height. Not to exceed 35 feet or 3 stories.

F. Side Yard. 25 feet and 10 feet for all accessory structures.

G. Front Yard (Road) Setback. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).

H. Rear Yard. 25 feet and 10 feet for all accessory structures.. On riparian lots, rear yards shall comply with applicable county ordinances and state law.

I. Minimum lot width. 100 feet at the building line.

J. Accessory Structures. Accessory structures which are not a part of the primary structure shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 10 feet to any lot line.

K. Fences. In Rural Residential District, the following regulations apply:

1. Two and a half feet maximum height within the vision-corner clearance triangle.

2. Six feet maximum height in all other locations.

3. Barbed wire fencing may not be used in residential districts, except between residential and agricultural properties.

4. Electric fences may only be used between agricultural and residential properties when agreeable to both parties.

5. Fences shall be maintained in good repair as to structure and appearance. Fences shall be set back two feet from the property line. Building permits must be obtained from the town permit issuer for all fences in residential districts except for temporary seasonal fences (e.g. snow fences).

Section 11.0 Business District (BUS)

11.1 Purpose

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

11.2 Permitted Uses

Within the Business District the following uses are permitted:

A. Retail stores and shops.
B. Banks, post office, medical or dental clinics, business or professional offices.
C. Service-type business, such as barbershop, beauty parlor, laundromat, music, dancing, art or photography studio, servicing or repair or home appliances or farm equipment and similar uses.
D. Automobile service stations and public garages; new or used car sales areas; new or used farm equipment sales areas; but not including the storage of wrecked vehicles or wrecked farm equipment.
E. Clubs, lodges, public meeting halls, theaters, bowling alley, and similar places of assembly or recreation.
F. Mini-warehouse facilities that are capable of facilitating more than 5 separate partitioned storage units.
G. Blacksmith shops, machine shops, welding shops, sheet metal shops.
H. Farm implement sales.
I. Feed mill.
J. Signs (see section 14)

11.3 Accessory Uses

A. The following accessory uses are permitted if located on the same lot with the permitted use:
   1. Other customary accessory uses and buildings, provided such uses are clearly incidental to the principal use

11.4 Conditional Uses

A. The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance (see Section 16 for regulations):
   1. Convenience Gas Stations
   2. Truck Stops with associated fuel sales
   3. Wireless Communication Facilities but not radio or television communication towers (see section 16.10 A 4 for regulation of Wireless Communication Facilities).
   4. Adult-oriented establishment, subject to the provisions of the Lamartine Adult-Entertainment Ordinance.

11.5 Non-Conforming Uses

See section 4.7 regarding non-conforming regulations of this ordinance.

11.6 Minimum Standards, Lot Size, Height, And Yard Requirements

The following standards shall apply to all structures:

A. Minimum Lot Size. 2 acres

B. Height of Buildings. Not to exceed 60 feet.

C. Side Yard. 25 feet

D. Front Yard (Road)Building Setback. 100 feet from the centerline of a County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State)

E. Rear Yard. 25 feet on riparian lots, rear yards shall comply with applicable county ordinances and state law.

F. Off-Street Parking. see parking-Chapter 15

G. Off-Street Spaces. Off-street parking spaces shall be provided as follows:

1. One off-street parking space per dwelling unit or lodging unit on the same lot or tract of land of such dwelling unit or lodging unit served.

2. One off-street parking space per person normally employed on the lot or tract of land.

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

H. Site Plan Requirement. A site plan shall be filed prior to a building permit for review by the Plan Commission and Town Board, and must include on the site plan the following features:

1. minimum setbacks for all principal and accessory structures
2. minimum frontage on a public roadway
3. the location of an on-site sewer system
4. minimum separation distance from the well per state code
5. minimum parking spaces, vehicular circulation Plan and access points
6. a drainage plan that shows sufficient area to provide stormwater detention and/or stormwater conveyance to an existing ditch or man-made stormwater absorption system. *(Based on the Fond du Lac County "Construction Site and Erosion Control and Stormwater Management Ordinance", county stormwater regulations may be applicable under this ordinance if an industrial site results in the addition of 20,000 or more sq. ft of impervious surface).*
7. landscape and lighting plan (full cut off to prevent shining onto adjoining properties)
8. Refuse container enclosure

Section 12.0 Industrial District (IND)

12.1 Purpose

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

12.2 Permitted Uses

In the Industrial District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this ordinance, except for 1 or more of the following uses:

A. Cleaning, dyeing and pressing establishments and laundries, except bag cleaning.

B. Knitting mills and the manufacture of products from finished fabrics.

C. Laboratories.

D. Manufacture of goods from leather, but not tanning of hides, or manufacture of leather.

E. Manufacturing of products not otherwise prohibited.

F. Mining and quarrying provided that the requirements for location, operation and reclamation as defined in Chapter 16 of this ordinance.

G. Printing and publishing.

H. Processing, packing and manufacture of food, except meat and meat products, fish and fish products, sauerkraut and cabbage by-products or the vining of peas.

I. Repair, service and assembly of motor-propelled or non-motor-propelled vehicles, including the repair and storage of automotive accessories, except the wrecking of motor-propelled vehicles, blacksmithing, tin-smithing, and welding shop.

J. Storage and warehousing of fuel and materials, and the storage of wrecked and dismantled vehicles, junk, explosives, or inflammable gases or liquids.

K. Wholesale business.

L. Signs as defined in Chapter 14 of this ordinance.

12.3 Accessory Uses

A. The following accessory uses are permitted if located on the same lot with the permitted use:
   a. Other customary accessory uses and buildings, provided such uses are clearly incidental to the principal use

12.4 Conditional Uses

The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance (see Section 16 for regulations):

A. Automobile wrecking yard or junk yard
B. Sanitary Landfill
C. Agricultural product processing

D. Non-metallic Mining
E. Wireless Communication Facilities but not radio or television communication towers (see section 16.10, A, 4 for regulation of Wireless Communication Facilities)
F. Agricultural product processing, including canneries, cheese factories, condenseries, creameries, pea viners and such other establishments for the processing, packing or manufacture of the agricultural products that may have a nuisance factor not separable there from, such as the emission or effluence of noxious or odorous wastes or by-products.

12.5 Non-Conforming Uses

See section 4.7 regarding non-conforming regulations of this ordinance.

12.6 Minimum Standards, Lot Size, Height, And Yard Requirements

The following standards shall apply to all structures:

A. Minimum Lot Size. 2 acres

B. Maximum Coverage. The amount of the total lot area that may be covered by all principal and accessory buildings shall not exceed 50%.

C. Required Yards and Open Spaces. On every lot in the Industrial District, yards shall be required as follows:

1. **Front Yard (Road) Building Setback.** 100 feet from the centerline of a County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).

2. **Existing Building Average.** If the building is to be constructed in an established block where there are existing buildings, the yard depth shall be the average of the yard depths of buildings existing on the block face where the building is to be located, but not less than 15 feet from the right-of-way.

3. **Three Lot Frontage Clause**. A front yard on each lot line abutting a street, a side and a rear yard, except in the case where 3 lot lines abut a street, there shall be required in addition to 3 front yards, a side yard.

4. **Side Yard.** 25 feet. No accessory building shall project into the required side yard space.

5. **Rear Yard.** 25 feet. Within the required yards or in addition thereto, there shall be sufficient space for the loading and unloading of motor vehicles off the street.

D. Signs. See Chapter 14

E. Off-Street Parking Space. See Chapter 15

F. Site Plan Requirement. A site plan shall be filed prior to a building permit for review by the Plan Commission and Town Board, and must include on the site plan the following features:
1. minimum setbacks for all principal and accessory structures
2. minimum frontage on a public roadway
3. the location of an on-site sewer system
4. minimum separation distance from the well per state code
5. minimum parking spaces, vehicular circulation Plan and access points
6. a drainage plan that shows sufficient area to provide stormwater detention and/or stormwater conveyance to an existing ditch or man-made stormwater absorption system.

(Based on the Fond du Lac County "Construction Site and Erosion Control and Stormwater Management Ordinance", county stormwater regulations may be applicable under this ordinance if an industrial site results in the addition of 20,000 or more sq. ft of impervious surface).

7. landscape and lighting plan (full cut off to prevent shining onto adjoining properties)
8. refuse container enclosure
9. Where an industrial lot abuts a residential district, there shall be provided along such lot line a suitable buffer or plant materials, fencing or a combination of both, to shield the residential area from the industrial area. Where the transition from the Industrial District to Residential District is a public street, the front yard in the Industrial District shall be suitably landscaped.
10. Assurance with the site plan application that any permitted use shall be so constructed and operated as to create no nuisance with respect to noise, vibration, emission of smoke or particulate matter, glare and heat or as to create fire or explosive hazards.

Section 13.0 Highway Setback Lines

13.1 Purpose

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

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

13.2 Classes of Highways and Centerlines

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

A. Class 1 Highways.

1. Town roads not otherwise classified that have not been improved in accordance with engineering surveys and plans accepted by the county or town board. The centerline is the midway point between the edges of the road surface.

2. Town roads not otherwise classified that have been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The centerline is at the center of the surfacing or pavement, or, if there be none, the center of graded roadbed.

3. Roads and streets in platted subdivisions not otherwise classified. The centerline is the midpoint between the edges of the road surface.

B. Private roads.

1. The centerline is at the mid-point between the edges of the road surface.

C. Class 2 Highways.

1. County trunk highways that have not been improved in accordance with engineering surveys or plans accepted by the County Board or their agent, the County Highway Committee. The centerline is at the midway point between fences or other markers indicating the boundary on opposite sides thereof.

2. County trunk highways that have been improved according to engineering surveys and plans accepted by the County Board or their agent, and the County Highway Committee. The centerline is the center of the surfacing or pavement, or if there be none, the center of the graded roadbed.

D. Class 3 Highways.

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

13.3 Structures Prohibited Within Setback Lines

No new building, mobile home, new sign or other structure or part thereof shall be placed between the setback lines established by this ordinance and the highway, except as provided by

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

13.4 Structures Permitted Within Setback Lines

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

A. Open fences.

B. Telephone, telegraph and power transmission poles and lines and micro-wave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner file with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this ordinance at his expense, when necessary for the improvement of the highway.

C. Underground structures not capable of being used as foundations for future prohibited aboveground structures.

D. Access or service highways constructed according to plans as approved by the Board of Appeals. In giving such approval, the Board of Appeals shall give due consideration to highway safety and maximum sight distances.

E. This section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no building or structure, trees or shrubbery, shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections shall be obstructed.

13.5 Setback Distance & Interpretation

Except as otherwise provided, the distances from the center to the setback line applicable to the various classifications of highways as defined in Paragraph 11.2 of this section, shall be as provided by the following paragraphs of this subsection, respectively.

Whenever a highway is improved to a classification requiring a greater setback distance than that required by this ordinance prior to such improvement, the setback distance shall be that applicable to the latter classification.

In cases where the provisions of this section may be interpreted to provide for different setback distances, the greater setback distance shall prevail.

13.6 Along Various Class Highways

The setback distances from the centerline, at any point for the respective classes of highways, shall be as follows:

A. Class 1 highway, 100 feet, except in platted subdivision where the setback distance shall be 30 feet from the right-of-way lines as shown on the recorded plat; also excepting lots abutting on private roads where the setback distance shall be 50 feet from right-of-way line but not less than 75 feet from the center line of said road as shown on the instrument creating said road or road easement.

B. Class 2 and Class 3 highways, 100 feet; provided, however, that in no case shall the distance of setback line outside of and from the nearest point in the boundary line of the highway, be less than 60 feet for Class 2 and Class 3 highways.

C. Exceptions: Except that where buildings, structures or uses are to be erected or established between buildings existing at the time of the adoption of this ordinance which buildings are located not more than 150 feet apart and have setback lines less than are established by this section, the setback line for each such proposed building, structure or use shall be the average of the setback lines of the nearest existing buildings on both sides of the proposed building, structure or use, provided that a setback line of more than 100 feet from the right-of-way line, shall not be required in any case. The Board of Appeals may further vary this regulation in appropriate cases, provided that the Board of Appeals shall establish such conditions as will save the town harmless from additional improvement damages which might accrue when and if the highway is improved, and provided further that no such variation shall permit a setback less than the average setback of the adjacent buildings.

13.7 At Ordinary Highway Intersections

Refer to Section 4.4 and diagram at the end of this ordinance.

13.8 At Highway Intersections with Widening

At intersections provided with transitional widening of pavement or surfacing, such transitional widening shall be considered as additional width, and the setback line on the side which is widened shall be increased by an amount equal to the width of the additional pavement.

13.9 At Highway Intersections with Curve Connections

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

13.10 At Railroad Grade Crossings

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

Section 14.0 Signs

14.1 Purpose

The purpose of this article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs and billboards. The provisions herein shall be binding upon every owner of a building, every lessee and every person in charge or responsible for who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the Town with the exception of painting, posting and general maintenance. The following definitions apply to this article:

A. Billboard. A sign that advertises goods, products or facilities or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.

B. Directory Sign. Any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directors. Directory signs shall be encouraged for use when advertising of multiple-occupied commercial and industrial buildings.

C. Identification Sign. Any sign that carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or a combination of these.

D. Home Occupation Sign. A sign associated with a conforming home occupation.

E. Off-Premise Sign. Any sign, device, or display that advertises goods other than that commonly available or services other than that commonly performed on the premises on which the sign is located.

F. Sign. A sign shall include anything that promotes, calls attention to, or invites patronage to a business, location or product.

G. Temporary Sign. Any sign that is erected or displayed for a limited period of time not to exceed 28 consecutive days or which is displayed only during regular business hours and removed for storage at other times. A temporary sign shall not exceed 8 square feet in area. Examples of temporary signs include banners and decorative-type displays. For purposes of this article, a portable sign is not a temporary sign.

14.2 Enforcement

No sign or billboard shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity of the provisions of this article. “Altered” shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance. The application for a sign permit shall contain the following information about the sign: dimensions, display surface, materials, illumination, wiring, height above grade, distance from lot lines, and the person, firm or corporation erecting or altering the sign. A permit is not required for a copy change when no change in business name is involved. A permit fee shall be determined by the Town Board and shall be paid to the Town Clerk for each sign application.

14.3 Signs That Do Not Need A Permit

The following signs do not require a permit, provided that they are not located over a public road right-of-way or in, on or over public water:

A. Warning signs not to exceed four square feet located on the premises.

B. Official signs, such as traffic control, parking restriction, information and notices, rummage or garage sales signs not to exceed 8 square feet in area, but use of this type of sign shall be limited to 72 hours per sale.

C. Flags and insignia of any government.

D. Legal notices, identification information or directional signs erected by governmental bodies.

E. Signs directing and guiding traffic and parking on private property.

F. Political message signs during an election campaign, not exceeding 8 square feet per lot, posted on private property.

G. House numbers or signs identifying parks or country clubs or official bulletin boards.

H. Real estate signs not to exceed 8 square feet in area that advertise the sale, rental or lease of the premises upon which signs are temporarily located. Such signs shall be removed fifteen (15) days after the sale, rental or lease has been accomplished.

I. Bulletin boards for public, charitable or religious institutions not to exceed 8 square feet in area located on the premises.

J. Home occupation sign, provided such sign is non-illuminated and does not exceed 4 square feet in area to advertise the name of a legally permitted home occupation.

14.4 Signs Allowed in Commercial and Industrial Districts

The following signs are permitted in all commercial and industrial districts, subject to the following restrictions:

A. Wall signs placed against the exterior walls of buildings shall not extend more than 6 inches outside of the wall surface; shall not exceed 300 square feet in area for any one business and shall not exceed 20 feet in height above the street grade. Wall signs may only advertise on-site businesses.

B. Ground signs shall not exceed ten feet in height above the street grade; shall meet all yard requirements for the district in which it is located and only one sign for each street frontage shall be permitted. Such signs shall not exceed 32 square feet in total area.

C. No sign shall be permitted to face a Residential District within 100 feet.

D. Business and industrial signs may be internally lighted by a hooded reflector, provided that such lighting shall be arranged to prevent glare and that no sign shall be lighted by a lighting of intermittent or varying intensity. Animated signs, signs having moving parts, or signs which may be mistaken for traffic signal devices are prohibited.

E. No sign or advertising device shall be erected or maintained at the intersection of the streets in such a manner as to obstruct a clear vision of the intersection.

14.5 Prohibited Signs

The following signs are prohibited:

A. Signs that substantially resemble public traffic signage.

B. Signs that have any flashing, rotating or brilliant intermittent parts or lights or bare reflecting-type bulbs.

C. Signs that create a hazard to vehicular traffic or a nuisance to adjoining residential property.

D. Signs on public rights-of-way, except for public entity signs for traffic control, parking and directional signs as authorized by this Ordinance.

14.6 Sign Removal

All signs shall be removed by the owner or lessee of the premises upon which the sign is located if in the judgment of the Town such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe. If the owner or lessee fails to remove it, the Town may remove the sign at the cost of the owner, following adequate notice. The cost to remove the sign may be placed on the owner's tax bill as a special charge.

14.7 Portable Signs

Portable signs shall be limited in use to fifteen days at a time following approval by the Town; provided, however, that such signs shall not be displayed more frequently than 4 times per calendar year at any one location and not more than fifteen days each time. The maximum size of a portable sign shall be 10 square feet on each face, back-to-back. Portable signs shall not be located in any public rights-of-way.

14.8 Loss Of Non-conforming Sign Status

A sign loses its non-conforming status if one or more of the following occurs:

A. If the sign is damaged by fire, flood, explosion, or earthquake, war, riot or Act of God, the sign may be reconstructed and used as before if it is reconstructed within three months after such calamity, the sign is relocated.

B. The sign fails to conform to the Town requirements regarding maintenance and repair, abandonment or dangerous or defective signs.

C. Nothing in this Article shall relieve the owner or lessee of a legal non-conforming sign from the provisions of this Ordinance regarding safety, maintenance and repair of signs.

Section 15. Parking

15.1 Purpose

The intent of this section is to prevent or alleviate the congestion of the public streets and promote the safety and welfare of the public by establishing minimum requirements for off-street parking and loading according to the use of the property and to promote safety and convenience for people by requiring that parking areas and driveways be located and constructed according to good standards for visibility, accessibility and safety.

15.2 Applicability

All uses hereafter established, expanded, changed in use to create a need for ten percent (10%) greater parking capacity.

15.3 Parking Space for Handicapped

Any parking area to be used by the general public shall provide parking spaces designated as a handicapped stalls, located in close proximity to the principal entrance(s). Parking spaces shall be designed in accordance with the state and federal building code and, as a minimum, shall meet the Federal ADA standards.

15.4 Drainage

All parking areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks. On-site storm drainage shall be provided in accordance with the State Plumbing Code and City Plumbing Code.

15.5 Surface Areas

Parking areas, including stalls and access ways, shall be either concrete or asphalt. Parking areas designed solely for semi-truck traffic and parking may provide a gravel surface under the following conditions:

15.6 Lighting Parking lot and loading space lighting fixtures shall be of a full cut-off type to avoid light spilling over onto adjacent properties and public rights-of-way and shall conform to the standards of §23-53, Outdoor lighting.

15.7 Striping

All parking areas shall be striped between stalls to facilitate the movement into and out of the parking stalls in any commercial, industrial, semi-public or public use.

15.8 Maneuvering

All parking and loading spaces shall be designed to provide all maneuvering to occur within the property line.

15.9 Size and Location of Parking Space

The minimum size standard for a parking space shall be at least nine (9) feet wide by eighteen (18) feet in length, and shall not be located within 10 feet of any property line.

15.10 Required Number of Spaces

A. Off-Street Parking Space: (1) each dwelling unit shall be provided with a minimum of 2 off-street parking spaces located in the same lot as the dwelling served.
B. Churches or other places of public gathering hereafter erected shall provide an accessible parking space of sufficient size to accommodate at least 1 car for every 5 seats provided.
C. Industrial properties should have one off-street parking space for every employee per shift, at least two visitor spaces, and one off-street parking space for each vehicle incidental to the use.

D. For commercial uses, one space should be available for every 300 sq. ft of gross floor area.

E. When a residence is a part of a business structure, additional parking space for each housing unit shall be provided according to paragraph one of this section.

Section 16. Conditional Uses

16.1 Authority

The Town Board, by an affirmative two-thirds (2/3) vote of the entire Board, may by resolution, approve the issuance of a conditional Use permit for uses listed as Conditional Uses in this ordinance.

16.2 Purpose

Conditional Uses are those uses having some uniqueness or unusual impact which requires a careful review of their location, design and configuration to determine against fixed standards, the desirability of permitting their establishment on any given site. The conditional Use permit is a flexible means of permitting certain exceptions to the districts established and the rules and regulations adopted herein, in cases where the public benefit of such uses outweighs the potential harm, and under such conditions imposed as are necessary to protect the public health, safety and welfare and individual property rights. Conditional Use standards for the Rural Preservation and Transition Districts are detailed in the individual Rural Preservation and Transition districts.

16.3 Authorizing Conditional Use Permits

The Town Board may authorize Conditional Use permits in accordance with the procedure set forth in Section 16 when it appears:

A. That it is reasonably necessary for the public convenience at that location

B. That it is so designed, located and proposed as to be operated so that it will not be injurious to the district in which it shall be located or otherwise detrimental to the public welfare.

C. That it conforms to the applicable regulations and standards of and preserves the essential character of the district in which it shall be located.

D. That in the case of an existing non-conforming use will make such use more compatible with its surroundings.

16.4 Procedure and Meetings

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

A. Application. An owner or owner's designated agent shall complete and file a Conditional Use application form with the Zoning Administrator accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. Twelve (12) copies of a scaleable development plan will be required with the written application.

B. Public Hearing. After receiving the request, the Town Clerk shall refer the matter to the Plan Commission, which shall hold a public hearing advertised by a Class 2 notice.

C. Action by Plan Commission. The Plan Commission shall, within thirty (30) days of the public hearing, make a report and recommendation of approval or denial of the Conditional Use permit with any conditions it may deem appropriate to the Town Board. In making its decision, the Commission shall keep a written record of findings relative to the standards for considering a Conditional Use application, as listed in 16.7.

D. **Action by Town Board.** The Town Board shall, within thirty (30) days of Plan Commission action, act to approve or deny the Conditional Use permit by resolution.

16.5 Application Requirements

The applicant shall provide the following information on the Conditional Use application form:

A. Applicant and property owner's name, address, and telephone number.

B. Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.

C. Description of Conditional Use being requested.

D. Written justification for the Conditional Use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for Conditional Uses listed in subsection.

16.6 Development Plan Requirements

Submission of a Conditional Use permit request will need to include a development plan that has the following information:

A. North arrows, date of preparation, and scale on 8½" x 11" size paper

B. Name(s) of all adjacent or surrounding streets and right-of-way width(s)

C. Recorded property lines and their dimensions

D. All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel

E. Dimensions of existing and proposed yard setbacks for buildings and structures

F. Dimensions of existing and proposed parking, loading, and unloading areas, and size of existing and proposed driveways

G. The location of proposed and existing signage

H. The location and type of all proposed and existing exterior lighting fixtures

I. The location, height and materials of all proposed and existing fences or retaining walls

J. Submit preliminary architectural plans for the existing and proposed buildings that show sufficient detail to permit an understanding of the style of the development and the design of the building(s)

K. Stormwater and erosion control plan

L. Other additional information that may be deemed appropriate by the Zoning Administrator.

16.7 Standards for Granting Conditional Use Permits

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

A. Zoning. The proposed use conforms to the general purposes and intent of the Lamartine Zoning Ordinance.

B. Comprehensive Plan. The proposed use is consistent with the goals and objectives of the Lamartine Comprehensive Plan

C. Traffic. Access to the property can meet access control requirements, if any

D. Landscaping and screening. Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed use.

16.8 Authorizing Conditional Use Permits

The Town Board may authorize Conditional Use permits in accordance with the procedure set forth in Section 16 when it appears:

A. That it is reasonably necessary for the public convenience at that location

B. That it is so designed, located and proposed as to be operated so that it will not be injurious to the district in which it shall be located or otherwise detrimental to the public welfare.

C. That it conforms to the applicable regulations and standards of and preserves the essential character of the district in which it shall be located.

D. That in the case of an existing non-conforming use will make such use more compatible with its surroundings.

16.9 Conditions, Guarantees and Validity Period

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

A. Prior to the granting of any Conditional Use permit, the Plan Commission may recommend and the Town Board may place such conditions and restrictions upon the establishment, location, construction, maintenance and method or hours of operation as deemed necessary for the protection of the public interest and to secure compliance with the standards specified in 16-7. In all cases in which Conditional Uses are subject to conditions, the Plan Commission may recommend and the Town Board may require evidence and guarantees as it may deem necessary (as proof that the stipulated conditions are being and will be complied with).

B. Conditional Use permits shall be issued permanently or for a specified period of time as may be specified by the Town Board upon recommendation of the Plan Commission and shall be an obligation of any party to whom a property may be transferred or assigned.

C. A Conditional Use permit shall expire if the use is discontinued for a period of twelve (12) consecutive months. If a building permit has not been obtained or the Conditional Use has not been established within twelve (12) months of the issuance of the Conditional Use permit, the Conditional Use permit expires.

D. Any party who has been issued a Conditional Use Permit by the Town shall notify the Town, in writing, that they are seeking a continuance or extension of any Conditional Use Permit that has an expiration date as established by Town Board. Such notification shall be submitted to the Zoning Administer thirty (30) days prior to the Conditional Use Permit expiration date.

E. A Conditional Use permit shall become effective upon approval by the Town Board. A record of the Conditional Use permit shall be maintained in the Town Hall.

F. A Conditional Use permit may be revoked by the Town Board for failure to comply with all provisions of such permit, provided that thirty (30) days notice has been given by first class mail to the operator or owner of such use of the intent to revoke.

16.10 Conditional Uses by Zoning Category

(may be other conditional uses listed in the individual zoning districts)

A. In all Districts but the Residential District (R-1).

1. **Public utility or public service corporation building or structures.** Provided that the Plan Commission and Town Board shall find that the proposed location of such buildings or structures is reasonably necessary for the public convenience, safety or welfare.

2. **Municipal sewage disposal plants.** Subject to the provision that they shall be located not less than one thousand (1000) feet from the nearest dwelling, shall be properly and adequately screened and buffered from the highway and adjacent property, and shall be so constructed and operated that there shall be no offensive odors or noise, and that there is adequate provision for the effluent and for the disposal of all sludge and residues, and that the area shall be completely enclosed with an adequate chain link type of fencing in addition to shrubbery screening; and that the foregoing provisions and all the provisions required by state law or Administrative Code are maintained during the operation thereof.

3. **Topsoil removal**.

4. **Wireless communications structures and mechanical appurtenances** but not radio or television communication towers. Wireless telecommunications towers and antennas may be installed, erected and maintained pursuant to the provisions of this section. Telecommunication towers and antennas shall not be regulated or permitted as essential services, public utilities or private utilities.

   a. **Purpose**. The purpose of this ordinance is to strike a balance between the federal interest concerning the construction, modification and placement of telecommunications towers and antennas for use in providing personal wireless services, and the legitimate interest of the Town in regulating local zoning. The goals of this ordinance are to protect land uses from potential adverse impacts of towers and antennas; minimize the total numbers of towers throughout. the community; encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; consider the public health and safety of

communication towers, and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Town shall give due consideration to the Zoning Map, and existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

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

i. Alternative Tower Structure: Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas.

ii. Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

iii. Backhaul Network: Tile lines that connect a provider's tower/veil sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

iv. Collocation: The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.

v. FAA: Federal Aviation Administration.

vi. FCC: Federal Communications Commission.

vii. Height: When referring to a tower or other structure, the distance measured from finished grade to the highest point on the tower or other structure, including the base pad.

viii. Preexisting Towers/Antennas: Any tower or antenna for which a building permit or Conditional Use permit has been properly issued prior to the effective date of this ordinance.

ix. Tower: Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers or guyed towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

c. Applicability.

i. New Towers and Antennas: All new towers or antennas in the Town shall be subject to these regulations, except as provided in Sections 3(b) and 3(c).

ii. Amateur Radio Station Operators/Receive Only Antennas: This ordinance shall not govern any tower, or the installation of any antenna, that is owned and operated by a federally-licensed amateur radio station operator or is used

exclusively for receive only antennas, including, without limitation, television reception antennas and dishes for the reception of satellite television signals.

iii. Preexisting Towers or Antennas: Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Section 5 (b).

d. Conditional Use Permit Required. No tower or antenna shall be installed unless a Conditional Use permit is first obtained by the owner or his agent from the Plan Commission and Town Board. The following shall be required as part of the application submittal:

i. A scaled site plan clearly indicating the location, type and height of the proposed tower and appurtenant equipment, any proposed and existing structures, adjacent land uses and structures within 100% of tower height, adjacent roadways, on-site parking and driveways, tower and equipment setbacks from property lines, and other information deemed by the Plan Commission and Town Board, to be necessary to assess compliance with this ordinance;

ii. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted residentially zoned properties;

iii. The separation distance from other towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the Town, or within three miles of the border thereof, including specific information about the location, height, and design of each tower;

iv. Landscape plan showing specific plant materials;

v. Method of fencing, including location, materials and finished color and, if applicable, vegetative screening;

vi. A written statement from an engineer that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission of reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties; and

vii. Written, technical evidence from a qualified engineer that the proposed site of the tower or the telecommunications facilities do not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive or hazardous materials such as LP gas, propane, gasoline, natural gas or corrosive or other dangerous chemicals.

viii. If Tower owner violates any of the above listed conditions of the Conditional Use Permit for a period of nine (9) months this said permit will be revoked and the owner will be responsible for removal of the tower.

e. General Requirements. In addition to compliance with all applicable regulations of this ordinance, the following standards shall apply for the installation of any tower or antenna:

i. Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with

standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Independent Inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance. Non-compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

ii. **State Federal or County Requirements**. All towers and antennas shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. Design and installation of all towers and antennas shall comply with the manufacturer's specifications and with ANS/TIA/EIA standards. Tower Company must conduct a yearly inspection of the tower. This inspection must be done by an independent company with documentation of said inspection sent to the town. If such standards and regulations are changed, then the owner of a tower and antenna governed by this ordinance shall bring such tower and antenna into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense. Fond du Lac. County must approve the tower site plan.

iii. **Co-location.** A proposed tower shall be structurally and electrically designed to accommodate the applicant's antennas and comparable antennas for at least (5) additional users. Towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights. The holder of a Conditional Use permit for a tower shall allow collocation for at least 5 additional users and shall not make access to the tower and tower site for the additional users economically unfeasible. If an additional user demonstrates (through an independent arbitrator or other similar means, with the cost to be shared by the holder of the Conditional Use permit and the proposed additional user) that the holder of a tower Conditional Use permit has made access to such tower and tower site economically unfeasible, then the Conditional Use permit shall become null and void. An applicant shall also comply with the special requirements of sub section g (c), below.

iv. **Height**. Antenna height shall not be restricted, provided antenna height does not exceed 260 feet and such device is installed and maintained in accord with applicable state or local building codes, and in compliance with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.

v. **Setbacks.** Unless otherwise specified by the Plan Commission and Town Board, a tower shall be located not closer than a distance equal to 100% of the height of the tower from any adjoining lot line. Guy wires and appurtenant equipment and buildings shall comply with requirements of the underlying zoning district in which the tower is located.

vi. **Aesthetics.** Towers shall maintain galvanized steel finish or, subject to any applicable standards of the FAA, be painted a light gray or light blue so as to reduce visual obtrusiveness. Where an antenna is installed on a structure other than a tower, the antenna and appurtenant equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Towers and related telecommunications facilities shall be repainted every five years or sooner, if required. Galvanized towers shall be kept free of rust and rust stains.

vii. **Signs.** No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.

viii. **Lighting.** Towers shall be illuminated with a red light at night and a white light during the day. Lighting is required and the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

ix. **Fencing**. A tower shall be enclosed by a security fence not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area.

x. **Landscaping.** A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the tower compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural landforms shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

xi. **Appurtenant Equipment and Buildings**. Antennas mounted on structures or rooftops: The equipment cabinet or structure used in association with an antenna may be located on a roof provided that such equipment or structure is placed on as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements. Antennas mounted on utility poles, light poles or towers: The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

xii. **Insurance/Security**. All wireless telecommunications facilities must be adequately insured for injury and property damage. Proof of insurance with the Town named, as an additional insured shall be provided. A letter of credit, bond or comparable security in the amount of $10,000 plus yearly inflation costs shall be filed with the Town Clerk to provide for the removal of a wireless communication facility and site restoration if removal should be required.

f. Permitted Uses

i. **Antennas or Towers On Existing Structures.** Installation of an antenna or tower proposed to be situated on the roof of a residential, commercial, industrial, professional, or institutional structure may be allowed, provided that such device is installed and maintained in accord with applicable state or local building codes, and complies with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.

ii. **Antennas On Existing Towers.** The attachment of a new antenna on an existing tower is encouraged, to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that (1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same type as the existing tower. (2) An existing tower may be modified or rebuilt to accommodate the collocation of additional antenna and may be moved on-site within 50 feet of its existing location, but the relocation may only occur one time per communication tower; (3) After a tower is rebuilt to accommodate collocation, only one tower may remain on the site; and (4) The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the Plan Commission and Town Board.

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

iv. **Building Permit Required.** A building permit is required for the towers, antennas and facilities described in subsections 6 (a), (b) and (c) above. The Town must receive a full set of construction plans stamped by the engineer before permit will be issued.

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

h. Nonconforming Uses

i. **Expansion of Nonconforming Use.** Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure,

ii. **Pre-existing Towers.** Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.

i. Performance Standards.

i. General. Except as determined by the Plan Commission and Town Board, all wireless telecommunication facilities shall meet the dimensional standards of the zoning district in which they are located. Where the facilities are the principal use on a separate parcel, the parcel shall meet the minimum lot size requirement of the respective zoning district. On a parcel of land that already has a principal use, the facilities shall be considered as an accessory use and a smaller area of land may be leased provided that all requirements of this zoning ordinance can be met

ii. Tower Height. No tower shall exceed 260 feet in height.

iii. Availability of Suitable Existing Towers, Other Structures or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Appeals that no existing tower, structure or alternative technology that does not require the use of towers of structures can accommodate the applicant's proposed antenna. Evidence submitted to the Plan Commission and Town Board to determine that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of, but is not limited to, the following:

(1) No existing towers or structures are located within the geographic area, which meets the applicant's engineering requirements.

(2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

(3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.\

(4) The applicants proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant’s proposed antenna.

(5) The fee, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

j. Alternative Technology.

The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low power transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

B. In Farmland Preservation Districts

1. **Nonfarm Residences.** A proposed new Nonfarm residence or a proposal to convert a farm residence to a nonfarm residence through a change in occupancy is a conditional use in the Farmland Preservation Zoning Districts provided all of the following apply:
   a. The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1 to 20 after the residence is constructed or converted to a nonfarm residence.

   b. There will not be more than 4 dwelling units in nonfarm residences, nor, for a new nonfarm residence, more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.

   c. The location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:
      I. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.
      II. Significantly impair or limit the current or future agricultural use of other protected farmland.

2. **Nonfarm Residential Cluster**. The Town of Lamartine Farmland Preservation Zoning Ordinance contains a provision that a conditional use permit can be applied for to allow more than one nonfarm residence in a qualifying nonfarm residential cluster. A nonfarm residential cluster qualifies if all of the following apply (same as conversion of farm to non-farm residence):
   a. The parcels on which the nonfarm residences would be located are contiguous.

   b. The Town of Lamartine will impose legal restrictions on the construction of the nonfarm residences so that if all of the nonfarm residences were constructed, each would satisfy the following requirements:
      I. The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1 to 20 after the residence is constructed or converted to a nonfarm residence.

      II. There will not be more than 4 dwelling units in nonfarm residences, nor, for a new nonfarm residence, more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.

      III. The location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:
         01. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.
         02. Significantly impair or limit the current or future agricultural use of other protected farmland.

Note: *When applying for a nonfarm residential conditional use permit in a certified farmland preservation district, the petitioner should be aware of the following:*

1. *The maximum amount of nonfarm residential acreage cannot exceed the amount determined by the following formula: Nonfarm Residential acreage = Total Base Farm Tract acreage divided by 21.*
2. *The amount of nonfarm acreage available for lot creation will be determined by the Zoning Administrator prior to accepting a conditional use application*
3. *The list of nonfarm residential acreages counted toward the ratio calculation should also include any existing nonfarm residences that do not have a conditional use permit or that are not part of the application for the conditional use permit.*

3. Transportation, communications, pipeline, electric transmission, utility, or drainage uses if the following apply:

a. The use and its location are consistent with the purposes of the district.
b. The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
c. The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

4. Governmental, institutional, religious, or nonprofit community uses if all of the following apply:

a. The use and its location are consistent with the purposes of the farmland preservation zoning district.
b. The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

5. Livestock Facility Siting. Standards and regulations to grant a conditional use for a Livestock Facility of 500 or more animal units is located in 4.10 of this ordinance.

6. Non-Metallic Mining.

a. General Provisions. Nonmetallic mineral extraction if all of the following apply:

I. The operation complies with subch. I of ch. 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under s. 295.13 or 295.14, and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic mining sites.

II. The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

III. The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the

farmland preservation zoning district, or are specifically approved under state or federal law.

IV. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use. (e) The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

V. The farmland preservation zoning ordinance requires the owner to restore the land to agricultural use, consistent with the Fond du Lac County "Non-Metallic Reclamation Ordinance (consistent with s.s. 295.13) adopted on July 19, 2007.

b. Application. Non-metallic mining may include washing, crushing, quarrying, borrow pits, or other processing or removal or mineral resources, the erection of buildings and the installation of necessary machinery used in the said extraction and processing, and the preparation of hot black top mix or ready-mix concrete, and the operation of lime kilns; provided that:

I An application for a permit shall be submitted by the owner and shall include an adequate description of the operation; a plan of the site showing proposed and existing roads and drives, the sources, quantity and disposition of water to be used, if any; estimated dates for the completion of the extraction and commencement and completion dates for the reclamation; a reclamation plan, and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area.

II The reclamation plan shall contain adequate provision that all final slopes around the area be flatter than a 3 to 1 horizontal slope in a sand and gravel or borrow pit operation, or in a safe angle of repose in a quarrying operation; excavations below the grade of the nearest abutting public street or highway shall be set back from said street or highway a distance not less than that required for buildings and structures under this ordinance; all final slopes shall be covered with topsoil and seeded to prevent future erosion; the plan shall require that after completion of the anticipated operation the area shall be cleared of all debris and be left in a clean condition, subject to the approval of the Town Board or its agent. The reclamation plan shall indicate the proposed future use or uses of the site; however, the proposed re-use of the site for a dumping grounds shall have the concurrence of the Town Board.

III Application for a permit for mineral extraction operations proposed to be located within 600 feet of a residence district, a residential subdivision or a city or village limits line, or within 300 feet of any building occupied for residence purposes; or for a hot blacktop mix or a ready-mix concrete plant, shall not be granted except on approval of the Town Board given after the public hearing has been held.

IV The permit shall be for a period of time as stated in the application or as modified by the Plan Commission and Town Board. The Plan Commission and Town Board, where such approval is required, shall consider the effect of the proposed operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The application and/or reclamation plan may be approved, approved conditionally, or rejected.

V No permit shall be granted for a period of time exceeding 4 years, unless approved by the Town Board. A renewal may be granted upon application provided that the applicant has fully complied with the terms of this ordinance and the permit issued hereunder. A public hearing will be required prior to renewal.

VI A filing fee of $50 shall be required for each initial application, and a filing fee of $20 for each renewal application.

VII All existing mineral extraction operation lawfully operated and existing shall be considered non-conforming uses and may be continued provided that they have been worked prior to the date of the adoption of this provision of this ordinance.

Section 17. Reserved for future use

Section 18.0 Plan Commission

18.1 Purpose of Plan Commission

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

18.2 Membership

The Plan Commission consists of five (5) members consisting of Town elected or appointed officials, except that at least three (3) must be citizen members who are not otherwise Town officials, and up to two (2) alternates. The Town Board Chairperson shall appoint the members of the Plan Commission and designate a Plan Commission Chairperson during the month of the second Monday of June to fill any expiring term (All appointments are subject to the advisory approval of the Town Board.) In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Chairperson shall be made after the election of the Town Board. Any citizen appointed to the Plan Commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under Secs. 19.01 and 60.31, WI Stats.

18.3 Term of Office

The term of office for the Plan Commission Chairperson and each Commission member shall be for a period of three years, or until a successor is appointed. Any appointments would be made on the second Monday of June.

18.4 General and Miscellaneous Powers

The Plan Commission shall:

A. Be governed by the provisions of Section 62.23(7) of the Wisconsin Statutes, the Zoning Ordinance of the Town of Lamartine and function and duty as set forth herein; The Plan Commission's function and duty herein established shall not be changed or waived without the affirmative vote of the Town Board.

B. Initiate, hear, review and offer its recommendations to the Town Board on applications for amendments to this chapter.

C. Prepare and recommend to the Town Board for adoption of a Comprehensive Plan for the Town, and from time to time to recommend amendments as it may deem appropriate.

D. Be enabled to promote Town planning.

E. Hear, review and offer its recommendations to the Town Board on applications for Conditional Use permits, subdivisions, street vacations and name changes, and other matters.

F. Make reports and recommendations (per sec. 62.23(4)) relating to the plan and development of the town to the Town Board other public bodies, citizens, public utilities and organizations.

G. Recommend to the Town Board programs for public improvements and the financing of such improvements.

H. Receive from public officials, within reasonable time, requested available information required for the Commission to do its work.

I. For itself, its members and employees, in the performance of their duties, enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. Entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.

18.5 Town Comprehensive Planning Authority and Requirements

A. The Plan Commission, under sec. 62.23(2), recommended adoption of the Town of Lamartine Comprehensive Plan. On July 21, 2009, the Town Board adopted said Plan, along with accompanying maps, tables and descriptive and explanatory matter, which includes the nine (9) elements specified under the comprehensive planning law, sec. 66.1001 (2), Wis. Stats.

B. The Plan Commission will be responsible for reviewing and updating the Comprehensive Plan on a periodic basis to maintain relevancy to land use issues that may occur over time.

C. The Plan Commission will determine if every petitioned land use change applied for through the provisions of this ordinance is consistent with the adopted Comprehensive Plan.

Section 19.0 Zoning Board of Appeals

19.1 Board of Appeals Authority

Under the provisions of Section 62.23 (7) (e) Wisconsin Statutes, there is hereby established a Board of Appeals to provide a means for equitable interpretation and variance from this ordinance.

19.2 Organization of Board of Appeals

The Board of Appeals shall consist of five citizen members and two alternates appointed by the Town Chairman and subject to confirmation of the Town Board for terms of 3 years. The members of the Board of Appeals shall serve at such compensation to be fixed by resolution. The Board of Appeals shall elect a chairman and a recording secretary. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

19.3 Power of the Board of Appeals

The Board of Appeals shall have the following powers:

A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination by an administrative official in the enforcement of this ordinance or of any ordinance adopted pursuant thereto.

B. To authorize, upon appeal in specific cases, a variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

C. To hear and decide if a nonconforming use may be changed or enlarged.

D. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer of the Town affected by any decision of the Building Inspector. Such appeal shall be taken within 20 days of filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the appeal action was taken.

E. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof by a Class I notice under Chapter 985, Wisconsin Statutes, in an official paper or a paper of general circulation, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

F. When a Zoning line divides a parcel, the Board of Appeals is authorize to move such line to the nearest property line.

G. To authorize upon appeal in specific cases, a variance from the standards of the ordinance as will not be contrary to the public interest. Variations for uses shall not be granted by the Board of Appeals.

19.4 Meetings of the Board of Appeals

The Board of Appeals shall adopt rules in accordance with the provisions of this section. Meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as the Board of Appeals may determine. Such chairman, or in his absence the acting

chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record. The Chairman shall notify the Town Clerk and Town Board of all decisions and resolutions.

19.5 Requirements of a Variance

In general the power to authorize a variance from the requirements of the ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances. No variance shall be granted for actions which require an amendment to this ordinance. Variances shall only be granted when the Board of Appeals finds that:

A. The variance is not contrary to the public interest and that such variance will be in general harmony with the purposes and intent of this ordinance.

B. Special circumstances and conditions exist which are peculiar to the land, structure or building involved and which are not generally applicable to other lands, structures, or buildings in the same district.

C. The variance will not permit the establishment of a use which is not permitted in the district.

D. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.

E. Greater profitability, lack of knowledge of restrictions and other variances granted under similar circumstances are not being considered as sufficient cause for a variance.

F. Nonconforming uses of neighboring lands, structures or buildings in the same district, and permitted or nonconforming uses of lands, structures or buildings in other districts are not being considered as grounds for issuance of a variance.

G. That the variance is compatible with adjacent existing uses and structures or uses and structures likely to develop which are permitted in the district.

H. That adequate measures are taken to provide for drainage.

I. That ingress and egress to the property is provided in such a manner as to minimize traffic hazards and congestion.

J. That adequate parking and loading areas are provided.

19.6 Application Process

An application to the Board of Appeals must be submitted on a form provided by the Town or its representative and pay a processing fee as identified on the form.

19.7 Withdrawal

If the applicant elects to withdraw the appeal any time before final determination is made by the Board of Appeals, this fact shall be noted on the application, with the signature of the applicant, attesting withdrawal. Copies of the withdrawn application shall be returned to the secretary for the files of the Board of Appeals, to the Zoning Administrator and to the applicant.

19.8 Additional Information

If the appeal is not withdrawn, the Board of Appeals may request the applicant to provide such additional information as may be needed to determine the case and shall instruct the secretary to proceed with public notice of a hearing of the case.

19.9 Amendments

Amendment of an appeal by the applicant may be permitted at any time prior to or during the public hearing, provided that no such amendment shall be such as to make the case substantially different from its description in the notice of public hearing. If the amendment is requested by the applicant after public notice of the hearing has been given, and such amendment is at variance with the information set forth in the public notice the applicant shall pay an additional fee to cover the cost of amending the public notice. If the amended notice can be published within the time frame specified for the public hearing, the hearing on the amended appeal may be held on that date, otherwise the Chairman of the of Board of Appeals shall announce that the hearing originally scheduled on the case will be deferred to a future meeting, before which appropriate public notice will be given, and will state the reasons for the deferral.

19.10 Public Hearing

Upon filing with the Board of Appeals of an appeal or an application for a variance, the Zoning Administrator shall fix a reasonable time (not more than 60 days from the filing date) for a public hearing. A Class 1 notice pursuant to Chapter 985 Wisconsin Statutes shall be published in the official newspaper of the Town of Lamartine specifying the date, time and place of the hearing and the matters to come before the Board of Appeals. The Zoning Administrator shall also mail a notice at least 10 days before the hearing to the owner's of property contiguous to the property, subject to the proposed variance of appeal. The owners shall be determined by the ownership indicated in the real estate records at the Fond du Lac County Treasurer's office. Any defect in providing this notice shall not affect the proceedings of the Board of Appeals.

19.11 Additional Information

If the appeal is not withdrawn, the Board of Appeals may request the applicant to provide such additional information as may be needed to determine the case and shall instruct the secretary to proceed with public notice of a hearing of the case.

19.12 Conditions of the Application

Reasonable special conditions and safeguards for the protection of the public health, safety, and welfare may be imposed by the Board of Appeals if it grants the application for a variance. The written application for a variance must demonstrate:

A. That special conditions exist which are peculiar to the land or structure involved which are not applicable to other lands or structures in the same district.
B. That literal enforcement of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other lands or structures in the same district under the terms of this ordinance.

C. That the special conditions and circumstances do not result from the actions of the applicant.

D. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same districts.

E. No non-conforming use of neighboring lands or structures in the same district, and no permitted use of land or structures in other districts shall be considered grounds for the issuance of a. variance.

F. The application is in proper form and a fee has been paid. The Board of Appeals shall hold a public hearing on such matter. Reasonable special conditions and safeguards for the protection of the public health, safety, and welfare may be imposed by the Board of Appeals if it grants the application for variance.

19.13 Appeal of Board Decisions

Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, Town Board, or town representative may appeal the decision of the Board of Appeals within 30 days after the filing of the decision in the office of the Board of Appeals in accordance with Section 62.23(7) Wis. Stat.

19.14 Exercise of Power

A. In exercising the above mentioned powers such Board of Appeals may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.

B. The concurring vote of 4 members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in such ordinance. The grounds of every such determination shall be stated.

C. No non-conforming use of neighboring lands or structures in the same district, and no permitted use of land or structures in other districts shall be considered grounds for the issuance of a variance.

D. Nothing herein contained shall be construed to give or grant to the Board of Appeals the power or authority to alter or change the zoning ordinance or the District Map. Such power and authority is reserved to the Town Board.

Section 20.0 Access Control Ordinance

20.1 Statutory Authorization

This ordinance is established by the provisions set forth in Sections 59.02, 59.07, 86.07(2), and 236 of the State of Wisconsin Statutes, and Chapter 31 of the Wisconsin Administrative Code.

20.2 Purpose

The purpose of this ordinance is to regulate and control access on to Township roads in order to promote the public safety, convenience, general welfare, economic viability and to protect the public investment of existing and proposed roads, and to provide for safe and efficient use of the Town of Lamartine Township Roads.

The design standards herein prescribed are to promote the orderly and safe movement in and out of property as to constitute a minimum of interference to through road traffic, and to control the use of drainage structures and appurtenances as may be necessary to preserve the physical structure of the roads.

20.3 General

A. The present tense includes the future tense and the singular tense includes the plural.

B. The word "shall" is mandatory; the word "may" is permissive.

C. The words "used" or "occupied" also mean intended, designed or arranged to be used or occupied.

D. The word "person" includes any individual, firm, association, joint stock association, organization, partnership, limited trust, body politic, governmental agency, company, corporation and includes any trustee, receiver, assignee, or other representative thereof.

E. All distances unless otherwise stated shall be measured in the horizontal direction.

F. "ADT" is the average daily traffic on a segment of road.

G. "Township Roads" or "Department" means the Town of Lamartine Highway Department.

20.4 Definitions

A. Access. Connection point for a private driveway or other public road to Town of Lamartine Road (TLR).

B. Access Permit. A permit from the Town of Lamartine granting permission to connect for access purposes, to the TLR.

C. Town of Lamartine Road (TLR). Any segment of a Town of Lamartine Road.

D. Driveway. Any public access for motorized vehicles to one or two parcels.

E. Field Entrance. An access point, the only use of which is as an entrance or exit to an agricultural parcel of land for field work purposes.

F. Parcel. The area of land outside the public right-of-way, within the property lines of a given piece of property.

G. Road. Any road, street, alley, expressway, highway, avenue, parkway, land, drive, boulevard, circle, bypass or other pathways intended for the public use of motorized vehicles to obtain access to more than two parcels.

H. Rural TLR. Any TLR with a 55 MPH speed limit in a largely rural or undeveloped area.

I. Semi-Urban TLR. Any TLR outside the municipal boundaries of a city or village with a speed limit below 55 MPH.

J. Stopping Sight Distance. A measurement calculated to determine the safe stopping distance of a vehicle at a certain speed.

K. Urban TLR. Any TLR within the municipal limits of a town, city, or village.

L. Vision Corner. A clear triangle of right-of-way to control sight restrictions at access points. (See Appendix A)

20.5 Regulations

A. Existing Access. Any use of access to a TLR (via driveway or road) prior to the effective date of this ordinance will be permitted, provided that any future improvements or alterations shall meet the terms of this ordinance.

B. Vacated Access. If the Town of Lamartine determines that the use of an access has been discontinued for a period of at least two years, the Town of Lamartine shall notify the owner by certified mail that the access is to be considered vacated. The Town of Lamartine will allow the owner 30-days to reply. If after 30-days the Township decides the access has been abandoned, the access shall be considered vacated and its use will not be permitted. Any further use of this access after it is declared vacated, will require a permit and be considered a new access under this ordinance.

C. Access Prohibitions. No person shall construct an access point within the meaning of this ordinance unless a valid permit has been obtained from the Town of Lamartine Road Supervisor. Entrance to or exit from a town road shall be prohibited except at designated access points. No person shall alter, the right-of-way including but not limited to ditches, drainage ways, culverts, bridges or pavement surfaces (including existing access points) until or unless a permit has been obtained from the Township.

D. Subdivision of Land. Before any parcel of land is allowed to be subdivided, it must be proven that access can be provided to each proposed parcel in such a way that it will not violate any of the regulations of this ordinance.

20.6 Access Spacing and Frequency

A. Only one access per parcel with a minimum of 600 feet frontage will be allowed for parcels zoned residential or agricultural unless provided for elsewhere in this ordinance.

B. Commercial and industrial zoned parcels may be allowed two (2) points of access, provided each access meets the criteria of this ordinance, the development requires more than 50 parking spaces, and/or if two (2) access points would provide for safer movement of traffic.

C. Access to lower classified roads. Regardless of parcel zoning and proposed use, access shall be granted on to the lower classified road with lower A.D.T. adjacent to the parcel when possible.

D. When a property owner owns more than one parcel adjacent to another, with the same zoning, all with frontage on the TLR, the parcels shall be treated as a single parcel under this ordinance.

E. A driveway access shall not be permitted at a distance of less than 100-feet from the centerline of an intersecting road to the proposed driveway. In the event that the applicant proposes a use not covered by this ordinance; the Town Board shall make the determination of the applicable criteria based on the need to preserve Road capacity and safety. Access proposals, which conflict with safe driving standards, may not be allowed.

20.7 Design Standards

Driveways and roads with access onto TLR's must comply with the following design standards:

A. **Culverts** must be at least 24-feet long and placed under at least one foot of cover, be a minimum of 15 inches in diameter, be at least 50-feet from the nearest culvert, and be constructed of corrugated metal, concrete, or state certified plastic with endwalls regardless of materials. Culvert size will be determined by the Town of Lamartine Road Supervisor so as to allow for proper drainage.

B. **Slopes** to the side of the access shall not be steeper than 4 to 1(25 percent) or that of the embankment of the TLR, whichever is less.

C. **Retaining Walls** shall be prohibited.

D. **Pavement** of driveway access shall consist of blacktop or compacted gravel. (Concrete shall not be allowed).

E. **Construction of Access** shall be such so that drainage of the Town Roads shall not be impeded.

F. **Curb and Gutter** must be removed at the entrance for new access and new curb and gutter must be provided within the right-of-way where applicable.

G. **Angle** of access shall be as close to 90 degrees with the centerline of the TLR as possible, but not less than 75 degrees.

H. **Interior Turnarounds** shall be provided as necessary such that vehicles do not need to back out onto the TLR, except in the case of single-family residences.

I. **Existing Highway Property** including road surfaces, curbs, shoulders, slopes, ditches and vegetation shall be restored to its original condition by the applicant.

J. **Vision Corners** must be free of all obstructions at each access point in accordance with the VISION CORNER diagram included at the end of this ordinance. Vision corners are to be measured from a point 3.5-feet above the center of the proposed access, 15 feet back from the edge of pavement of the TLR, to two points 4.5 feet above the center of the nearest on coming lane of the TLR in each direction, at a distance of "D" (as shown in diagram-See-Appendix A) from the point where the TLR meets the center of the proposed access. Distance shall correspond to the speed limit of the road. Signalized intersections must meet the same standards as driveways.

K. **Facing Access Points** on opposite sides of the TLR shall be located directly opposite each other whenever possible.

L. Shared/Joint Access will be encouraged whenever possible to minimize the number of access points and interruption of traffic flow. Multiple access points shall not be permitted when shared access or interior roadways are an alternative.

M. Type "A" Access. Private driveways with access to one or two agricultural or residential parcels must have a driveway width of 16 to 24 feet and a return radius of 20 feet. (See Figure 2)

20.8 Administration and Enforcement

A. Administration. The Town of Lamartine Road Supervisor is hereby authorized to administer this ordinance as Access Inspector. Applications for permits and variances shall be made to the Road Supervisor prior to beginning construction. The Road Supervisor shall review the proposed development or construction and shall either grant or deny the proposed access based upon the provisions, standards, and requirements of this ordinance, within ten (10) business days. Applicants commencing work prior to issuance of an approved permit are subject to denial of permit, removal of access, as well as fines and possible prosecution. The Road Supervisor shall give a report on permit activity at the Town Board monthly meeting.

B. Interpretation. All restrictions on the use of land are restricted to the objects, growth, and use of land within the rights of way of the Town of Lamartine. Whenever it is questionable as to whether or not an object or a part of an object is within the jurisdiction of this ordinance, the entire object shall be considered to be entirely within, that jurisdiction.

C. Permits. No structure, object or growth shall be constructed, reconstructed, altered, placed installed, or plated within the jurisdiction of this ordinance until a permit has been issued by the Town of Lamartine. An access permit shall expire one year from date of issuance. Construction must be completed within this time. The Town of Lamartine Road Supervisor may require scale drawings or other information prior to granting a permit. The permittee shall be liable for all materials, labor and other costs connected with the construction of the access. Town of Lamartine will not be liable for any damage or injury resulting from construction of an access. Town of Lamartine will not be r responsible for any maintenance including snow and ice control of any access.

D. Application Fees With Permit Request. New road connection or Type "A" access fees shall be consistent with the Town's Annual Fee Schedule. Checks shall be made out to the "Town of Lamartine" and filed with the Town Road Supervisor.

E. Hazard Marking And Lighting. During construction all access locations shall be properly signed and marked per standard work zone control requirements. In addition, when access work zones will be left overnight, proper flashing lights and barricades will be provided. All work zones safety equipment will be at the expense of the applicant.

F. Maintenance Of Highway During Construction. During construction of the access, the permittee shall be required to keep the town road free of large accumulations of mud and debris. The town road will be swept clean at the direction of the Road Supervisor.

G. Appeals. Any person aggrieved by a decision made in the administration of this ordinance may appeal to the Town Board. Appeals shall be filed within thirty (30) calendar days following the administrative decision and notification by the Town Board. The appeal shall specify the legal description of the parcel and access location in question, and the reason given for the appeal. The Town Board shall make a decision on the appeal within thirty (30)

calendar days from the day the appeal was filed. A written decision shall state the specific reasons and facts from which the final decision was made.

H. Violations. In the case of any violation of this ordinance, the Town Board may institute appropriate legal action. Each day in which a violation continues to exist shall constitute a separate offense. No person as defined by Section 2 (D) of this ordinance shall resist, obstruct or interfere in any way with the Town Board or its designee in the enforcement of the ordinance.

I. Penalties. Any individual, firm, corporation, association, organization or agency found guilty of violating any part(s) of this ordinance or who refuses to comply with any provision of this ordinance shall upon such finding, forfeit not less than $25.00 nor more than $200.00 for each day for each offense, together with the costs of prosecution.

Section 21.0 Enforcement

21.1 Permit Officer

It shall be the duty of the Permit Officer to enforce the provisions of this ordinance.

21.2 Building Permits

No building, structure or mobile home shall hereafter be created, moved or structurally altered, except as hereinafter provided, until a permit therefore shall have been applied for and issued. No permit shall be issued until the Building Inspector has satisfactory proof that the premises are in full compliance with the Fond du Lac County Shoreland Zoning, and Flood Plain Zoning Ordinances, and that a Fond du Lac County Sanitary Permit for the installation of a private sewage system to serve the premises has been issued, except that lots served by public sewer shall not require a sewer permit.

21.3 Building Plans

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

21.4 Lot Surveys

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

21.5 Certificate of Compliance

No vacant land shall be occupied or used, and no building or mobile home hereafter erected, altered or moved shall be occupied until the certificate of compliance shall have been issued by the Building Inspector. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this ordinance. Such certificate shall be issued only when the building or premises and the proposed use thereof conform to all the requirements of this ordinance.

A. Under such rules and regulations as may be established by the Town Board, the Building Inspector may issue a temporary certificate of compliance for part of a dwelling.

B. Upon written request from the owner, the Building Inspector shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the ordinance.

21.6 Shorelands

Land use in the shorelands in the Town of Lamartine are regulated by Fond du Lac County Shoreland Zoning Ordinance. A conclusive determination can only be made through an on-site visit by Fond du Lac County and/or Wisconsin Department of Natural Resources staff.

21.7 Wetlands

Land use near wetlands is regulated by NR 151 of the Wisconsin Administrative Code. Wetland maps provided by the DNR are only an approximate guide. A conclusive determination of their location can only be made through an on-site visit by a WDNR certified wetland specialist and verified by a Department of Natural Resources staff.

Section 22. Fees

All persons, firms, or corporations performing work, which by this Ordinance shall require the issuance of a permit or the holding of a public hearing, shall pay a fee for such permit or hearing to the Plan Commission or its administrative staff (code administrator) to help defray the cost of administration, investigation, processing and legally required advertising.

22.1 Building Permit Fee

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

22.2 Board of Appeals Fee

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

22.3 Zoning Amendment Fee

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

22.4 Schedule of Reporting

By March 1 of each year, the Town of Lamartine will provide to DATCP and the Fond du Lac County Planning Department a report of the number of acres that the Town of Lamartine has rezoned out of a farmland preservation zoning district the previous year and a map that clearly shows the location of those acres.

Section 23. Violations and Penalties

23.1 Violations

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

23.2 Penalties

At the discretion of the court, such person, firm or corporation may also be required, upon conviction, to forfeit not less than $200 nor more than $500 for each offense, together with the costs of prosecution, may be imprisoned in the county jail of Fond du Lac County until said forfeiture and costs are paid, but not to exceed 30 days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

Section 24. Changes and Amendments

24.1 Power of Amendment

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

24.2 Process for Application by Property Owner or Option Holder

A. Consultation and Application. An owner or owner's designated agent wishing to rezone his or her property shall meet or contact the Town Chairperson or designated Zoning Administrator to discuss the proposed rezoning. If the owner or owner's designated agent wishes to pursue a rezoning, they shall obtain, complete and file a rezoning application form with the Town Clerk accompanied by a nonrefundable fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. The application form shall contain, at a minimum, the following information:

1. Applicant and property owner's name, address and telephone (cell) number.
2. Parcel information, including parcel number, legal description, street address, if any, dimensions and existing zoning, land use, and Land Use Plan designation.
3. Present zoning district and use of the property.
4. Proposed zoning district and description of proposed land use and/or structures.
5. Justification for rezoning.
6. Map of area, drawn to scale, outlining the parcel(s) requested for rezoning, identifying all adjacent streets, properties, existing zoning and present uses on all adjacent properties.

B. Notification to Adjoining Property Owners and Municipalities. As a matter of practice, an earnest effort will be made to send, by regular mail, a copy of the notice for public hearing to the applicant or petitioner or their agent, and to the property owners (as recorded in the Fond du Lac County Register of Deeds Office) of all lands located within 500 feet of any part of the parcel or parcels included in a zoning amendment petition, conditional use permit application, variance petition, or appeal. The failure to mail a notice to the above parties or the failure of such notice to reach any of the above parties does not invalidate any public hearing or any decision of the Plan Commission and/or Town Board or Board of Appeals.

24.3 Public Hearing and Notice

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

B. Notice of Hearing. A Class 2 notice in accordance with Chapter 985 of the Wisconsin Statutes shall be published in the Town of Lamartine's official newspaper once during each of the two weeks prior to the Town Board hearing.

24.4 Protest

A. A protest against a change or amendment must be duly signed and acknowledged by:

1. The owners of 20% or more of the area included in the proposed amendment; or
2. The owners of 20% or more of the area immediately adjacent to the subject area and extending one hundred (100) feet therefrom; or

3. The owners of 20% or more of the area directly opposite the subject area and extending one hundred (100) feet from the street frontage of such opposite land.

B. An amendment shall not become effective except by the favorable vote of three-fourths of the members of the Town Board voting on the proposed change.

24.5 Final Approval by Town Board

An amendment shall become effective upon a majority vote of the members of the Town Board voting on the proposed change.

24.6 Notification of Amendment to Zoning Text

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

Section 25. Validity and Conflicts

25.1 Severability

Should any section, clause or provisions of this ordinance be declared by courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

25.2 Conflict With Other Ordinances

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

Section 26 Effective Date

26.1 Date

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

26.2 Repeal

The Lamartine Zoning Ordinance heretofore adopted are hereby repealed on the date on which this ordinance becomes effective.

Passed and Adopted by the Town Of Lamartine Town Board on December 21, 2010

Published: December 27, 2010

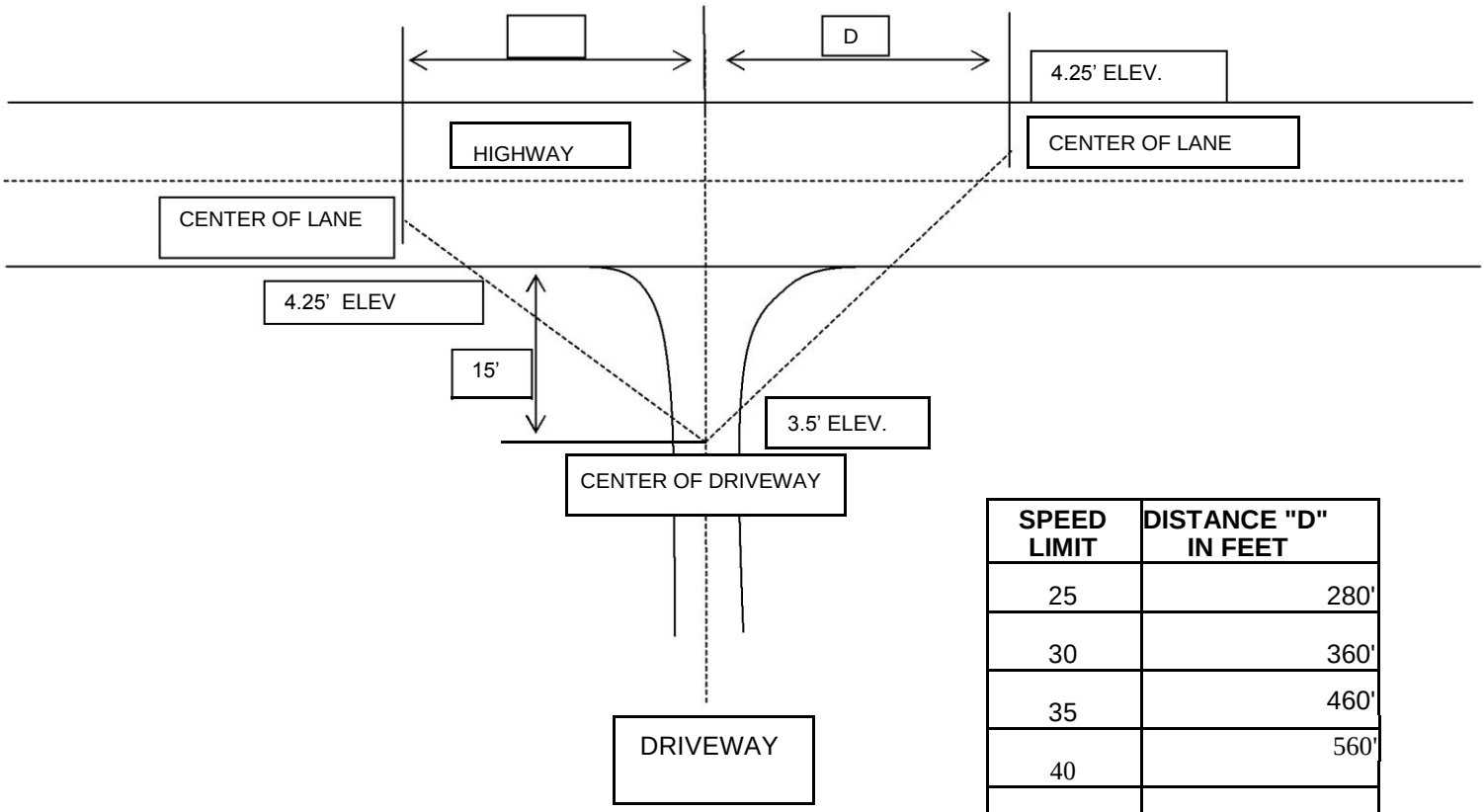
Amended: _____, 2014

_____
Frank Bartzen, Town Chairman

Attest:

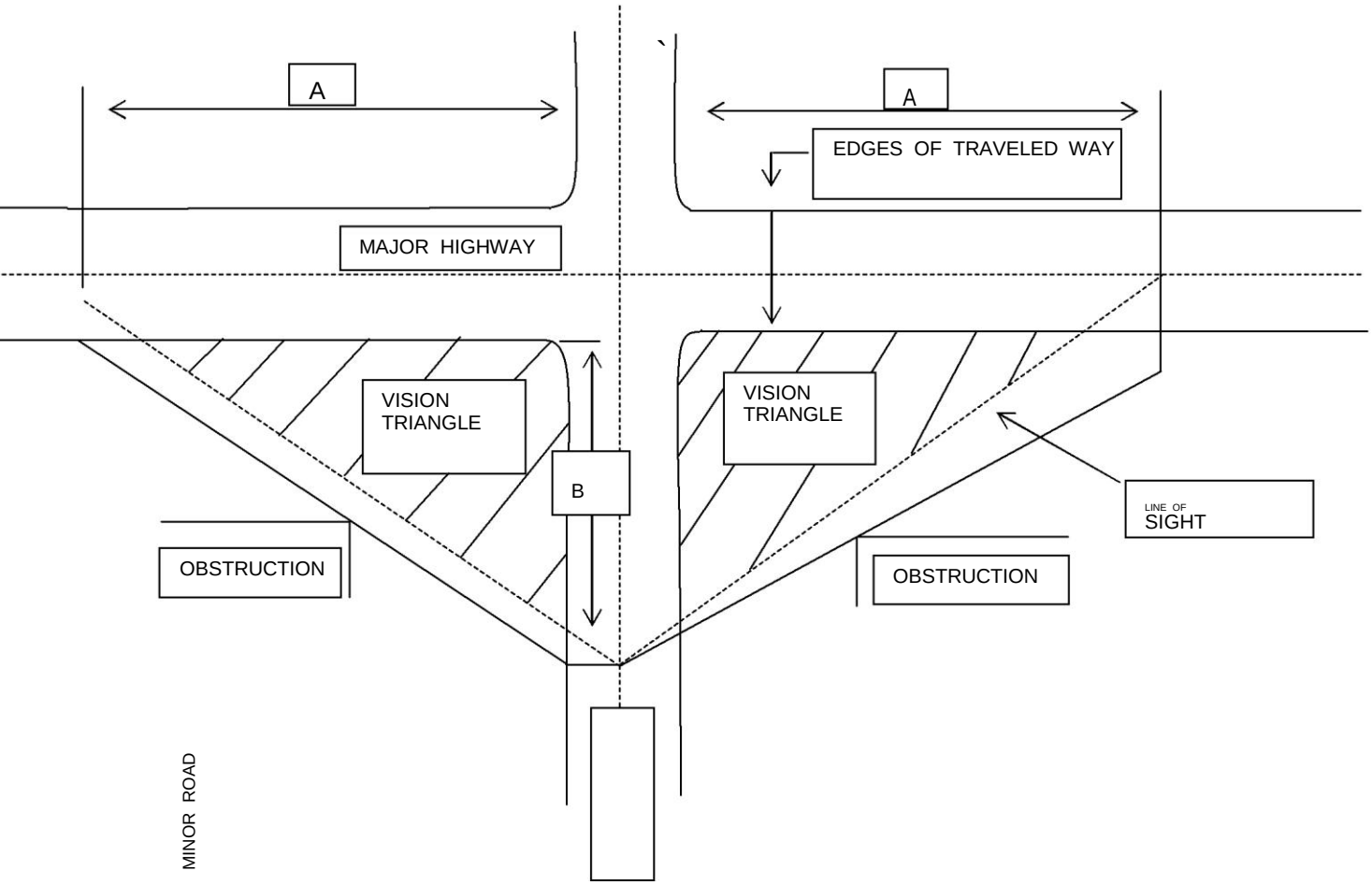
_____
Jill Randall, Town Clerk

APPENDIX A
VISION CORNERS DIAGRAMS



SPEED LIMIT	DISTANCE "D" IN FEET
25	280'
30	360'
35	460'
40	560'
45	700'
50	840'
55	980'

GUIDE DIMENSIONS FOR VISION TRIANGLES
STOP CONTROL ON MINOR ROAD



DESIGN SPEED (MPH)*	DISTANCE (FEET) "A")	DISTANCE (FEET) "B"
40	300	120
50	400	150
55	500	160
60	600	175
*USE THE DESIGN SPEED OF THE MAJOR ROAD TO DETERMINE DISTANCE "B".		

EXAMPLE: GIVEN:DESIGN SPEED IS 60 MPH ON THE MAJOR HIGHWAY AND 50 MPH ON THE MINOR HIGHWAY

SOLUTION: READING FROM THE DIMENSION TABLE, THE LEGS OF THE VISION TRIANGLE ARE “A” = 600 FEET AND “B” = 150 FEET