



AGENDA FOR PLANNING COMMISSION MEETING NOTICE

A Planning Commission meeting will be held on **Thursday, January 26, 2023 at 5:30 PM**
in the **Council Chambers at City Hall, 819 Superior Avenue, Tomah, WI.**

Join Zoom Meeting

<https://us06web.zoom.us/j/2708608080?pwd=ZTZ0cmllVEFEb1dzVDNwdi91UHFYQT09>

Meeting ID: 270 860 8080

Passcode: 206751

One tap mobile +13126266799,,2708608080#,,,,*206751# US (Chicago)

ROLL CALL

APPROVAL OF MEETING MINUTES

- A. [November 2022 Minutes](#)

CERTIFIED SURVEY MAP

1. [Review/Approval of, Certified Survey Map \(CSM\) for Tomah Storage LLC, Description: A parcel of land being lot 1 of certified survey map 26CSM162 and lot 1 thru 6 of block 32 of the plat of railroad addition to the City of Tomah located in part of the Northwest 1/4 of the Northeast 1/4 of section 4, town 17 North, range 1 West, City of Tomah, Monroe County, Wisconsin.](#)
2. [Review/Approval of, Certified Survey Map \(CSM\) for B & G Rental Properties LLC, Description: A parcel of land located in part of the NE 1/4-SE 1/4 of Section 32, T18N-R1W, City of Tomah, Monroe County, Wisconsin, described as follows: Commencing at the E1/4 corner of Section 32; thence S64°58'22"W, 1249.20 feet to the NW corner of Lot 49 of Hillside Subdivision and point of beginning; thence S0°12'45"W, 144.00 feet to the SW corner of said Lot 49; thence S28°27'24"W, 164.88 feet to the east line of Noth Avenue; thence N0°37'08"E along the east line of Noth Avenue 144.00 feet to the intersection of the east line of Noth Avenue and the south line of Hansen Street; thence N89°27'03"E along the south line of Hansen Street 163.86 feet to the point of beginning.](#)

CERTIFICATE OF APPROPRIATENESS

1. [Safe Ship: 621 Superior Ave](#)
2. [Brick Sip Haus Window Decals: 800 Superior Ave](#)

DISCUSSION ITEMS

1. [Review of Other Municipalities Noise Ordinance](#)
2. [Review 52-82\(7\) for compliance to 2013 Act 20](#)

ADJOURNMENT

NOTICE: It is possible that a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice. Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact Becki Weyer, City Clerk, at 819 Superior Avenue, Tomah, WI 54660.

MINUTES FOR PLANNING COMMISSION

A Planning Commission was held on **Monday, November 28, 2022 at 5:30 PM** in the Public Works Conference Room, 819 Superior Avenue, Tomah, WI.

Mike Murray called the meeting to order at 5:30 PM.

ROLL CALL

Present: Mike Murray, John Glynn, Brian Rice, Eric Prise and Tina Thompson.

Absent: Bryan Meyer and Adam Gigous.

APPROVAL OF MEETING MINUTES

Motion made by Prise, second by Rice to approve October meeting minutes. All ayes. Motion carried.

PUBLIC HEARING

Public hearing, Section 52-68, to consider the Conditional Use Permit application of Joseph Roraff, to covert a commercial occupancy into a residential occupancy at 603 1/2 Superior Ave.

Public hearing opened at 5:31 PM. No one in attendance that wished to speak. Public hearing closed at 5:33 PM.

Discussion and recommendation related to the request from Joseph Roraff to obtain a Conditional Use Permit to convert a commercial occupancy into a residential occupancy.

Motion made by Prise, second by Thompson to approve the Conditional Use Permit for 603 ½ Superior. All ayes. Motion carried.

DISCUSSION ITEMS

A. Site Plan Review: 1115 Townline Rd

Shane gave overview on 1115 Townline Rd. He went through the site plan review checklist. Motion made by Thompson, second by Glynn to approve the site plan for 1115 Townline Rd.

B. Certificate of Appropriateness Library - 716 Superior Ave

2 representatives were present for the library. Library board approved the sign. Historical Preservation has not been notified of the sign change. Motion made by Prise, contingent on review/approval from Historical Preservation, second by Glynn. All ayes. Motion carried.

C. Exterior Lighting for Commercial/Industrial

Shane located ordinance that covers exterior lighting which is sufficient.

ADJOURNMENT

Motion made by Prise, second by Thompson to adjourn at 5:58 PM. All ayes. Motion carried.

CERTIFIED SURVEY MAP

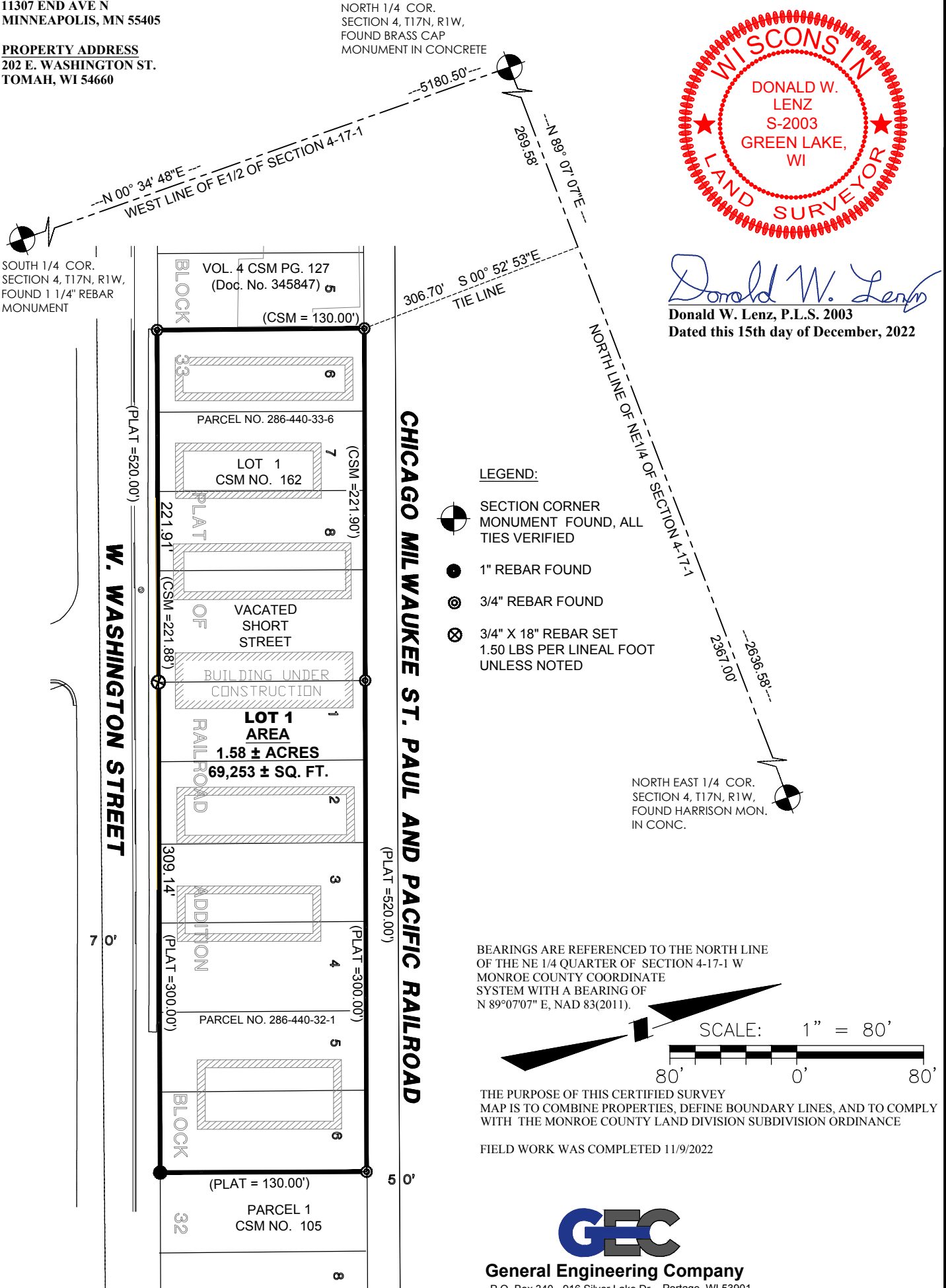
A PARCEL OF LAND BEING LOT 1 OF CERTIFIED SURVEY MAP 26CSM162 AND LOT 1 THRU 6 OF BLOCK 32 OF THE PLAT OF RAILROAD ADDITION TO THE CITY OF TOMAH LOCATED IN PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 4, TOWN 17 NORTH, RANGE 1 WEST, CITY OF TOMAH, MONROE COUNTY, WISCONSIN.

OWNER(S)
TOMAH STORAGE LLC
11307 END AVE N
MINNEAPOLIS, MN 55405

PROPERTY ADDRESS
202 E. WASHINGTON ST.
TOMAH, WI 54660

NORTH 1/4 COR.
SECTION 4, T17N, R1W,
FOUND BRASS CAP
MONUMENT IN CONCRETE

SOUTH 1/4 COR.
SECTION 4, T17N, R1W,
FOUND 1 1/4" REBAR
MONUMENT

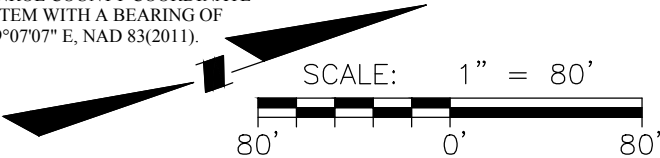


Donald W. Lenz
Donald W. Lenz, P.L.S. 2003
Dated this 15th day of December, 2022

LEGEND:

- SECTION CORNER MONUMENT FOUND, ALL TIES VERIFIED
- 1" REBAR FOUND
- 3/4" REBAR FOUND
- 3/4" X 18" REBAR SET 1.50 LBS PER LINEAL FOOT UNLESS NOTED

BEARINGS ARE REFERENCED TO THE NORTH LINE OF THE NE 1/4 QUARTER OF SECTION 4-17-1 W MONROE COUNTY COORDINATE SYSTEM WITH A BEARING OF N 89°07'07" E, NAD 83(2011).



THE PURPOSE OF THIS CERTIFIED SURVEY MAP IS TO COMBINE PROPERTIES, DEFINE BOUNDARY LINES, AND TO COMPLY WITH THE MONROE COUNTY LAND DIVISION SUBDIVISION ORDINANCE

FIELD WORK WAS COMPLETED 11/9/2022



General Engineering Company

P.O. Box 340 916 Silver Lake Dr. Portage, WI 53901
608-742-2169 (Portage Office) 920-294-6666 (Green Lake Office)
www.generalengineering.net

CERTIFIED SURVEY MAP NO. _____

A PARCEL OF LAND BEING LOT 1 OF CERTIFIED SURVEY MAP 26CSM162 AND LOT 1 THRU 6 OF BLOCK 32 OF THE PLAT OF RAILROAD ADDITION TO THE CITY OF TOMAH LOCATED IN PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 4, TOWN 17 NORTH, RANGE 1 WEST, CITY OF TOMAH, MONROE COUNTY, WISCONSIN.

SURVEYOR’S CERTIFICATE:

I, Donald W. Lenz, Professional Land Surveyor, hereby certify that I have surveyed, divided, monumented and mapped a parcel of land located in part of the Northwest Quarter of the Northeast Quarter of Section 4, T17N, R1W, City of Tomah, Monroe County, Wisconsin. Being more particularly described as follows:


Commencing at the North Quarter of said Section 4; thence N89°07'07"E, 269.58 feet along the North line of said Section 4; thence S00°52'53"E, 306.70 feet to the Northwest corner of Certified Survey Map 26CSM162, recorded in the Monroe County Register of Deeds Office in Vol. 26 on Page 162 as Document No. 649189 and the Point of Beginning of lands hereinafter described; thence S70°08'54"E, 531.55 feet to the Northeast corner of Lot 6 of Block 32 of the Plat of Railroad Addition City of Tomah; thence S19°46'25"W along the Easterly line of said Lot 6, 130.05 feet to the Southeast corner of said Lot 6, also being a point on the Northerly Right-Of-Way line of West Washington Street; thence N70°12'45"W along said Northerly Right-Of-Way line of West Washington Street, 531.05 feet to the Southwest corner of said CSM 26CSM162; thence N19°33'09"E along the Westerly line of said CSM 26CSM162, 130.65 feet to the point of beginning.

Said described area contains 69,253 sq. ft. or 1.58 acres and is subject to easements of record.

I have complied with Wisconsin Administrative Code, Chapter AE-7 and the provisions of Chapter 236.34(1m)(d)3, Chapter 236.34(1m)(d)4 of Wisconsin Statutes, and the subdivision regulations of the City of Tomah to the best of my knowledge, information and belief in surveying, mapping, monumenting and combining the same.

That such plat is a correct representation of all exterior boundaries of the land surveyed and the division thereof made.

That I have made such survey under the direction of Tomah Storage LLC 11307 End Ave N Minneapolis, MN 55405.


Donald W. Lenz, WI P.L.S. No. S-2003
Dated this 23rd day of November, 2022



APPROVAL OF THE CITY OF TOMAH PLANNING COMMISSION:

Resolved that this Certified Survey Map located in the Town of Tomah be, and hereby is, approved by the City of Tomah this _____ day of _____, 2023.

Approved: _____
City Chairperson

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City of Tomah this _____ day of _____, 2023.

City Clerk

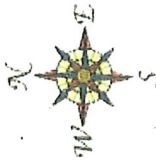


General Engineering Company

P.O. Box 340 916 Silver Lake Dr. Portage, WI 53901
608-742-2169 (Portage Office) 920-294-6666 (Green Lake Office)
www.generalengineering.net

CERTIFIED SURVEY MAP

Located in part of the NE1/4-SE1/4 Sec. 32, T18N-R1W,
City of Tomah, Monroe County, Wisconsin.



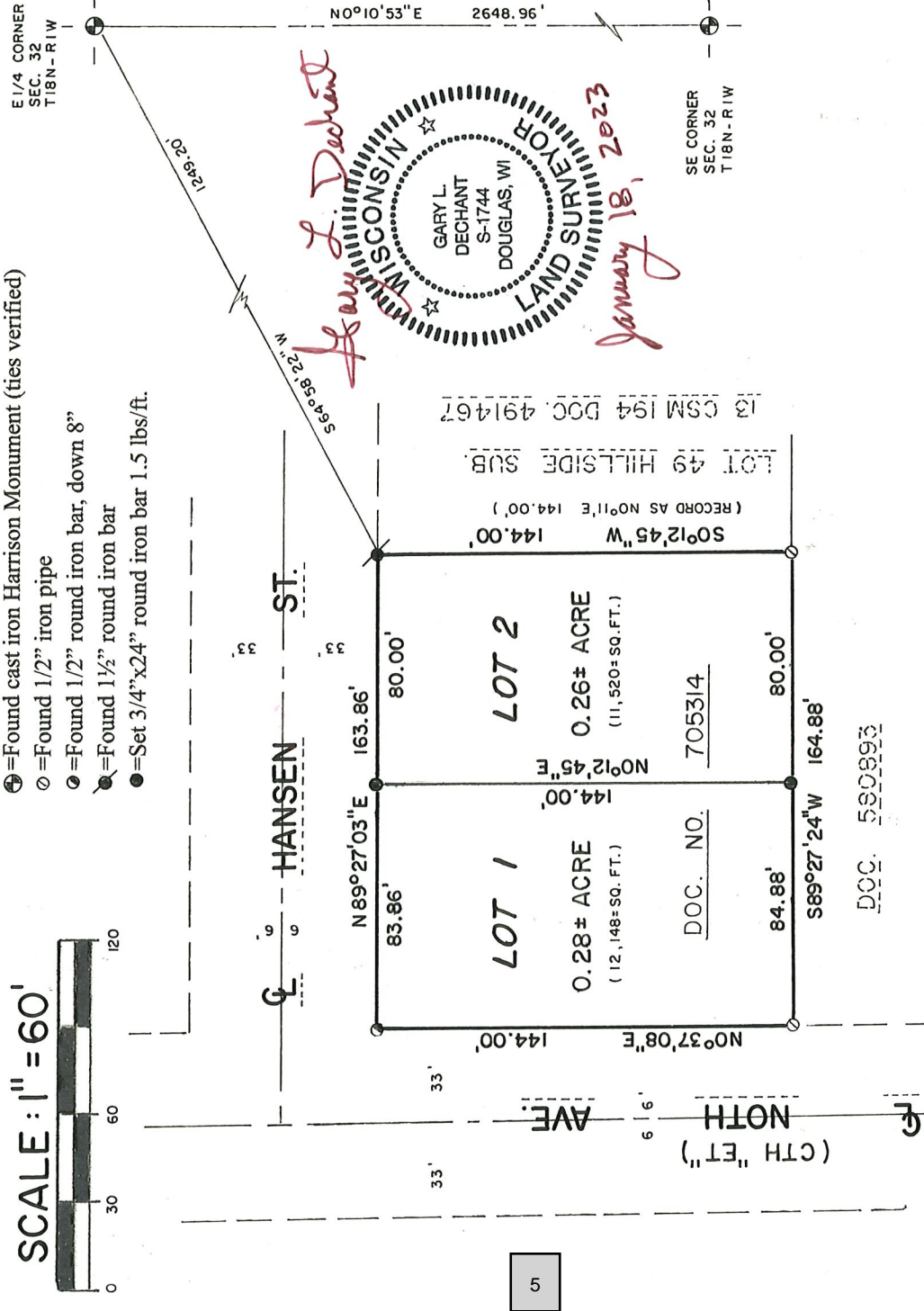
Bearings referenced to the east line of the SE1/4, Section 32,
T18N-R1W, ASSUMED to bear N0°10'53"E.

SCALE: 1" = 60'



- = Found cast iron Harrison Monument (ties verified)
- = Found 1/2" iron pipe
- = Found 1/2" round iron bar, down 8"
- = Found 1 1/2" round iron bar
- = Set 3/4"x24" round iron bar 1.5 lbs/ft.

"thou shalt not remove thy neighbor's landmarks"



DESCRIPTION: A parcel of land located in part of the NE1/4-SE1/4 of Section 32, T18N-R1W, City of Tomah, Monroe County, Wisconsin, described as follows: Commencing at the E1/4 corner of Section 32; thence S64°58'22"W, 1249.20 feet to the NW corner of Lot 49 of Hillside Subdivision and point of beginning; thence S0°12'45"W, 144.00 feet to the SW corner of said Lot 49; thence S89°27'24"W, 164.88 feet to the east line of North Avenue; thence N0°37'08"E along the east line of North Avenue 144.00 feet to the intersection of the east line of North Avenue and the south line of Hansen Street; thence N89°27'03"E along the south line of Hansen Street 163.86 feet to the point of beginning. Subject to easements, restrictions, covenants, and right of ways of record.

CITY OF TOMAH APPROVAL:

This certified survey map is hereby approved by the planning commission of the City of Tomah,
Monroe County, Wisconsin.

Authorized Representative _____ Date _____

SURVEYOR'S CERTIFICATE:

I, Gary L. Dechant, do hereby certify that I have surveyed and mapped the property described and that I have fully complied with the provisions of Chapter 236.34 of the Wisconsin statutes, Chapter AE-7 of the Wisconsin Administrative Code and Chapter 35 of the Monroe County Code of Ordinances to the best of my knowledge and belief.

Gary L. Dechant
DECHANT SURVEYING
17055 Hornet Road
Camp Douglas, WI 54618

Under the direction of:

Owner: B & G Rental Properties LLC
B.J. Rice
113 E. Andres St.
Tomah, WI 54660



819 SUPERIOR AVENUE
TOMAH, WI 54660
Ph: (608) 374-7429
srolff@tomahonline.com

APPLICATION FOR SIGN PERMIT

DATE 12/16/2022

Georgette Martin
(Applicant's name)

9392 Enterprise Rd Tomah, WI
(Applicant's mailing address)

608-382-9480
(Phone #)

621 Superior Ave Tomah WI
(Address / Location of proposed sign)

(Description of proposed sign installation)

take off 10 foot sign off front of the building (main store)
↓ put up 12 foot sign

Does hereby apply for permission to place a sign, on the described premises, to comply with City Ordinance # 52-150. The fee of \$ 40.00 to be paid at the time of application.

Attached to this application is a complete drawing of the proposed sign, including location on premises, distance from lot lines, sign dimensions, and building frontages (wall signs only).

Georgette Martin
(Signature of applicant)

(This section for office use only)

PERMIT: **GRANTED / DENIED**

Shane Rolff, Building Inspector

Date

621 Superior Ave.

Certificate of Appropriateness

City of Tomah: Building/Site Improvement Review Application for Certificate of Appropriateness

Please submit the following information:

- One historical (if available) and one modern photograph of building
- Two (2) copies of plans of proposed work, including color and/or material samples if appropriate.
- A completed downtown design standards checklist

Estimated total cost/budget for proposed project:

\$2000⁰⁰

Do you have any questions or concerns?

Ø

I understand the criteria for this application, approval and reviews by the Plan Commission and/or Historic Preservation Commission (check with Zoning Administrator if unknown whom will review), and agree to be subject to the Downtown Design Standards and/or Historic Preservation Ordinance (if applicable) for the above described work in accordance with City ordinances.

Signed:

George Hart

Date:

12/22/2022

Property Owner / Applicant

FOR OFFICE USE ONLY

Received By:

Date of Meeting:

Approved or Denied?:

Date Received:

Conditions of Approval or

Reasons for Denial:

Design Standards Checklist

Page 2 of 2

Checklist

Instructions

If a section of these standards does not apply to the proposed project (e.g. *parking standards for a facade renovation project*) the entire section can be skipped by checking the "does not apply" box ☐ NA. If any part of a section does apply, please fill out the entire section with checks for completed standards and cross out ☐ for any that do not apply.

In addition to this checklist, a site plan shall be submitted, including (as applicable):

- ☐ Trash and recycling containers
- ☐ Pedestrian pathways
- ☐ Parking and circulation
- ☐ Landscaping
- ☐ Stormwater management features
- ☐ Lighting

Applicant
Staff / ZA
PC

SIGNAGE DESIGN

Sign Type Usage Standards

☐ NA

Comments (office use only):

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1. All signs conform to the sign design and maintenance requirements in the City's Zoning Ordinance, -AND- have applied/acquired sign permit
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2. The project does not include following sign types: roof-mounted, pole, external neon cabinet/canister, billboard, -AND- there is no canopy in the public right-of-way.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3. All ground signs, if any, utilize monument-style design.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4. Ground signs do not extend higher than the mean street grade following the restriction shown below. <input type="checkbox"/> Downtown Core Only: 5 feet <input type="checkbox"/> Transitional Area Only: 8 feet
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5. Signage on awnings, marquees and canopies is > 75% of the front valance, flat profile, and/or roof. - AND - no signage is placed on the side of the structure.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6. LED changeable messaging sign incorporated in monument sign does not comprise > 30% of the sign area, inclusive of the base area.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	7. Signage is > 25% of each storefront display window/door area, excluding product display.

Design Standards Checklist

1. Signs are placed to fit in with the building's overall architectural composition -AND- do not significantly obscure the building's architectural features.

☒

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☐

2. Placement of signs and mounting systems do not obscure windows or doorways, including door, glass panes, and corresponding trim and supports.

☒

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3. Signage on masonry buildings are mounted through the mortar joints rather than through the masonry itself, if possible.

☒

☒

☐

4. Signs do not extend above the roofline, cornice or parapet, whichever is lowest.

☒

☒

☐

5. If a historic sign board area exists above the transom windows, the primary wall sign is placed inside this space -AND- does not extend above, below or beyond the edges of the signboard area.

☒

☒

☐

6. Awnings are not internally illuminated.

☒

☒

☐

7. Exterior lamps are located and shielded to prevent the casting of direct light or glare on roadways, adjacent properties and the sky, -AND- does not interfere significantly with the sign or sign bracket.

☒

☒

☐

8. **Downtown Core Only**, if wall/projecting sign is internally illuminated, the sign face (background) is opaque with only push thru lettering/symbols illuminated.

☒

☒

☐

9. There are no color changing and "chasing" LED features.

☒

☒

☐

Sign Placement, Installation & Lighting Standards

NA

Comments (office use only):

Checklist

	Applicant	Staff / ZA	PC	
Sign Materials, Colors & Lettering Standards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1. Sign substrate is either MDO, Aluminum, or Aluminate. Acrylic material, if used, simulates metal or wood.
<input checked="" type="checkbox"/> NA	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2. The sign style, color and materials complement the character of the building and other signage.
Comments (office use only):	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3. Highly reflective material is not used.
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4. The color tones between the sign's lettering/symbols and background have sufficient contrast to make the sign clearly legible.
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5. The main lettering and predominant background does not use fluorescent colors.

Design Standards Checklist



1 1/2 ft
tall

12 foot long

Replacing the 10 ft Sign with this Sign that
was on my old business ~~building~~ Building 1115 N. Superior Ave
See 142

56 sq ft proposed
allowed
18 sq ft - compliant



Centering the other
Sale Sign Sign here

10 ft →
3 ft →

Removing
this sign

CITY OF TOMAH

819 SUPERIOR AVENUE
TOMAH, WI 54660
Ph: (608) 374-7429
Fax: (608) 374-7444

INSPECTION
DEPARTMENT

APPLICATION FOR SIGN PERMIT

DATE 1-12-23

Greg Zingler - Zingler Sign
(Applicant's name)

6125 County Hwy O, Tomah
(Applicant's mailing address)

608-378-3316
(Phone #)

800 Superior Ave.
(Address / Location of proposed sign)

48"x36" project sign + 2 sets of 48"x36" window decals
(Description of proposed sign installation)

Does hereby apply for permission to place a sign, on the described premises, to comply with City Ordinance # 52-150. The fee of \$ 40.00 to be paid at the time of application.

Attached to this application is a complete drawing of the proposed sign, including location on premises, distance from lot lines, sign dimensions, and building frontages (wall signs only).


(Signature of applicant)

(This section for office use only)

PERMIT: **GRANTED / DENIED**

Shane Rolff, Building Inspector

Date

Certificate of Appropriateness

City of Tomah: Building/Site Improvement Review Application for Certificate of Appropriateness

Address of Property:

800 Superior Ave, Tomah

Property Owner Name:

Judy Faulkner-Johnson

Property Owner Address (if different from Address of Property):

1414 Superior Ave.

Tomah

WI

Street

Municipality

State

Property Owner Phone Number: (Home/Mobile): (tenant)

(owner)

Sue Hachett 651-303-3454

Judy 608-372-7670

Have you reviewed the Downtown Tomah Design Standards (if applicable)?

☒ Yes

☐ No

☐ Not Applicable

Have you reviewed the City's Historic Preservation Ordinance (if applicable)?

☒ Yes

☐ No

☐ Not Applicable

Is your property a historic site, in a historic district, or contain a historic structure?

☐ Yes

☒ No

Scope of project to include: (Please check appropriate items.)

☐ New Construction

☐ Siding

☒ Signage

☐ Building Addition

☐ Landscaping / Fencing

☐ Exterior Lighting

☐ Façade Restoration

☐ Parking / Rear Access

☐ Other: _____

☐ Awning/Canopy/Shutters

☐ Doors, Windows, & Entrances

☐ Roofing

☐ Exterior Painting

Briefly explain the proposed work: (Attach extra sheets if necessary.)

Projecting sign & window decals

Last Modified: March 2, 2017

Page 1 of 2

Certificate of Appropriateness

City of Tomah: Building/Site Improvement Review Application for Certificate of Appropriateness

Please submit the following information:

- One historical (if available) and one modern photograph of building
- Two (2) copies of plans of proposed work, including color and/or material samples if appropriate.
- A completed downtown design standards checklist

Estimated total cost/budget for proposed project:


2500.00

Do you have any questions or concerns?

None

I understand the criteria for this application, approval and reviews by the Plan Commission and/or Historic Preservation Commission (check with Zoning Administrator if unknown whom will review), and agree to be subject to the Downtown Design Standards and/or Historic Preservation Ordinance (if applicable) for the above described work in accordance with City ordinances.

Signed:



Date:

1-12-23

Property Owner / Applicant

Zingler Sign, Greg Zingler

FOR OFFICE USE ONLY

Received By:

SR

Date of Meeting:

1/26/23

Approved or Denied?:

Date Received:

1/12/23

Conditions of Approval or

Reasons for Denial:

Page 2 of 2

Design Standards Checklist

Design Standards Checklist

1. Signs are placed to fit in with the building's overall architectural composition **-AND-** do not significantly obscure the building's architectural features.

Applicant

Staff / Z/A

PC

Sign Placement, Installation & Lighting Standards

NA

Comments (office use only):

2. Placement of signs and mounting systems do not obscure windows or doorways, including door, glass panes, and corresponding trim and supports.

3. Signage on masonry buildings are mounted through the mortar joints rather than through the masonry itself, if possible.

4. Signs do not extend above the roofline, cornice or parapet, whichever is lowest.

5. If a historic sign board area exists above the transom windows, the primary wall sign is placed inside this space **-AND-** does not extend above, below or beyond the edges of the signboard area.

6. Awnings are not internally illuminated.

7. Exterior lamps are located and shielded to prevent the casting of direct light or glare on roadways, adjacent properties and the sky, **-AND-** does not interfere significantly with the sign or sign bracket.

8. **Downtown Core Only**, if wall/projecting sign is internally illuminated, the sign face (background) is opaque with only push thru lettering/symbols illuminated.

9. There are no color changing and "chasing" LED features.

Window decal storefront window calculations

- (6) windows facing Superior: 48" x 78" each= **156 sq** ft total window space
- 156 sq ft window space x 25% allowed coverage with signs/decals=**39 sq ft.**
allowed coverage
- (2) window decals at 12 sq ft each=**24 sq ft window coverage proposed**
- 24 sq ft window coverage proposed, 39 sq ft allowed=**Compliance with City of Tomah Downtown Design Standards**

LOCATION: 800 SUPERIOR AVE, TOMAH
 CLIENT: BRICK SIP HAUS, JULIE LYREK (LYREK CREATIVE)
 SIGN TYPE: PROJECTING BLADE SIGN 42" X 30" (2-SIDED) WITH BLACK 48" SCROLL BRACKET
 WINDOW DECAL TYPE: 48" X 36" CHROME GOLD AND BLACK



6 windows (48" x 78")

WIDTH OF FRONTAGE = 55'

LOCATION: 800 SUPERIOR AVE, TOMAH
 CLIENT: BRICK SIP HAUS, JULIE LYREK (LYREK CREATIVE)
 SIGN TYPE: PROJECTING BLADE SIGN 42" X 30" (2-SIDED) WITH BLACK 48" SCROLL BRACKET
 WINDOW DECAL TYPE: 48" X 36" CHROME GOLD AND BLACK



WIDTH OF FRONTAGE = 55'

DIVISION 3. OUTDOOR FACILITIES LICENSE

Sec. 4-97. Approval required.

Any retail class B license issued shall limit and restrict the consumption of fermented malt beverages and intoxicating liquors as defined in Wis. Stats. ch. 125 to the building premises so defined on the liquor license application unless, prior to the application of a liquor license or renewal thereof, approval has been obtained from the plan commission for an outdoor facility.

(Code 1993, § 12.03(6)(a))

Sec. 4-98. Application; site plan.

The application to the plan commission shall be accompanied by the application fee established by the city council, together with a site and landscape plan of the entire parcel showing the outdoor facility, designating its location with respect to the main premises and other buildings on the site, designating entrances and exits of both the main structure and outdoor facility, and the location of the outdoor facility with respect to buildings on adjoining sites. The application shall also include such other information as the plan commission may require to ensure compliance with this Code.

(Code 1993, § 12.03(6)(b))

Sec. 4-99. Requirements and guidelines for outdoor facilities.

(a) *Requirements:*

- (1) *Entrance and exits.* The normal entry and exit should be from inside the building. However, an entrance and exit must be available from the outdoor facility. The fire department and building inspector shall review the entrance and exit systems to ensure that the same are code compliant. In addition, the entrance and exit from the site shall have an alarm system meeting the requirements of the building inspector and chief of police to ensure that the staff inside the parent building will be immediately notified if the entrance or exit has been utilized.
- (2) *Use of right-of-way; setback.* No outdoor area shall be located on a dedicated public right-of-way or within 20 feet thereof. Exceptions may be requested for those lots not able to accommodate the 20-foot minimum setback requirement.
- (3) *Video monitoring.* An operating video camera monitoring system shall be installed in the outdoor area.
- (4) *Fencing and lighting.* The outdoor area shall be enclosed with a fence. The requirements for location, height and style shall meet the minimum requirements as directed by the building inspector and chief of police after due consideration is made to the site location and any other pertinent factors specific to the site.

(b) *Guidelines:* The plan commission shall consider the following guidelines when reviewing an application for an outdoor facility:

-
- (1) *Location.* In the event the location of the outdoor area is within 300 feet of property zoned residential, conditions shall be instituted to ensure that such area does not significantly compromise the uses, values and enjoyment of such residential property within the neighborhood of the proposed site.
 - (2) *Overall appearance and size.* The overall appearance must meet the downtown standards requirements if applicable or otherwise required by the plan commission. The outdoor area must be patrolled for trash and cleaned on a daily basis.
 - (3) *Tables, chairs and trash receptacles.* A seating plan shall be submitted and reviewed by the plan commission. The building inspector and/or fire chief shall provide a calculated occupant load for the area. The occupant load shall be clearly posted. Trash receptacles will be required.
 - (4) *Liquor availability.* The availability of liquor shall be consistent with liquor license of applicant. The liquor license must be amended to include the outdoor area as part of the premises.
 - (5) *Surface and materials.* The outdoor area should be on a hard surface; however, exceptions may be granted upon approval by the Plan Commission and after due consideration is made to the site location and any other pertinent factors specific to the site. Any and all building materials for structures thereon shall meet the requirements of the plan commission.
 - (6) *Hours of operation.* An outdoor facility shall only be operated during the hours as designated per Wisconsin State Statute for Class B alcohol beverage licenses.
 - (7) *Noise restraint.* Efficient means shall be employed to prevent the ordinary sound of music, dancing, singing or entertainment within the outdoor facility from being heard on adjoining premises or on the public street, and no unusually loud music, singing or entertainment or any boisterousness or noisy conduct on the part of the patrons shall be permitted.

(Code 1993, § 12.03(6)(c); Ord. No. 2014-02-03-D, 2-11-2014; Ord. No. 2018-08-07-D, § 1, 8-13-2018)

Sec. 4-100. Public hearing; notice.

The plan commission shall conduct a public hearing and make a recommendation to the city council. Notice shall be given by ordinary mail of the proposed establishment of an outdoor facility to the owners of property immediately adjacent to the area to be considered for the new use extending 300 feet therefrom and to the owners of properties extending 300 feet from the street frontage of the opposite property and also by a class I publication in the official newspaper.

(Code 1993, § 12.03(6)(d))

Sec. 4-101. Recommendation to council.

After hearing, the plan commission shall make a recommendation to the city council. The recommendation shall recommend either approval without special conditions, approval with special conditions (taking into consideration the above guidelines), or denial.

(Code 1993, § 12.03(6)(d)1—3)

Sec. 4-102. Determination by council.

Upon recommendation from the plan commission, the city council shall consider the application and any special conditions recommended by the plan commission. If final approval is granted by the city council, a special

use permit shall be issued with any restrictions stated thereon. Any violation of the stated restrictions shall subject the special use permit to automatic revocation without further notice or public hearing.

(Code 1993, § 12.03(6)(e))

Secs. 4-103—4-132. Reserved.

Lacrosse Noise Ordinance

DIVISION 2. - NOISE CONTROL^[2]

Footnotes:

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State Law reference— Municipal regulation of noise-producing devices, Wis. Stats. § 66.0411.

Sec. 32-134. - General prohibitions.

- (a) *Noise prohibited.* It shall be unlawful to make, continue or cause to be made or continued any noise in excess of the noise levels set forth in subsection (b) of this section unless such noise is reasonably necessary to the preservation of life, health, safety or property.
- (b) *Measurement of noise.*
 - (1) Any activity not expressly exempted by this section which creates or produces sound, regardless of frequency, exceeding the ambient noise levels at the property line of any property (or, if a condominium or apartment house, within any adjoining apartment) by more than six decibels above the ambient noise levels as measured on the A-weighted scale of a sound meter and as designated in the following table, at the time and place and for the duration then mentioned, shall be deemed to be a violation of this division, but any enumeration herein shall not be deemed to be exclusive.
 - a. All districts, 7:00 a.m. to 6:00 p.m. duration of sound:
 - 1. Less than ten minutes, 75 dB;
 - 2. Between ten minutes and two hours, 60 dB;
 - 3. In excess of two hours, 50 db.
 - b. Residential districts, 6:00 p.m. to 10:00 p.m. and all other districts 6:00 p.m. to 7:00 a.m., duration of sound:
 - 1. Less than ten minutes, 70 dB;
 - 2. Between ten minutes and two hours, 60 dB;
 - 3. In excess of two hours, 50 db.
 - c. Residential districts, 10:00 p.m. to 7:00 a.m., duration of sound:
 - 1. Less than ten minutes, 60 dB;
 - 2. Between ten minutes and two hours, 50 dB;
 - 3. In excess of two hours, 40 db.
 - (2) The districts referred to subsection (b)(1) of this section are the zoning districts of the City of La Crosse as defined in chapter 115.
 - (3) In determining whether a particular sound exceeds the maximum permissible sound level in subsection (b)(1) of this section:
 - a. Sounds in excess of the residential district are violative of this section whether the sound originates in a residential district or any other district;
 - b. During all hours of Sundays and State and Federal holidays, the maximum allowable decibel levels for residential districts are as set forth in this Code.
 - c. Sounds emanating from the operation of:

1. Motor vehicles on a public highway;
2. Aircraft and/or airport; and
3. Outdoor implements such as power lawn mowers, snow blowers, power hedge clippers, nail guns, and power saws;

are exempt from the provisions of this section.

- (4) Sounds emanating from lawful and proper activities on school grounds, play grounds, parks or places wherein athletic contests take place are exempt from the provisions of this section. Sounds emanating from activities involving the production, processing, cleaning, servicing, testing or repair of materials, goods or products, electric or gas sub-stations, fire stations, police stations, post offices, railroad rights-of-way, but not including railroad yards and shops other than for passenger purposes, railroad commuter passenger stations, telephone exchanges, telephone transmission equipment buildings, and microwave-relay towers, water works, reservoirs, pumping stations and filtration plants, accessory radio and television antennas, maintenance and equipment storage buildings owned and operated by the City of La Crosse, are exempt from the provisions of this section and shall be regulated in all respects by the noise provisions of chapter 115, the La Crosse Zoning Code, including, but not limited to, the permissible levels of noise and the boundary or location designation for the measurement of noise.
- (5) Sounds emanating from events held at the south side Oktoberfest grounds, in Copleland Park or in Riverside Park are exempt from the provisions of this section but shall be subject to any conditions provided for within the permission to hold such event.
- (6) Limited exemption for construction noise. No person shall operate or permit the operation of any equipment used in construction work between the hours of 7:00 p.m. and 7:00 a.m. of the following day in such a manner as to unreasonably interfere with the peace, comfort, and quality of life of neighboring persons of ordinary sensibilities. The provisions of this limitation shall not apply to construction machinery when engaged in bona fide, temporary construction work between the hours of 7:00 a.m. and 7:00 p.m. of any day or between 7:00 p.m. and 7:00 a.m. of any day if the Board of Public Works following a public hearing before the Board of Public Works, approves temporary construction work between 7:00 p.m. and 7:00 a.m. Application for this temporary construction exemption may be made upon submitting a nonrefundable application fee in the amount established by resolution on forms provided by the City Clerk. Notification of such exemption shall be provided to the Council Member of the district that such work will take place. A notice of such public hearing shall be at least ten days prior to the date of the hearing to all owners of record, as listed in the Office of the City Assessor, and to all post office addresses of property in whole or in part, situated within 300 feet of the boundaries of the properties on which the construction is to take place. Such hour limitations shall not apply to emergencies where immediate action is required. Such construction noise on Saturday and Sunday shall be between 7:00 a.m. and 6:00 p.m. on Saturday and 9:00 a.m. to 5:00 p.m. on Sunday.
- (c) *Specific prohibition.* The operation between 11:00 p.m. and 7:00 a.m. of any device for killing, trapping or repelling insects or other pests is prohibited if such device clearly produces audible sound beyond the property line of the property on which the device is located and such sound is emitted onto property zoned or used for residential or dwelling purposes, including trailer courts.

(Code 1980, § 7.02(G); Ord. No. [4999](#), § I, 6-8-2017; [Ord. No. 5113, § XVI, 10-10-2019](#))

Cross reference— Persons indebted to City not to be issued permit, license or lease, § 2-292.

Sec. 32-135. - Loud noises prohibited.

- (a) It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing or unnecessary noise in the City such as produces

annoyance, inconvenience, discomfort, or hurt to any person, or to the enjoyment of property or comfort of any person, or affects the safety, health, or morals of the public.

- (b) It shall be unlawful for any person to operate any mechanical device operated by gasoline, or steam, or otherwise, without having the same equipped and using thereon a muffler, in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cutout, bypass or similar device.
- (c) The operation or use of any automobile, motorcycle, or other vehicle, engine, or motor of whatever size, stationary or moving, when used on tracks or courses, not being public highway, between the hours of 10:30 p.m. and 8:00 a.m. on weekdays and 12:00 midnight on Sundays shall be unlawful.
- (d) As used in this section, the word "person" shall extend and be applied to the lessor or landlord of any land, building or premises, his agent, the lessee, the occupant or person in charge of such building or premises, as well as to individuals.
- (e) The landlord or lessor shall be given notice on at least two occasions of violations of this section by the tenant(s) or occupant(s) and, upon the second and subsequent violation by the tenant, occupant or group of tenants at the same dwelling unit within a one-year period, the landlord or lessor may be cited for permitting or allowing a nuisance. The landlord or lessor shall be notified of all citations issued to their tenants or occupants for noise violations and shall only be subject to a penalty if such tenant(s) or occupant(s) has been convicted of violations of this section occurring within a one-year period nor shall the landlord or lessor be subject to a penalty if the landlord or lessor shows that all reasonable means have been taken and a sincere effort made to prevent continuous noise violations by their tenants or occupants.
- (f) For the purpose of this section, a nuisance is described as allowing continuous loud noises, music or parties, which tend to disrupt the common welfare of a neighborhood or community.

(Code 1980, § 7.02(H))

Sec. 32-136. - Hospital zones of quiet.

There is hereby created and established a zone of quiet in all territory embraced within a distance of 250 feet in each direction from every hospital. It shall be unlawful for any person to make, cause or permit to be made any unnecessary noise upon the public streets, avenues or alleys within any such zone of quiet, which disturbs or tends to disturb the peace and quiet of any of the inmates of any hospital located therein.

(Code 1980, § 7.02(F))

Sec. 32-137. - Neighborhood quiet zones.

- (a) It shall be unlawful for any person to create, assist in creating, permit, continue to permit the continuance of any unreasonably loud, disturbing or unnecessary noise emanating from within residential neighborhood quiet zones, as established by the Common Council, between the hours of 10:30 p.m. and 6:00 a.m., such as produces annoyance, inconvenience, discomfort or hurt to any person, or to the enjoyment of property or comfort of any person, or affects the safety, health or morals of the public.
- (b) As used in this section, the term "neighborhood quiet zones" means a residential area wherein not less than 51 percent of the residents 18 years of age and over or property owners in a nonbusiness zoned area unless the owners of such businesses included within such quiet zone agree to the same and have successfully petitioned the Common Council to request such status. If a portion of the area requested for a neighborhood quiet zone is zoned other than residential, such portion would qualify if such area is being used for residential purposes and the owner of such property consents to such quiet zone. In arriving at the requisite percentage, each parcel of property or tax parcel shall be counted

as one. The majority of residents 18 years of age and over occupying a parcel must sign the petition in order to constitute one parcel towards the requisite number of residents. Posting of such zones shall be in accordance with the procedures as established by the Common Council. The area shall not be less than one block in length on both sides of the street, unless otherwise approved by the Council in areas of irregular configuration. Smaller residential areas less than one block in length on both sides may be included within an existing contiguous quiet zone. A separate petition shall be filed for each block, or portion thereof. When the petition is filed with the City Clerk, it shall contain the requisite percentage of owners and/or residents and no signatures can be added or subtracted after it is filed with the City Clerk. All signatures on the petition shall be obtained within three months from the date of the first signature or such petition shall be void. The Common Council shall not grant such status to any area less than that as prescribed in this section. Such status shall remain in effect for a period of at least one year after which time utilizing the same guidelines as for the establishment of such status; it may be repealed by petition of the residents or owners subject to approval of the Common Council. Notice of public hearings to establish or repeal any residential neighborhood quiet zone shall be given to all record owners within the zone and any residents that signed any petition. A fee in the amount established by resolution shall accompany each petition. Petition forms shall be provided by the City Clerk's Office. The full fee may be waived upon approval by the Council in areas of irregular configuration, provided, however there shall be a fee of at least the amount established by resolution.

(Code 1980, § 7.02(R))

Sec. 32-138. - Unnecessary blowing of railroad whistles and horns.

- (a) *Burlington Northern mainline track.* No railroad company or any of its agents or employees shall blow or cause to be blown any whistle or horn within the limits of the City of La Crosse on the mainline track of the Burlington Northern Railroad except when necessary to prevent damage to property or injury to persons, or when visibility is impaired by weather conditions, or when required by Federal or State regulation.
- (b) *Soo Line mainline track.* No railroad company or any of its agents or employees shall blow or cause to be blown any whistle or horn within the limits of the City of La Crosse on the mainline track of the Soo Line/Canadian Pacific Railroad except when necessary to prevent damage to property or injury to persons, or when visibility is impaired by weather conditions, or when required by Federal or State regulation.
- (c) *Penalty.* Violations of this section are a Class C offense as provided in section 1-7.

(Code 1980, §§ 12.05, 12.07)

Secs. 32-139—32-159. - Reserved.

Sparta Noise Ordinance

Sec. 17-521. Noise.

- (a) Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards hereinafter prescribed, provided that such noises shall be capable of being so measured with such equipment. Noises capable of being so measured, for the purpose of this article, shall be those noises which cause rapid fluctuations of the needle of the sound level meter, with a variation of no more than plus or minus two (+/-2) decibels. Noises incapable of being so measured, such as those of an irregular or intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.
- (b) At no point on the boundary of a residence or business district shall the sound intensity level of any individual operation or plant (other than the operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands shown in the following table:

OCTAVE BAND MAXIMUM PERMITTED SOUND LEVEL (decibels)

<i>(Frequency, cycles per second)</i>	<i>Along Residence District Boundaries</i>	<i>Along Business District Boundaries</i>
0 to 75	72	75
75 to 150	67	70
150 to 300	59	63
300 to 600	52	57
600 to 1,200	46	52
1,200 to 2,400	40	45
2,400 to 4,800	34	40
Above 4,800	32	38

(Prior Code, § 17.18(2)(a))

manufacture, salt, derivative, mixture of preparation of the plant, its seeds or resin.

- (2) POSSESSION, DELIVERY AND USE PROHIBITED. It shall be unlawful for any person to possess, deliver, sell or use marijuana or a marijuana derivative. This section shall include, but not be limited to, those persons who possess, deliver, sell or use marijuana or a marijuana derivative in any amount and include those persons who are charged under this section for a first offense.
- (3) EXCEPTION. This section shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice. However, the burden of proof to prove such exception shall be on the person claiming it.
- (4) PENALTY. Any person who shall violate any provision of this section shall, upon conviction, be subject to a penalty as provided in §25.04 of this Code. (1740 05/31/94)

9.05 SALE AND USE OF FIREWORKS REGULATED. (2233 08/08/2006)

- (1) DEFINITION. The definition of “fireworks” stated in §167.10(1), Wis. Stats., is hereby adopted by reference.
- (2) SALE REGULATED. Except as provided in §167.10(2) and (4), Wis. Stats., no person shall sell, or possess with the intent to sell, fireworks.
- (3) USE REGULATED. Except as provided in §167.10(3), Wis. Stats., no person shall possess or use fireworks without a user's permit issued pursuant to sub. (4), below.
- (4) USER'S PERMIT. As provided in §167.10(3), Wis. Stats., the Mayor may issue fireworks user's permits or other City official designated by the Mayor. The official issuing the permit shall require a certificate of liability insurance, or other similar proof of coverage, in an amount he deems necessary. The permit shall specify the date and location for which it is valid. A copy of the permit and proof of insurance shall be filed with the City Clerk, and copies of the permit shall be given to the Fire Chief and the Chief of Police at least 2 days before the authorized use. Every permitted use shall be handled by competent operator. Every permitted use shall be of such composition and character and shall be located, discharged, or fired so as, in the opinion of the Baraboo Fire Chief, after proper site inspection, not to be hazardous to any person or property. After a permit has been granted, possession and use of fireworks for permitted

uses shall be lawful for the permitted date and location only. No permit granted hereunder shall be transferable.

- (5) USE OF CERTAIN DEVICES REGULATED. No person may use fireworks or devices listed in §167.10(1)(e) to (g) and (i) to (n), Wis. Stats., including, but not limited to, caps, toy snakes, model rocket engines, sparklers or cone fountains at a fireworks display for which a permit has been issued if the display is open to the general public.
- (6) USE OF CERTAIN DEVICES PROHIBITED ON SCHOOL GROUNDS.
 - (a) Except as provided in (4) above, no person may use or possess those fireworks or devices described in §167.10(1)(e) to (g) and (i) to (n), Wis. Stats. on any of the University of Wisconsin Center Baraboo- Sauk County Campus property owned by the City of Baraboo and Sauk County or on any property owned by the School District of Baraboo or the sidewalks, tree banks, streets or public rights-of-way immediately abutting said properties. This prohibition includes, but is not limited to, caps, toy snakes, sparklers and cone fountains.
 - (b) No parent, guardian or other person having custody or charge of a minor under the age of 14 shall permit or allow such minor to violate par. (a), above.
 - (c) Any peace officer observing any person who appears to be violating par. (a), above may confiscate such devices or fireworks.
- (7) All fireworks displays shall conform with the National Fire Protection Association Code Chapters 1123: Code for Fireworks Display, and 1126: Use of Pyrotechnics before a Proximate Audience.

9.06 LOUD AND UNNECESSARY NOISE PROHIBITED.

- (1) GENERALLY. No person shall make or cause to be made any unreasonably loud, disturbing, or un-necessary sounds or noises such as may tend to annoy or unreasonably disturb a person of ordinary sensibilities in or about any public street, alley, or park, or any private residential property. (2130 12/09/03)
- (2) PUBLIC ADDRESS SYSTEMS AND AMPLIFIERS. No person shall use or operate any public address system, amplifier, or device which increases the volume of voice, music, or other sounds tending to un-reasonably disturb the public peace or the quiet and peacefulness of persons in the surrounding neighbor-hoods. (2130 12/09/03)

- (3) CONSTRUCTION AND MACHINERY NOISE. (2450 09/27/2016) Between the hours of 10:00 P.M. and 6:30 A.M. no person shall do construction work or operate any chain saw, lawn mower or any other loud machinery of a similar nature. This subsection shall not apply to equipment or machinery being used for snow removal purposes, for Public Works or Utilities maintenance and service projects, or for emergency removal of debris caused by accident, weather conditions or other Act of God.

(4) EXCETPTIONS.

- (a) The Baraboo Country Club is granted an exception to subsection (3) and allowed to operate lawn mowing equipment for the purpose of golf course maintenance beginning at 5:30 a.m. from May 1st until September 30th of each year. (2442 05/24/16)
- (b) A Noise Permit for an exception to this ordinance may be granted by the Police Department upon written request provided to the Police Chief or designee at least fourteen days prior to the event that will cause noise. One Noise Permit may be granted for multiple days. The Police Chief or designee shall consider granting the Noise Permit based on the following:
- i. The location of the noise
 - ii. The purpose for the noise
 - iii. Length of time the noise will be occurring
 - iv. How many people the noise will impact
 - v. Whether the public health, safety, or welfare is harmed
 - vi. Whether the noise impact outweighs the benefit to the public.
- (c) The City of Baraboo is exempt from requiring a Noise Permit as required by subsection (b), above. (2504 10/23/18)

9.07 LOITERING AND PANHANDLING PROHIBITED.

- (1) LOITERING OR PROWLING. No person shall loiter or prowl in a place at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section

afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

- (2) OBSTRUCTION OF HIGHWAY BY LOITERING. No person shall obstruct any street, bridge, sidewalk, or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.
- (3) OBSTRUCTION OF TRAFFIC BY LOITERING. No person shall loaf or loiter in groups or crowds upon the public streets, alleys, treebanks, sidewalks, boulevards, street crossings or bridges or in any other public place within the City in such manner as to prevent, interfere with or obstruct the ordinary free use of such public sidewalks, streets, street crossings and bridges or other public places by persons passing along and over the same.
- (4) LOITERING IN PUBLIC PLACES. No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by the owner or person in charge or any police officer. Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (5) LOITERING IN OR ON SCHOOL PROPERTY. No person not in official attendance or on official school business shall enter into, congregate, loiter, wander or stand in or on any school property within the City between 7:00 A.M. and 5:00 P.M. on official school days.
- (6) LOITERING PROHIBITED NEAR SCHOOL PROPERTY. (1712 12/21/93)
[Historical Note: See original Ordinance No. 1712 for preface setting forth the underlying problem that caused §9.07(6) to be created.]
- (a) Purpose. The purpose of this Ordinance is to insure unimpeded student and pedestrian traffic flow to and from the Baraboo Senior High, Baraboo Junior High and Gordon Wilson Grade School, and to maintain and protect the physical safety and well-being of students attending the Baraboo Senior High, Baraboo Junior High and Gordon Wilson Grade School, and pedestrians and to foster a safe and

Onalaska noise ordinance

11.02.21. Loud and unnecessary noise prohibited.

- A. **Declaration of findings and policy.** Whereas excessive sound and vibration are a serious hazard to the public health and welfare, safety, and the quality of life; and whereas the people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or welfare or safety or degrade the quality of life; now, therefore, it is the policy of the City to prevent excessive sound and vibration which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.
- B. **General prohibition of noise disturbances.** No person or persons owning, leasing or controlling the operation of any source or sources of noise shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the establishment or continuation of a condition of noise disturbance.
- C. **Measured noise disturbance.** This section shall apply to the use or occupancy of any lot or structure thereon and to the noise produced thereby, but shall not apply to the following:
1. To the intermittent or occasional use, during the daytime, of light homeowner's residential outdoor equipment or commercial service equipment provided said equipment and its use complies with other provisions of this chapter;
 2. To construction activities and the associated use of construction devices nor to the noise produced thereby, provided such activities, and such equipment and its use, comply with provisions of this chapter;
 3. To bell towers or clock towers with bells or chimes;
 4. Any vehicle of the City while engaged in necessary public business;
 5. Excavations or repairs of streets or any other public construction work by or on behalf of the City, county, or state at any hour when the public entity determines that public welfare and convenience renders it impossible to perform such work during the day;
 6. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature; and
 7. Operation of emergency equipment shall be exempt. Emergency equipment shall include ambulance, police, fire, snow removal, civil defense sirens, etc., necessary for the health, safety, and protection of the citizens of the City.
- D. **Noise in residential areas or affecting residential property.** No person shall create or cause to be emitted from or by any source subject to the provisions of this chapter, any noise which causes or results in a noise level, measured at any lot line of any lot located in any residential area or in residential use elsewhere in conformance with the Unified Development Code, in excess of any level of Subsection H of this section, residential zone noise standard.

- E. **Noise in commercial areas.** No person shall create or cause to be emitted from or by any source subject to the provisions of this division, any noise which causes or results in a noise level, measured at any lot line of any lot in any commercial area other than a lot in residential use in conformance with the Unified Development Code, in excess of any level of Subsection H of this section, commercial zone standard.
- F. **Noise in other zones.** No person shall create or cause to be emitted from or by any source subject to the provisions of this chapter, any noise which causes or results in a noise level, measured at any lot line of any lot in any area not zoned residential or commercial in excess of any level of Subsection H of this section, other zone standard.
- G. **Construction or repair of buildings.** The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays; provided, however, the Inspection Department shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to permit by written authorization for a period necessary within which time such work and operation may take place within the hours of 8:00 p.m. to 7:00 a.m.
- H. **Stationary noise limits.**

1. **Maximum permissible sound levels.**

- a. Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels measured at the property line:

Zone:	Noise Rating (Daytime) (db)	Noise Rating (Nighttime) 10:00 p.m. to 8:00 a.m. (db)
Residential	75	65
Commercial	85	75
All Other Zones	75	65

2. **Methods of measuring noise.**

- a. **Equipment.** Noise measurement shall be made with a sound level meter.
- b. **Location of noise meter.** Noise measurement shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three feet above the ground and at least three feet away from walls, barriers, obstructions, and all other sound-reflective surfaces.
3. **Appeals.** The Common Council may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable

technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this chapter for existing industries.

I. Permits for amplified sound. [Amended 4-13-2021 by Ord. No. 1704-2021; 7-12-2022 by Ord. No. 1735-2022]

1. **Permit required.** No person, entity or organization within the City shall operate or permit operation of an amplifying device to create amplified sound in excess of the limitations or times sets forth in the stationary noise limits in Section 11.02.21H above except upon receipt of a permit for amplified sound. Applications to amplify sound between the hours of 8:00 a.m. and 10:00 p.m. shall be submitted to the City Clerk's office a minimum of 10 days prior to the date of the event and will be reviewed by the City Clerk and Chief of Police for approval. Applications to amplify sound between the hours of 10:00 p.m. and 8:00 a.m. shall be submitted to the City Clerk's office a minimum of 45 days prior to the event and shall go to the Administrative and Judiciary Committee with final approval by Common Council. Notice of a request to exceed the time limits set forth in Section 11.02.21H shall be sent by the City of Onalaska to all property owners within 250 feet upon receipt of application.
2. **Amplified sound defined.** Sound whose volume is increased by any electric, electronic, mechanical, or motor-powered means. Shouting, group chanting, and acoustic musical instruments are exempt from this definition.

STAFF COMMITTEE PREPARATION REPORT
January 26th, 2023

Agenda Item: Review of City of Tomah Municipal Code Section 52-82(7) regulating Communication Towers to ensure compliance with Wisconsin 2013 Act 20.

Summary and background information: Wisconsin Act 20 places strict limits on how a municipality may regulate cell phone towers. Our current ordinance has numerous requirements that are not in compliance with Act 20, therefore the Plan Commission should review the ordinance and propose amendments to bring the ordinance into compliance.

See attached for current ordinance.

Recommendation: Review the current ordinance and propose amending the ordinance for compliance with Act 20.

Shane Rolff

Zoning Administrator

1/19/23

Date

Sec. 52-82. Industrial and agricultural uses.

- (7) Telecommunication facilities consisting of cellular antennae towers, PCS towers and any other communication towers (but not including commercial radio or television towers), equipment storage shelters and related operating and equipment building components subject to the following specified conditions:
- a. Annual reporting to the city of compliance with all applicable government regulations relating to the provision of communications authorized by the conditional use. Reporting shall include a field report to verify compliance with all accepted federal standards including the project's cumulative field measurements of radio frequency power densities, quantification of total radio frequency exposures and comparison of these exposures with the accepted American National Standards Institute (ANSI) and the Institute of Electrical and Electronics Engineers (IEEE) standards and any subsequently adopted federal standards. A preliminary report shall be required to verify compliance with existing and future FCC regulations and established ANSI/IEEE standards. The report shall be prepared by an engineer who shall quantify the project's radio frequency exposures and compare them to ANSI/IEEE standards. The owner of the facility shall also provide the city with copies of all pertinent internal or third party reports relating to any emissions testing.
 - b. Compliance with all applicable federal, state and local rules regarding the environmental effects of radio frequency and other telecommunications emissions.
 - c. Specific approval as to the type and number of antennae and wattage including limitation on the height of any cellular towers.
 - d. An agreement with the city warranting and representing the safety of the technology of the facilities and holding the city harmless from any claims or losses to the city or its residents including reasonable attorney fees arising from or related to the use of the facilities.
 - e. Furnishing a policy of liability insurance in form approved by the city attorney naming the city as an additional insured with policy limits approved by the common council.
 - f. Reimbursement to the city for attorney and expert witness fees and fees of other professional consultants including planners and engineers incurred by the city in relation to the petition for approval and as a conditional use and/or incurred by the city in order to enforce this article.
 - g. Certain restrictions per the schedule of regulations, section 52-40 regarding lot area and width, ground coverage, front, side and rear yard setback and parking may be varied as part of the conditional use approval, provided however a telecommunications facility shall not be permitted within 500 feet of any adjoining residential zoning district.
 - h. Facilities may not include offices, longterm vehicle storage, other outdoor storage, or broadcast studios except for emergency purposes, or other uses that are not needed to send or receive transmissions as reasonably determined by the city council.
 - i. Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic congestion. The applicant shall describe anticipated maintenance needs including frequency of service, personnel and equipment needs, and traffic, noise, or safety impacts of such maintenance.
 - j. When lighting is required and is permitted by the Federal Aviation Administration or other federal or state authority, it shall be oriented inward so as not to project onto any surrounding residential property.

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- k. Documentation shall be submitted with a conditional use permit application indicating the need for tower space in the area, location of other towers and why collocation is not feasible. Applicants shall be required to exhaust all possible avenues for sharing space in existing towers. Factors to determine feasibility of collocation include, but are not limited to, available space on existing towers, the tower owner's ability to lease space, the tower structural capacity, radio frequency interference, geographic service area requirements, mechanical or electrical incompatibilities, the comparative costs of collocation and new construction, and any FCC limitations on tower sharing. Applicants cannot be denied space on an existing tower by the owner of such tower or deny space on a tower to other applicants unless mechanical, structural or regulatory factors prevent sharing or collocation.
- l. Antennas which exceed a height of 50 feet from surrounding grade or 20 feet when mounted to a building or other structure shall meet the following conditions and requirements:
1. The proposed antenna or antenna structure shall not result in restriction or interference with air traffic or air travel to or from any existing or proposed airport.
 2. The proposed antenna or antenna structure shall not result in interference with radio and television reception in nearby residential or nonresidential areas based upon the applicable Federal Communications Commission regulations.
 3. There shall be a setback of sufficient radius around the antenna structure so that its collapse will be contained on the property and not affect regularly occupied buildings on the subject site.
 4. Adequate space as determined by the city planning commission shall be provided on-site for antenna and antenna structure maintenance vehicles to access and maneuver on the property.
 5. Antennas and antenna structures shall not exceed a maximum height of 120 feet.
 6. All antennas and antenna structures shall be structurally self-supporting without the use of guy wires and shall be designed by a structural professional engineer licensed in the state.
 7. No form of advertising shall be allowed on the antenna, antenna structure, base or framework or other buildings or facilities.
 8. All cable to and from the antenna and/or antenna structure shall be installed underground unless the antenna is mounted on a building where cable will go directly into the structure.
 9. The minimum distance between antennae structures which exceed a height of 50 feet shall be equal to the height of the taller of such antenna structures as measured from the exterior base of the antenna or antenna structure.
 10. A detailed site and landscape plan shall be submitted to the city planning commission for review and recommendation to the city council. The base of any tower and any accessory building and parking areas shall be screened with solid six-foot-high evergreen trees at time of planting.



WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

New Law Relating to Local Regulation of Cell Phone Transmission Towers

The 2013 Biennial Budget Act modified the regulatory powers of local governments in regard to cell phone towers. The new law specifies the manner in which a political subdivision can use zoning to regulate cell phone towers and lists specific regulations that a political subdivision may not apply.

OVERVIEW

The primary tool used by political subdivisions of the state to regulate the siting and construction of cell phone transmission towers, and other land uses, is zoning. Zoning serves to separate incompatible land uses by segregating them in zones, such as residential, commercial, and industrial zones. A typical zoning ordinance identifies land uses that are prohibited in a particular zone, those that are permitted, and those that are permitted subject to a conditional use permit. For example, cell phone towers are a land use that, under prior law, might have been prohibited in a residential zone but allowed, subject to a conditional use permit, in other zones. Note that not all political subdivisions have zoning ordinances, and those with zoning ordinances vary considerably in how they regulate various land uses.

Two other tools available to political subdivisions to regulate cell phone towers are building codes and other, non-zoning police-power regulations, such as license requirements. Again, not all political subdivisions require building permits; it is not known how many have enacted other police-power regulations, but it is presumed to be very few.

The new law created in 2013 Act 20 states specifically that a political subdivision may regulate cell phone towers under a zoning ordinance, but places strict limits on how it may do so. It specifies the procedures and standards a political subdivision must use in reviewing applications for permits to construct or modify towers. It also lists specific limitations or regulations that a political subdivision may not impose on the construction or modification of a tower. Significant among these, it specifies that a political subdivision may not prohibit the placement of cell phone towers in particular locations within the political subdivision, meaning essentially that it may not designate cell phone towers as a prohibited use in any zone.

The new law does not disturb existing building code requirements, but it expressly prohibits any regulation of cell phone towers except by zoning ordinances, as specified in the law, and building codes.

IM-2013-14

APPLICABILITY

The new law applies to local regulation of three types of projects, all for the installation of various types of cell phone transmission facilities:

- Projects requiring construction of a new tower.
- Projects requiring substantial modification of an existing tower and facilities, but not construction of a new tower. Projects of this type are referred to as “class 1 collocations.”
- Projects requiring neither construction of a new tower nor substantial modification of an existing tower and facilities. Projects of this type are referred to as “class 2 collocations.”

The new law defines “substantial modification” as a project that does any of the following:

- For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
- For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10% or more.
- Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.
- Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

The law defines “permit” as “a permit, other than a building permit, or other approval required by a political subdivision” for one of these types of projects. It defines “political subdivision” as a city, village, town, or county.

The new law specifies that a county ordinance to regulate the construction of a new tower or a class 1 collocation applies only in the unincorporated areas of the county, but not in any town that has such an ordinance in effect. It does not include a parallel provision regarding the applicability of county ordinances regulating class 2 collocations.

PERMITTED REGULATIONS AND REQUIRED PROCESSES

The new law specifies the regulations a political subdivision may impose on cell phone transmission towers and facilities, and the process a political subdivision must follow in reviewing an application for a permit.

PROJECTS REQUIRING NEW CONSTRUCTION OR SUBSTANTIAL MODIFICATIONS

The new law treats a project requiring substantial modification of an existing tower and facilities the same as a project requiring construction of a new tower.

Permitted Regulations

The new law specifies that a political subdivision may enact a zoning ordinance to regulate any of the following:

- The construction of cell phone towers.

- The substantial modification of existing towers and facilities (class 1 collocations).

However, it specifies that a political subdivision may only regulate these activities as provided in the law, and that any ordinance in effect on the effective date of the law that is inconsistent with the law does not apply to the activities and may not be enforced against them.¹

Required Processes

The new law requires that an ordinance prescribe the application process for obtaining a permit or approval. The ordinance must require that an application include all of the following:

- The name and business address of, and the contact individual for, the applicant.
- The location of the proposed or affected tower.
- The location of the proposed facilities.
- A construction plan that describes the proposed new tower and facilities or the proposed modifications to the existing tower and facilities.
- If an application is to construct a new tower, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement attesting to one of the following regarding collocation within the area in which the applicant needs to site the new facilities (termed the applicant's "search ring"):
 - Collocation would not result in the same mobile service functionality, coverage, and capacity.
 - Collocation is technically infeasible.
 - Collocation is economically burdensome to the mobile service provider.

The new law specifies that an application is complete if it contains all the information described above; by implication, a political subdivision may not require any additional information from an applicant. If a political subdivision does not believe that an application is complete, it must notify the applicant of this in writing, within 10 days of receiving the application. The notice must specify in detail the information that was lacking from the application. The applicant may refile the application as many times as is needed to complete it.

Within 90 days of receiving a complete application, a political subdivision must do all of the following:

- Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in the new law, zoning ordinances.
- Make a final decision whether to approve or disapprove the application.

¹ The law appears to contemplate that a political subdivision will require a person engaging in one of these activities to obtain a conditional use permit, since the language does not allow treating them as prohibited uses. However, a political subdivision could elect to treat them as permitted uses.

- Notify the applicant, in writing, of its final decision.
- If the decision is to disapprove the application, include with the written notification substantial evidence that supports the decision.

If the political subdivision fails to comply with these requirements by the 90-day deadline, the application is considered approved, except that the political subdivision and the applicant may agree to extend the deadline.

A political subdivision may disapprove an application if the applicant refuses to evaluate the feasibility of collocation within its “search ring” and to provide the sworn statement required in the application.

A party that is aggrieved by the political subdivision’s final decision may appeal the decision to the circuit court for the county in which the project was proposed. This appears to allow the aggrieved party to appeal to circuit court without first exhausting administrative reviews at the level of the political subdivision.

Limitations

The new law specifies that a zoning ordinance does not apply to a particular structure if the applicant provides the political subdivision with an engineering certification showing that the structure is designed to collapse in a smaller area than the setback or fall zone area required in the ordinance. However, the political subdivision may apply the ordinance to the structure if it provides the applicant with substantial evidence that the engineering certification is flawed.

PROJECTS REQUIRING NEITHER NEW CONSTRUCTION NOR SUBSTANTIAL MODIFICATIONS

As noted earlier, the new law refers to projects that involve neither new construction nor substantial modifications of towers as “class 2 collocations.”

Permitted Regulations

The new law specifies that a class 2 collocation is a permitted use under a zoning ordinance. It also provides that class 2 collocations are subject to the same building permit requirements as other commercial development or land use development.² Again, the law specifies that a political subdivision may only regulate class 2 collocations as provided in the law, and that any ordinance in effect on the effective date of the law that is inconsistent with the law does not apply to class 2 collocations and may not be enforced against them.

Required Processes

The new law specifies a process for the review of “an application for a permit to engage in a class 2 collocation.”³ The process is a simplified version of the process for other projects, described above. It differs from that process in the following ways:

² The provisions of the new law relating to construction of a new tower or a class 1 collocation do not include a similar statement, but the review process does require the political subdivision to determine whether the proposed project complies with its building code.

³ As noted above, a class 2 collocation is a permitted use under a zoning ordinance, so there can be no conditional use permit to apply for. Further, building permits are excluded from the definition of “permit,” so the procedures described here do not apply to a building permit application. Consequently, it appears that the new law contemplates that a political subdivision may require a person engaging in a class 2 collocation to apply for a

- Only the first three items of information (identifying the business and the location of the project) are required for an application.
- The political subdivision must inform the applicant of deficiencies in the application within five days of receiving the application, rather than 10 days.
- The political subdivision must complete its actions within 45 days of receiving a complete application as opposed to 90 days, and the list of actions it must complete is slightly different:
 - Make a final decision whether to approve or disapprove the application.
 - Notify the applicant, in writing, of its final decision.
 - If the decision is to approve the application, issue the applicant the relevant permit.
 - If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- The application is not considered automatically approved if the political subdivision does not take final action within the specified time frame.

LIMITATIONS ON POLITICAL SUBDIVISIONS' ACTIONS

Under the new law, a political subdivision may not do any of the following with regard to the construction of a new cell phone tower or a class 1 or class 2 collocation:

- Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.
- Enact an ordinance imposing a moratorium on the permitting, construction, or approval of any such activities.
- Enact an ordinance prohibiting the placement of a cell phone tower in particular locations within the political subdivision.
- Charge a cell phone service provider a fee in excess of one of the following amounts:
 - For a permit for a class 2 collocation, the lesser of \$500 or the amount charged by the political subdivision for a building permit for any other type of commercial development or land use development.
 - For a permit for construction of a new tower or a class 1 collocation, \$3,000.
- Charge a cell phone service provider any recurring fee for a project covered by the law.
- Permit third-party consultants to charge the applicant for any travel expenses incurred in the consultant's review of cell phone service permits or applications.

determination that the activity is, in fact, a class 2 collocation; that is to say, a determination that the political subdivision will not require a conditional use permit for the activity. This Information Memorandum assumes that it is an application for this type of approval to which the process described here applies.

- Disapprove an application based solely on aesthetic concerns.
- Enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.
- Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the political subdivision which fall into disuse. The law is a rebuttable presumption that a surety requirement of \$20,000 or less complies with this limitation.
- Prohibit the placement of emergency power systems.
- Require that a cell phone tower be placed on property owned by the political subdivision.
- Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
- Condition approval of such activities on the agreement of the owner of the facilities to provide space on or near the structure for the use of or by the political subdivision at less than the market rate, or to provide the political subdivision other services via the structure or facilities at less than the market rate.
- Limit the duration of any permit that is granted.
- Require an applicant to construct a distributed antenna system instead of either constructing a new tower or using collocation.
- Disapprove an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity.
- Require that a mobile cell phone tower or facilities have or be connected to backup battery power.
- Impose a setback or fall zone requirement for a cell phone tower that is different from a requirement that is imposed on other types of commercial structures.
- Consider a project to be a substantial modification if the project adds more than 20 feet to the height of a tower that is not more than 200 feet tall but the greater height is necessary to avoid interference with an existing antenna.
- Consider a project to be a substantial modification if the project adds 20 feet or more to the diameter of the tower but the greater diameter is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.
- Limit the height of a cell phone tower to under 200 feet.
- Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the political subdivision in connection with the political subdivision's exercise of its authority to approve the application.
- Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the political subdivision to place at or collocate with the

applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, a political subdivision or an entity in which a political subdivision has a governance, competitive, economic, financial or other interest.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by David L. Lovell, Principal Analyst, on December 9, 2013.

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