

## ARTICLE G

### Satellite Earth Stations; Television or Radio Antenna Towers; Wind Energy Systems; Accessory Uses; Home Occupations

#### SEC. 13-1-80 SATELLITE EARTH STATIONS.

- (a) **PERMIT REQUIRED.** No owner shall, within the City of Menasha, build, construct, use or place any type of satellite earth station until a permit shall have first been obtained from the Zoning Administrator.
- (b) **DEFINITIONS.**
- (1) For purposes of this Sections, a "satellite television dish" or "earth station" is defined as an apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. They are also commonly referred to as disks, satellite communications systems or home earth stations.
- (2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one (1) owner shall be considered an owner.
- (c) **APPLICATION.** Application for a satellite earth station permit shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a fee of Ten Dollars (\$10.00) and a complete set of plans and specifications, including a plot plan showing the location of the proposed satellite earth station with respect to adjoining alleys, lot lines and buildings. If such application meets all requirements of this Section, the application shall be approved.
- (d) **INSTALLATION RESTRICTIONS.** Satellite earth stations installed in any zoning district within the City shall comply with the following provisions:
- (1) Number of Units. Not more than one (1) satellite earth station may be allowed per individual recorded lot except additional stations may be permitted upon application for a variance in non-residential zones.
- (2) Location and Setbacks.
- a. Any satellite dish mounting post shall only be located in the rear yard of a residential lot and at least fifteen (15) feet from any property line. Placement of a satellite dish in a business or industrial district shall not be allowed unless a special exception permit is granted by the Plan Commission.
- b. If the dish cannot receive a usable satellite signal in the rear yard of any residential lot but can receive such a signal while located in a side yard, it may be located only in a side yard after receiving approval from the Zoning Board of Appeals. For corner lots, a side yard is only a yard that does not face a street.
- c. No dish shall be placed in the front yard of any residential, business or industrial lot in the City.
- d. The Zoning Administrator shall determine whether a signal constitutes a usable satellite signal, based on evidence provided by the person seeking a permit to erect or construct the dish.

- (3) Mounting. Satellite earth stations located in agricultural or residential districts shall be ground-mounted only. Satellite earth stations may be wall- or roof-mounted in business or industrial districts only. Satellite earth stations attached to the wall or roof of any principal or accessory structure shall be subject to the structure being constructed to carry all imposed loading. The Zoning Administrator or Building Inspector may require engineering calculations.
- (4) Diameter. The diameter of the satellite television dish shall not exceed ten (10) feet for the ground-mounted dish and six (6) feet for the roof-mounted dish, except for stations used to provide community antenna television services.
- (5) Height.
  - a. A ground-mounted satellite dish may not exceed ten (10) feet in height, as measured from the ground to the highest point of the dish.
  - b. A roof-mounted satellite dish may not exceed eight (8) feet in height above the surrounding roof line as measured from the lowest point of the existing roof line.
- (6) Wind Pressure. All satellite earth stations shall be permanently mounted in accordance with the manufacture's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.
- (7) Electrical Installations. Electrical installations in connection with earth satellite receiving stations, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the satellite earth station to the receivers shall be installed underground unless installation site conditions preclude underground. If a satellite earth station is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All satellite earth stations shall be grounded against direct lightning strikes.
- (8) Temporary Placement. No portable or trailer-mounted satellite earth station shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section. Failure to comply shall result in a citation being issued for violation of this Section. Any person making such temporary placement shall give written notice to the Zoning Administrator of the date when such placement shall begin and end.
- (9) Advertising. No form of advertising or identification, sign or mural is allowed on the dish or framework other than the customary manufacturer's identification plates.
- (10) Interference with Broadcasting. Satellite earth stations shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the satellite earth station shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (11) Compliance with Federal Regulations. The installation and use of every satellite earth station shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.
- (12) Color. The color of any satellite dish shall be such that it blends into its surroundings

and shall be approved by the Zoning Administrator as part of the application.

- (e) **VARIANCES.** Requests for variances from the standards established by this Section may be made to the Board of Appeals pursuant to this Chapter.
- (f) **ENFORCEMENT.**
  - (1) It shall be unlawful to construct, use, build or locate any satellite television dish in violation of any provisions of this Section. In the event of any violation, the Zoning Administrator or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.
  - (2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-7.

### **SEC. 13-1-81 COMMERCIAL WIRELESS TELECOMMUNICATIONS FACILITIES.**

- (a) **INTENT.** It is the purpose of this section to provide standards for the construction and maintenance of commercial wireless telecommunications facilities while accommodating the communication needs of residents and businesses and protecting the public health, safety, and general welfare of the community. These regulations are necessary in order to:
  - (1) Facilitate the provision of wireless telecommunications services to the residents and businesses of the city;
  - (2) Minimize adverse visual effects of telecommunications facilities through careful design and siting standards;
  - (3) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and,
  - (4) Maximize the use of existing and approved towers and buildings to accommodate new telecommunications antennas in order to reduce the number of towers needed to serve the community.
- (b) **DEFINITIONS.** The following words and terms shall have the following meanings in this section unless the context clearly states otherwise:
  - (1) Antenna. Any structure or device used for the purpose of collecting or transmitting electromagnetic signals, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas. For the purposes of this section, the term shall refer to antennas used to provide wireless telecommunications services.
  - (2) Commercial or Commercial Use. A use that involves the exchange of cash, goods or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over any period of time. For the purpose of this section, telecommunications facilities incidental to a primary residential use shall not be considered a commercial use.
  - (3) Public Utility. Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose of this section, commercial telecommunications facilities shall not be considered public utility uses and are defined separately.
  - (4) Telecommunications Facility. A facility that transmits and/or receives electromagnetic signals for the purpose of providing commercial wireless

telecommunications services. It includes in whole or part: antennas and other types of equipment for the transmission or receipt of such signals, towers or similar structures supporting said equipment, equipment buildings, accessory parking areas, or other accessory development.

- (5) Telecommunications Facility, Minor. Minor telecommunications facilities shall include the following:
- a. Wall mounted antennas fifteen (15) feet or less in height or ten (10) square feet or less in area that are solely for the use of the project site tenants and are not the primary use of the property;
  - b. Ground or roof mounted antennas fifteen (15) feet or less in height and fifty-five (55) square feet or less in area that are solely for the use of the project site tenants and are not the primary use of the property;
  - c. Antennas to be added to an existing tower, water tower, or similar structure;
  - d. Ground mounted antennas fifty (50) feet or less in height and roof mounted antennas fifteen (15) feet or less in height and fifty-five (55) square feet or less in area that are solely for emergency response uses or for the protection of the public.
  - e. Ground and roof mounted antennas fifteen (15) feet or less in height and fifty-five (55) square feet or less in area for use by other than a project site tenants if located on government and public utility sites.
- (6) Telecommunications Facility, Major. Major telecommunications facilities shall include the following:
- a. Wall mounted antennas exceeding fifteen (15) feet in height or ten (10) square feet in area;
  - b. Ground or roof mounted antennas exceeding fifteen (15) feet in height and fifty-five (55) square feet in area;
  - c. Ground mounted towers exceeding thirty (30) feet in height;
  - d. Roof mounted towers exceeding fifteen (15) feet in height.
- (7) Tower. Any ground, wall, or roof mounted pole, spire, structure, or combination thereof greater than fifteen (15) feet in height measured from the base of the tower to its highest point, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting antenna or similar apparatus above grade. For the purpose of this section, the term shall refer to towers supporting antennas used to provide wireless telecommunications services.
- (8) Wireless Telecommunications Services. Licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), paging, and similar services that are marketed to the general public.
- (c) **EXEMPT TELECOMMUNICATIONS FACILITIES.** The following telecommunications facilities shall be considered exempt from the requirements of this section:
- (1) Government owned and operated telecommunications facilities;
  - (2) Non-commercial telecommunication facilities;
  - (3) Facilities incidental to residential uses;
  - (4) Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, and similar devices as determined by the Community Development Director.

- (d) **PERMITTED TELECOMMUNICATIONS FACILITIES.** Commercial telecommunications facilities may be permitted as follows:
- (1) **Minor Telecommunications Facilities.** Minor telecommunications facilities in accordance with all applicable provisions of this ordinance are permitted by right in the following zoning districts:
    - a. In the I-1 and I-2 Industrial Districts;
    - b. In the C-1 General Commercial, C-2 Central Business, C-3 Business and Office District, and C-4 Business Park District. Proposed minor telecommunications facilities to be located in a historic district are subject to review and approval by the Landmarks Commission.
    - c. In the following residentially zoned locations:
      1. Churches and similar sites when camouflaged in existing steeples or bell towers;
      2. Government and public utility sites.
  - (2) **Major Telecommunications Facilities.** Upon recommendation of the Plan Commission, the Common Council may grant a special use permit for major telecommunications facilities as follows:
    - a. In the I-1 and I-2 Industrial Districts in accordance with all applicable provisions of this ordinance.
    - b. In the C-1 District if located on a government or public utility site in accordance with all applicable provisions of this ordinance.
- (e) **GENERAL STANDARDS.**
- (1) **Location.** Telecommunications facilities shall conform with each of the following requirements:
    - a. Telecommunications facilities shall be located so as to minimize their visibility and the number of distinct facilities present. Such facilities shall be co-located whenever technically possible.
    - b. No more than one (1) tower shall be permitted on a parcel.
    - c. Telecommunications facilities shall not be located between a principal structure and a public street. STH 441 shall be excluded from this requirement.
    - d. Telecommunications facilities shall meet the minimum requirements of the underlying zoning district.
    - e. No telecommunications facility shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements and shall comply with the following:
      1. Towers shall be set back from the public right-of-way, property line, other tower, or any residential use or zoning district by a minimum of one hundred and ten percent (110%) of its height, including all antennas and attachments; or,
      2. A tower located at a distance of less than one hundred and ten percent (110%) of its height from a public right-of-way, property line, or other tower shall be designed to collapse within itself or designed to withstand without failure the maximum forces expected from wind when the tower is fully loaded with antennas, transmitters, and other equipment. The applicant shall provide documentation from a qualified and licensed professional engineer demonstrating this capability.
    - f. A telecommunications facility's setback may be reduced or its location in

general or in relation to a public street varied, at the sole discretion of the Plan Commission for the following reasons:

1. The facility is proposed to be co-located onto an existing tower or structure; or,
  2. Overall, the reduced setback or alternate location enables further mitigation of adverse visual and other environmental impacts than would otherwise be possible.
- (2) **Design Requirements.** Proposed or modified telecommunications facilities shall meet the following design requirements:
- a. Any proposed tower shall be designed to fully accommodate both the applicant's antennas and comparable antennas. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
  - b. Towers shall be of a monopole design unless it is determined that an alternative design would better blend into the surrounding environment.
  - c. Telecommunications facilities shall be designed to reduce visual impact and blend into the surrounding environment or structure through the use of color, camouflaging, architectural treatment, or landscaping, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. The Plan Commission shall have discretion in requiring such screening or camouflaging as appropriate.
  - d. Telecommunications facilities shall incorporate sufficient anti-climbing and other safety measures as needed.
- (3) **Construction Requirements.** All telecommunications facilities within the city shall conform to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association. All telecommunications facilities shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
- (4) **Lighting.** Towers or antennas shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of a tower, light fixtures used to illuminate parking lots or similar areas may be attached to the tower upon approval by the Plan Commission.
- (5) **Signs.** The placement of signs on any portion of a telecommunication facility other than warning or equipment information signs is prohibited.
- (6) **Accessory Utility Buildings.** All utility buildings and structures that are part of a telecommunications facility shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable landscaping, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- (f) **INTERFERENCE WITH PUBLIC SAFETY TELECOMMUNICATIONS AND OTHER WIRELESS SERVICES.** No new telecommunications service shall interfere with established public safety telecommunications or other wireless services. Before the introduction of new service or changes in existing service, telecommunications providers shall notify the Community Development Department at least thirty calendar days in

advance of such changes and shall submit an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.

- (g) **SPECIAL USE PERMIT APPLICATION REQUIREMENTS.** Upon recommendation of the Plan Commission, the Common Council may grant a special use permit for major telecommunications facilities conforming to all applicable provisions of this ordinance. Applicants shall submit the following information:
- a. A site plan prepared and submitted according to the policies, procedures, and requirements outlined in the City of Menasha Site Plan Review Guide as approved by the Plan Commission and Common Council.
  - b. A report demonstrating that the telecommunications facility must be located where it is proposed in order to service the applicant's service area and that it is technically necessary.
  - c. An analysis shall be prepared by or on behalf of the applicant which identifies all reasonable, technically feasible, alternative locations and/or facilities which would provide the proposed telecommunications service. The analysis shall address the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. The city may require independent verification of this analysis at the applicant's expense. Facilities that are not proposed to be co-located with another telecommunications facility shall provide a written explanation as to why the subject facility is not a candidate for co-location. Based on this analysis, a proposal for a new tower shall not be approved unless the Plan Commission and Common Council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated at an alternative location due to one or more of the following reasons:
    1. The planned equipment would exceed the structural capacity of the existing or approved tower or structure, as documented by a qualified and licensed professional engineer, and cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
    3. Existing or approved towers or structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
    4. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or structure.
  - d. A report from a qualified and licensed professional engineer that includes the following:
    1. A description of the tower height and design including a cross

- section and elevation;
    - 2. A description of the location, dimensions, and type of all proposed antennas;
    - 3. Documentation of the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
    - 4. A description of the tower's capacity, including the number and type of antennas that it can accommodate;
    - 5. Documentation of what steps the applicant will take to avoid interference with established public safety telecommunications and other wireless services;
    - 6. An engineer's stamp and registration number; and,
    - 7. Any other information necessary to evaluate the application.
  - e. A letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
  - f. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site.
  - g. An affidavit signed by the responsible party documenting that the proposed tower complies with regulations administered by the Federal Aviation Administration.
- (h) **DENIAL OF REQUEST.** Any decision to deny a request to place, construct, or modify a commercial telecommunications facility shall be in writing and supported by evidence contained in a written record of the proceedings of the Plan Commission and Common Council.
- (i) **ANNUAL INSPECTION.** All major telecommunications facilities shall be inspected annually by the Zoning Administrator for compliance with all applicable requirements. The major telecommunications service provider shall pay an annual inspection fee to the City of Menasha as established by the Common Council.
- (j) **REVOCAION.**
  - (1) A special use permit may be revoked based on the finding by the Zoning Administrator and/or designee that any of the following conditions exist:
    - a. The use involved is no longer allowed in the applicable zoning district;
    - b. The facility fails to comply with the relevant requirements of this chapter as they exist at the time of inspection and the permittee has failed to supply assurances acceptable to the Zoning Administrator that the facility will be brought into compliance;
    - c. The permittee has failed to comply with the conditions of the special use permit;
    - d. The facility has not been properly maintained;
    - e. The facility has been abandoned for a period of twelve months.
  - (2) The Zoning Administrator and/or designee shall notify the holder of the special use permit by certified mail of any finding listed above. The permittee shall be given thirty days to bring the property into compliance with applicable requirements. Failure to bring the property into compliance shall result in the revocation of the special use permit.
- (k) **ABANDONED OR UNUSED TOWERS OR PORTIONS OF TOWERS.**
  - (1) Abandoned or unused towers or portions of towers shall be removed as follows:

- a. All abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless at time extension is granted by the Zoning Administrator and/or designee.
- b. Unused portions of towers above a manufactured connection shall be removed within six (6) months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new special use permit.
- (2) The Zoning Administrator and/or designee shall notify the telecommunications service provider by certified mail when removal of an abandoned or unused tower or portion of a tower is required. The telecommunications service provider shall be given thirty (30) days to remove such facilities.
- (3) In the event that a tower or portion of a tower is not removed within this time period, the tower and all associated facilities may be removed by the city and the costs of removal assessed against the property.
- (1) **APPEAL.** Decisions by the Zoning Administrator and/or designee based on the requirements of this ordinance shall be subject to appeal to the Board of Appeals.

**SEC. 13-1-82 SPECIAL USE PERMITS REQUIRED--WIND ENERGY SYSTEMS.**

- (a) **APPROVAL REQUIRED.** No owner shall, within the City, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (b) **SEPARATE PERMIT REQUIRED FOR EACH SYSTEM.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (c) **BASIS OF APPROVAL.** The Plan Commission shall base its determination on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the City and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- (d) **FEES.** The Common Council shall, by resolution, establish fees for the processing and issuance of wind energy special use permits under this Article.
- (e) **DEFINITIONS.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

**SEC. 13-1-83 PERMIT PROCEDURE--WIND ENERGY SYSTEMS.**

- (a) **APPLICATION.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the City. The application shall include the following information:
  - (1) The name and address of the applicant.
  - (2) The address of the property on which the system will be located.
  - (3) Applications for the erection of a wind energy conversion system shall be

- accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
  - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
  - (6) Any other information which the Zoning Administrator may deem to be necessary to the proper review of the application.
  - (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Plan Commission.
- (b) **HEARING.** Upon referral of the application, the Plan Commission shall schedule a public hearing thereof as soon as practical and the Plan Commission shall notice said hearing as deemed appropriate.
  - (c) **DETERMINATION.** Following public hearing and necessary study and investigation, the Plan Commission shall, as soon as practical, render its decision in writing and a copy made a permanent part of the Commission's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Plan Commission may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
  - (d) **TERMINATION.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Plan Commission following a public hearing thereon.
  - (e) **CHANGES.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Plan Commission and if, in the opinion of the Board, such change or addition constitutes a substantial alteration, a public hearing before the Plan Commission shall be required and notice thereof be given.
  - (f) **APPROVAL DOES NOT WAIVE PERMIT REQUIREMENTS.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

#### **SEC. 13-1-84 SPECIFIC REQUIREMENTS REGARDING WIND ENERGY SYSTEMS.**

- (a) **ADDITIONAL STANDARDS.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (b) **APPLICATION.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If

the system is intended to provide power to more than one (1) premises, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

- (c) **CONSTRUCTION.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- (d) **NOISE.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
- (e) **ELECTROMAGNETIC INTERFERENCE.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (f) **LOCATION AND HEIGHT.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) **FENCE REQUIRED.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) **UTILITY COMPANY NOTIFICATION.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

### **SEC. 13-1-85 GARAGES, ACCESSORY BUILDINGS AND USES.**

- (a) **INTENT.** It is recognized that residents may need private garages to store vehicles as well as small accessory buildings for storage or other incidental uses. It is the purpose of this Section to allow these buildings and uses as long as aesthetics open space, and residential character are not compromised.
- (b) **PRINCIPAL STRUCTURE.** No garage or accessory building shall be located on a lot without a principal structure unless said lot adjoins a lot of same ownership with a principal structure.
- (c) **LOCATION.** A detached garage or accessory structure shall not be located in between a principal structure and a street right-of-way except in the case of a through lot where the

garage or accessory structure shall not be placed in front of the primary building exposure as determined by the Community Development Director. Garages and accessory structures shall comply with the regulations of the zoning district in which it is located.

(d) **HEIGHT.**

- (1) The sidewalls of any garage or accessory structure shall not exceed twelve (12) feet in height.
- (2) The overall height of any garage or accessory structure may not exceed eighteen (18) feet in height except that the height may be increased one (1) foot for each foot the required side and rear yard setbacks are increased. In no case shall the height of the garage exceed the height of the principal structure.

(e) **SIZE.** Garages and accessory buildings shall comply with the following standards:

(1) Attached Garages.

- a. R-1 and R-1A Single Family Residence Districts. Maximum size of one thousand two hundred (1,200) square feet or eighty percent (80%) of the principal dwelling's floor area, whichever is less.
- b. R-2 Two Family Residence District. Maximum size of one thousand three hundred (1,300) square feet or eighty percent (80%) of the principal dwelling's floor area, whichever is less.

(2) Detached Garages.

- a. R-1 Single Family Residence District. Maximum size of eight hundred sixteen (816) square feet.
- b. R-2 Two Family Residence District. Maximum size of six hundred twenty-four (624) square feet per dwelling unit.

(3) Accessory Buildings. Accessory buildings shall not exceed two hundred (200) square feet of gross area.

(f) **DENSITY.** Detached garages and accessory buildings shall not occupy more than thirty percent (30%) of any rear yard.

### SEC. 13-1-86 HOME OCCUPATIONS.

- (a) **INTENT.** It is recognized that there is a need for some persons to use their place of residence for limited non-residential purposes. The conduct of business within a residential zoning district, including "general home occupations", "seasonal home occupations", and "rummage sales" may be permitted under the provisions of this section. It is the intent of this section to ensure the compatibility of home occupations and rummage sales with other uses permitted in residential districts while maintaining and preserving the character of residential neighborhoods.

(b) **GENERAL HOME OCCUPATIONS.**

- (1) Definition. A "general home occupation" is defined as an occupation or business activity for financial gain that is conducted in whole or part within a dwelling unit, and is clearly subordinate to the residential use of the premises.
- (2) Standards. General home occupations that comply with the standards listed in this section are permitted by right as an accessory use in the following zoning districts: A-1 Agricultural/Holding, R-1 Single Family Residence, R-2 Two Family Residence, R-2A Multi-Family Residence, R-3 Multi-Family Residence, R-4 Multi-Family Residence, and R-MH Residential Mobile Home Residence. Occupant(s) wishing to conduct a general home occupation in a rented or leased dwelling must obtain

written permission from the property owner.

- a. A general home occupation shall be conducted within the residential dwelling unit and shall be clearly incidental to the use of the structure as a dwelling. Not more than three hundred (300) square feet of gross floor area may be used for such purposes. General home occupations conducted within an accessory building are prohibited.
- b. The operation may be conducted by the occupant(s) residing at the location of the home occupation, plus one (1) additional non-occupant employee.
- c. There shall be no outside operations or exterior storage of merchandise, inventory, business equipment, materials, or heavy equipment.
- d. Merchandise shall not be displayed or offered for sale either within or outside of the residence, provided that orders previously made by telephone or at a sales party may be filled on the premises. Direct sales of products off displays, shelves, or racks are not allowed, but a person may pick up an order placed earlier as described above.
- e. There shall be no visible evidence of the conduct of a general home occupation other than one (1) non-illuminated professional or announcement sign or nameplate not to exceed two (2) square feet in area mounted flat against the dwelling.
- f. Except as provided herein, the general home occupation shall not generate additional vehicular traffic, parking, pedestrian traffic, or cause an increase in the use of any public utilities beyond normal residential levels. One (1) off-street parking stall shall be provided for the home occupation. The use may increase vehicular traffic flow and parking by no more than one (1) vehicle at a time.
- g. One (1) vehicle, not to exceed three-quarter (3/4) ton capacity, owned and operated by the occupant(s) of the dwelling, is permitted for the delivery of materials to or from the premises. Delivery by mail and package delivery services is also permitted.
- h. The use shall not produce noise, vibration, glare, odors, fumes, smoke, dust, heat, or electrical interference detectable beyond the confines of the subject dwelling, including transmittal through vertical or horizontal party walls.
- i. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, bio-hazardous, or other restricted materials may be used or stored on the site.

**(c) SEASONAL HOME OCCUPATIONS.**

- (1) Definition. A "seasonal home occupation" is defined as a seasonal business activity for financial gain that is conducted in whole or part within a residential property and involves the outdoor display and sale of merchandise on the premises. Merchandise in this category is limited to agricultural crops/produce, Halloween pumpkins, Christmas trees, and other similar seasonal commodities as determined by the Community Development Department.
- (2) Standards. Approved seasonal home occupations that comply with the standards listed in this section are permitted as an accessory use in the following zoning districts: A-1 Agricultural/Holding, R-1 Single Family Residence, and R-2 Two Family Residence.
  - a. The occupant(s) must obtain a seasonal home occupation permit before entering into business.
  - b. The operation may be conducted by the occupant(s) residing at the location

of the seasonal home occupation, plus one (1) additional non-resident employee.

- c. The primary use of the dwelling unit shall be residential. Not more than three hundred (300) square feet of the dwelling's gross floor area may be used for office, sales, or storage activities associated with the seasonal home occupation.
- d. Outdoor displays of merchandise shall not be located in the street right-of-way and shall not encroach upon neighboring properties. All lighting must be directed away from adjoining properties.
- e. The use shall not produce noise, vibration, glare, odors, fumes, smoke, dust, heat, or electrical interference detectable beyond the confines of the subject dwelling, including transmittal through vertical or horizontal party walls.
- f. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, bio-hazardous, or other restricted materials may be used or stored on the site.
- g. Signage - refer to Article F.
- h. Operating hours open to the public are permitted between 8:00 a.m. and 9:00 p.m.
- i. All merchandise, display racks or stands, and signs shall be removed by the permit expiration date.

(3) Seasonal Home Occupation Permit Application Procedures.

- a. The occupant(s) shall complete and submit a seasonal home occupation permit application form and required materials to the Community Development Department.
- b. The applicant(s) shall pay the permit application fee established by the Community Development Department and approved by the Common Council.
- c. Occupant(s) wishing to conduct a seasonal home occupation in a rented or leased unit must obtain written permission from the property owner. This form shall be filed with the application.
- d. The Community Development Department shall review the application to determine if the proposal conforms to the standards listed in this section.
- e. The Community Development Department shall contact all properties within one hundred (100) feet of the proposed home occupation as determined by the Department. Notified occupants shall have 10 days to file an objection with the Department. For a seasonal home occupation permit to be granted, not more than twenty percent (20%) of the surrounding occupants may object to the proposed use.
- f. If not more than twenty percent (20%) of the property owners object to the use and the proposal complies with the standards listed in this section, the Community Development Department may grant a seasonal home occupation permit.
- g. The Community Development Department shall determine the appropriate expiration date of the permit based on its use. A seasonal home occupation permit may be valid for a maximum of six (6) months from the date of approval and may not be renewed. One (1) permit may be granted to a household in a twelve (12) month period. If the occupant(s) wishes to conduct a seasonal home occupation in subsequent years, the occupant(s) shall apply for a new permit.

**(d) RUMMAGE SALES.**

- (1) Definition. A "rummage sale" (also referred to as a "garage sale") is defined as a temporary business activity that is conducted in whole or part within a residential property and involves the outdoor display and sale of the occupant's used household goods.
- (2) Standards. Rummage sales that comply with the standards listed in this section are permitted by right as a temporary accessory use in the following zoning districts: A-1 Agricultural/Holding, R-1 Single Family Residence, R-2 Two Family Residence, R-2A Multi-Family Residence, R-3 Multi-Family Residence, R-4 Multi-Family Residence, and R-MH Residential Mobile Home Residence. Occupant(s) wishing to conduct a rummage sale in a rented or leased dwelling must obtain written permission from the property owner.
  - a. Sales shall be held no more than two (2) times per year.
  - b. Sales may last no longer than five (5) consecutive days.
  - c. Sales shall be conducted on the occupant's property. Multiple family sales are permitted if they are held on the property of one of the participants.
  - d. Goods may not be displayed in the public right-of-way.
  - e. No consignment goods or goods purchased for resale may be offered for sale.
  - f. Signage - refer to Article F.
  - g. All items offered for sale, display racks or stands, and signs shall be removed within twenty-four (24) hours of completion of the sale.

**(e) SPECIAL PROVISIONS.**

- (1) Inspections. All general home occupation, seasonal home occupation, and rummage sale sites may be subject to inspection by the Community Development Department. The Department shall have the right at any time, upon reasonable notice, to enter and inspect the premises for safety and compliance purposes.
- (2) Penalties. Failure to comply with the standards specified in this section may subject the occupant(s) and/or property owner(s) to the penalties listed in Section 1-1-7 of the Menasha Code of Ordinances.

**SEC. 13-1-87 OUTSIDE STORAGE OF FIREWOOD.**

- (a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.
- (b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.
- (c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.
- (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- (e) Not more than fifteen percent (15%) of the side or rear yard may be used for storage of firewood at any one time.

## SEC. 13-1-88 FENCES AND HEDGES.

- (a) **FENCES DEFINED.** For the purpose of this Section, a fence is herein defined as an enclosed barrier consisting of vegetation, wood stone or metal intended to prevent ingress or egress. For the purpose of this Section, the term "fence" shall include plantings such as hedges and shrubbery.
- (b) **FENCES CATEGORIZED.** Fences shall be categorized into three (3) classifications:
- (1) Boundary Fence. A fence placed on or within three (3) feet of the property lines of adjacent properties.
  - (2) Protective Fence. A fence constructed to enclose a hazard to the public health, safety and welfare.
  - (3) Architectural or Aesthetic Fence. A fence constructed to enhance the appearance of the structure or the landscape.
- (c) **HEIGHT OF FENCES REGULATED.** Except for corner lots or through lots, boundary or aesthetic fences including hedges or row plantings placed in an area within twenty (20) feet of the street right-of-way shall be not more than three (3) feet in height, with the exception that such fences may be a maximum of four feet, six inches (4'6") in height if two-thirds (2/3) of the area is open to vision. Upon application and issuance of a permit, boundary or aesthetic fences including hedges or row plantings within twenty (20) feet of the street right-of-way may be permitted on corner lots or through lots. Application shall be made on a form available from the Community Development Department and shall specify the height and location of the fence to be installed with respect to the street right-of-way and sidewalk (if present), driveway openings, and existing structures on the subject and adjacent properties. The application shall also specify the type of fencing and/or plant material to be used in constructing or installing the fence or hedge. The Community Development Director shall confer with the Public Works Director concerning the applicability of vision control area standards and any other safety concerns that may be related to the installation of the proposed fence or hedge. Upon consulting with the Director of Public Works, and upon consideration of any other relevant factors including, but not limited to the compatibility of the proposed fence or hedge with the adjacent properties, the Community Development Director may issue a permit. Such permit may include limitations on the location, height, or materials used in constructing or installing any fence or hedge as may be necessary to protect public safety or community aesthetics. Such permit may be revoked at any time by the Community Development Director if the relevant factors change such that the continued use of the fence is inappropriate.
- (d) **MATERIALS PROHIBITED.** In the residential-zoned districts, barbed wire fences, electrical fences and single, double and triple strand fences are prohibited.
- (e) **EXCEPTIONS.** Protective fences on industrial or publicly owned lands or semi-public lands such as schools, churches, educational institutions, utility substations, etc., are excluded from the provisions of this Section, except that where such fences incorporate the use of barbed wire, then such barbed wire shall not be less than seven (7) feet above the ground level and shall be constructed to be two-thirds (2/3) open to vision, equally distributed throughout the fence length and height located within the vision corner as defined in Sec. 13-1-90.

## SEC. 13-1-89 SWIMMING POOLS.

- (a) **SWIMMING POOL REGULATIONS.** This Section shall apply to all new, remodeled,

altered and relocated private outside swimming pools in the City of Menasha except that the protective enclosure requirements shall be retroactive to all existing swimming pools. A swimming pool is any structure, basin, chamber or tank containing or capable of containing an artificial body of water for swimming, diving or recreational bathing, having a depth of two (2) feet or more at any point. The purpose of this Section is to provide protection and safety of individuals, provide land use controls and provide for the general health and welfare of the neighborhood.

(b) **PERMIT REQUIRED.**

(1) A building permit is required for the installation, alteration or addition of a swimming pool. A building permit shall be applied for and obtained prior to the installation, alteration or addition of any private outside residential swimming pool. The application for a permit shall be accompanied by a plot plan drawing of the premises upon which the proposed swimming pool is to be installed. The plot plan shall show the size and shape of the lot, location and size of all buildings, structures and fences existing in the parcel and any other information affecting the premises. The plot plan shall be accurate and dimensioned.

(2) Plumbing and electrical permits are required for applicable installations for the operation of a swimming pool. Plumbing installations for the operation of a swimming pool are required to be done in compliance with the State Plumbing Code under a plumbing permit. Electrical installations made for the operation of a swimming pool are required to be done in compliance with the Wisconsin Electrical Code, Article 680, under the electrical permit.

(c) **POOL LOCATION REQUIREMENTS.** A swimming pool and any pool accessory building structure and any pool equipment or structure shall not exceed fifteen percent (15%) of the total lot area of the lot on which it is located. No part of the swimming pool, pool accessory structure or pool equipment or structure shall be closer than three (3) feet to any side lot line or rear lot line or closer to the street than the front setback line of the main building.

(d) **PROTECTIVE ENCLOSURES REQUIRED.**

(1) All private residential swimming pools, whether in-ground or above-ground types, shall be enclosed with an adequate and secure fence at least forty-eight (48) inches high above adjoining grade to prevent straying into the pool area. Required fences shall be constructed to prohibit the passage of a nine (9) inch sphere between fence members. Any gates installed shall be provided with self-closing and self-latching devices which shall be on the inside of the gate at least thirty (30) inches above ground level. A pool dome or pool top fencing attached to the pool to extend at least forty-eight (48) inches above the ground or a pool cover capable of supporting one hundred (100) pounds per square foot of area are acceptable substitutes for fencing. Pool covers shall be fixed securely in place at all times when the pool is not supervised by a responsible person.

(2) Above-grade pools with walls that are at least forty-eight (48) inches high at all points around said pool or have platforms and railings that are forty-eight (48) inches or more in height above grade are not required to be enclosed as provided in Subsection (d)(1), but the ladders and stairways providing access to said pools shall be adequately secured to prevent entry whenever the pool is not in use.

(e) **INTERFERENCE WITH THE ENJOYMENT OF PROPERTY RIGHTS PROHIBITED.** No swimming pool or family pool shall be so located, designed, operated or maintained as to interfere unduly with the enjoyment of the property rights of owners of property adjoining the swimming pool or family pool. Such rights are not limited to those of

drainage. Persons draining a swimming pool shall not permit such water to flow onto adjacent property owned by other persons.

- (f) **PROPERLY MAINTAINED.** All swimming pools shall be maintained in such a way as to not create a nuisance, hazard, eyesore or otherwise result in a substantial adverse effect on neighboring properties or to be in any way detrimental to public health, safety or welfare.

## SEC. 13-1-90 MOBILE STORAGE REGULATIONS

### SECTION 1: APPLICABILITY AND PURPOSE OF MOBILE STORAGE REGULATIONS

- (a) **Applicability.** This ordinance shall apply to all forms of mobile storage. The standards of this ordinance shall apply to all person, firms, partnerships, associations, and corporations owning, occupying, or having control or management of any premises located within the limits of the City of Menasha.
- (b) **Purpose.** The purpose of this ordinance it to regulate the use of mobile storage within the City of Menasha in order to protect the public safety, health, and welfare; minimize abundance and size of mobile storage units; preserve property values; support and complement land use objectives as set forth in the city's zoning ordinance; and enhance the aesthetic appearance and quality of life within the city. The standards contained herein are intended to achieve the following objective:
- (1) Establish a mobile storage permit system to allow some types of mobile storage and prohibit mobile storage not expressly permitted by this ordinance.
  - (2) Enable the effective use of mobile storage.
  - (3) Maintain and improve the image of the city by regulating the proliferation of mobile storage.
  - (4) Prevent mobile storage that is potentially dangerous to the public due to structural deficiencies or disrepair.
  - (5) Prevent the placement of mobile storage that will conceal or obstruct vision in street right or ways.
  - (6) It is the expressed intent of this ordinance to prohibit the use of semi-tractor trailers or similar mobile equipment as a substitute for permanent structures whose purpose is to store goods, equipment, parts, fixtures, stock in trade or similar products or materials.

### SEC 2: DEFINITIONS

- (a) **Mobile Storage.** For the purposes of this ordinance, mobile storage will be defined as a motor vehicle, trailer, semi-trailer, mobile home, mobile office, or other container on wheels or placed on the ground used in the transportation or storage of non-hazardous goods, whether finished or unfinished, from which any goods are sold, stored, services performed, or other business conducted.

### SEC 3: GENERAL REQUIREMENTS

- (a) The use of mobile storage in residentially zoned districts is strictly prohibited
- (b) The use of mobile storage in the C1, C2, C3, C4, I1 and I2 zoning districts shall comply with the following requirements:
  - (1) A permit is required for each mobile storage unit placed on a lot.
  - (2) No more than two mobile storage units may be placed on a single lot at any one time.
  - (3) Mobile storage may only be used for the storage of finished goods (i.e. overstock items, seasonal merchandise, or equipment), or unfinished goods (i.e. raw materials). The storage of refuse material, or opened containers of paint, oil, gas, or any other hazardous material is prohibited.
  - (4) Mobile storage shall be located behind the principal structure or otherwise located so as to minimize visibility from public streets.
  - (5) Mobile storage units shall not encroach upon any yard, setback or transitional area required by ordinance.
  - (6) Mobile storage units shall not obstruct any drive or other space necessary for access by fire apparatus.
  - (7) The placement of the mobile storage unit shall not reduce the number of parking spaces below the minimum number required for the zoning district in which the use is located.
  - (8) The provisions of the C-1, C-2, C-3, C-4, I-1 and I-2 zoning districts are applicable to the use or placement of any mobile storage units.

#### SEC 4: PERMIT PROCEDURES

- (a) Prior to the use or placement of any mobile storage units, a permit must be obtained from the Community Development Department.
- (b) A permit(s) for the placement of mobile storage may be issued for a total of ninety (90) days per year.
- (c) The permit application shall include the following information:
  - (1) Name of establishment requesting the permit.
  - (2) Name and telephone number of contact person.
  - (3) Type of storage unit(s), dimensions of the unit(s), and a copy of leasing or rental agreement of the storage unit(s) if applicable.
  - (4) A site plan showing the proposed placement of the mobile storage unit in relation to the any buildings on the lot, street right-of-ways, and the surrounding lots and the zoning of those lots.
  - (5) If the mobile storage unit is to have electricity or other utility hook-up, that information shall be indicated on the site plan.
  - (6) The reason for required mobile storage, including what is to be stored.

#### SEC 5: EXCEPTIONS

- (a) **Construction Sites.** Mobile storage units may be placed on construction sites for the time period from when a building permit has been issued until the building permit expires or until an occupancy permit is granted, whichever comes first.

- (b) **Licensed Tractor-Trailers.** Licensed tractor-trailers used in the transport of finished goods or raw materials are exempt from the requirement of this ordinance.

#### SEC 6: UNSAFE AND ILLEGALLY PLACED MOBILE STORAGE UNITS

(a) **Unsafe Mobile Storage.** Any mobile storage units deemed unsafe by the Zoning Administrator may be removed by the City according to the process outlined in Section 6 and any costs incurred therefor shall be charges against the owner of the property on which the mobile storage unit was placed.

(b) **Illegally Placed Mobile Storage.** The Zoning Administrator shall order the removal of any mobile storage units found in violation of this ordinance according to the process outlined in Section 7.

#### SEC 7: ENFORCEMENT PROCESS

(a) **Enforcement Process.** The Zoning Administrator shall have the authority to enforce the provisions of this ordinance and issue orders related to and promoting the purposes of this ordinance. The provisions of this ordinance shall be enforced according to the following procedures:

(1) Notice of the violation or required action shall be sent by certified mail addressed to the property owner and/ or permit holder at the last known address.

(2) The notice shall describe the violation or required action and identify a time frame for the violators to removal, repair, or complete the required action.

(3) Should the storage unit not be removed or repaired or the required action completed within the identified time frame, the Zoning Administrator shall have the authority to remove the mobile storage unit, and the property owner shall be liable for any and all costs incurred therefor. If the property owner fails to pay for such costs, the costs shall be placed as a special tax on the property and entered on the tax rolls.

(b) **Penalties.** Failure to comply with the specifications found in this ordinance might subject the property owner and/ or permit holder to the penalties listed in Sec. 1-1-7.

(c) **Appeal.** Decisions by the Zoning Administrator based in the provisions of this ordinance shall be subject to appeal to the Board of Appeals.

#### SEC. 13-1-99      RESERVED FOR FUTURE USE.