

## SECTION 33. MODIFICATIONS, EXCEPTIONS & SPECIAL REQUIREMENTS

33.010 Purpose. To enumerate those special instances where the terms of this Ordinance may be waived or modified without variance or conditional use permit, or where special requirements are placed upon use, property, or structure.

33.020 (reserved).

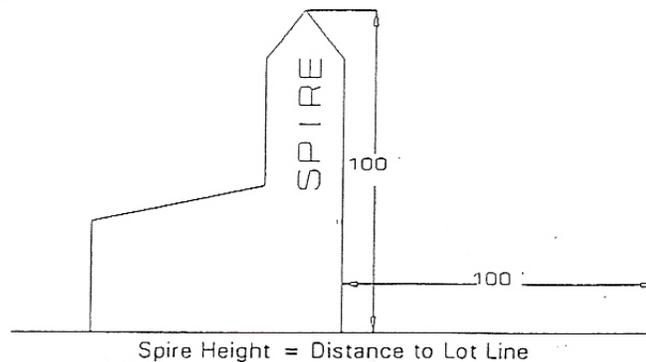
33.030 Yard Regulations. Measurements shall be taken from the nearest point of a building to the line in question.

- A. Roof overhangs may extend into the required yard a distance not to exceed two (2) feet.
- B. Open fire escapes may extend into the required yard a distance not to exceed four (4) feet.
- C. Porches steps and landings are part of the structure and may not extend into the required yard.
- D. Heat pumps, air conditioning units or similar equipment may extend into the required yard a distance not to exceed four (4) feet.
- E. Solar collection units may extend into the required yard a distance not to exceed two (2) feet.
- F. On double frontage lots the required front yard shall be provided on both street sides.
- G. In subdivided areas within residential districts, whenever block frontage is more than half developed with residences having less setback than required, the setback shall be determined by the following rule: the front setback line of a proposed structure shall be the line between principal structures on adjacent lots. If within the block no principle structure exists to one side of the proposed structure, a structure is assumed to exist at the required setback lines.

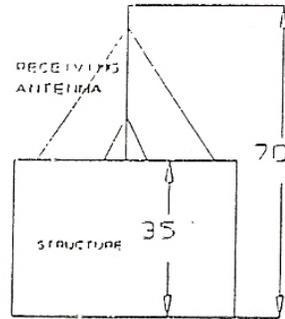
33.040 Area Requirements. No lot shall be so reduced that the area of the lot or the dimensions of a required open space shall be smaller than prescribed by this ordinance.

33.050 Height Regulations. The district height limitations stipulated elsewhere in this ordinance may be exceeded as follows:

- A. Uninhabited architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys shall not exceed in their height the distance from the nearest property line.

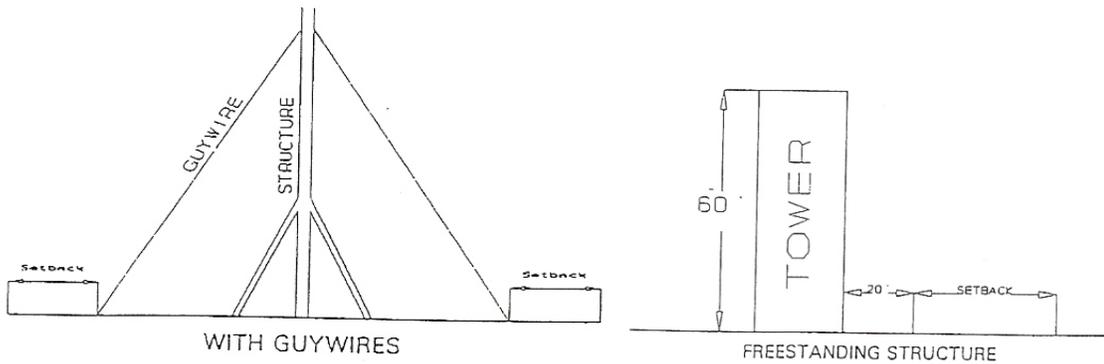


- B. Special structures, such as elevators, radio and television receiving antennas, cooling towers and smoke stacks may be extended one hundred percent (100%) of the district limitation.



Example: District Max Height = 35 feet  
therefore Antenna Max Height = 70 feet

- C. Communication structures, such as radio and television transmission towers or microwave relay towers shall meet the following requirements:
1. Structures that use guywires for support shall meet the district setback requirements from the ground anchors.
  2. Freestanding structures shall meet the district setback requirements plus one-third (1/3) the height of the tower.



- D. Essential services, utilities, water towers, electrical power and communication transmission lines are exempt from the height limitations of this ordinance.

### 33.060 Fences.

- A. For reasons of suitability, aesthetics, and public safety, conditional use permits shall be required for all fences except those listed below:
1. Simple chain link (i.e. without barbed wire or plastic inserts),
  2. Split rail or decorative rail,
  3. Picket.
- B. Fences in residential districts shall not exceed six (6) feet in height on the side and rear yards, nor exceed forty-two (42) inches in height in the front yard, except as indicated in Section 33.080 (A&B).
- C. In addition to the requirements set forth in Section 20 (Highway Access and Setbacks), the setback for fences is:

1. Side and rear yards shall not allow any part of the fence to extend beyond the property line.
  2. The front yard shall not allow any part of the fence to extend into the road right-of-way and shall not impede any driveway or sidewalk.
- D. Fences in the shoreland and floodplain districts are not allowed in the required structural setbacks from the ordinary high water mark.
- E. The owner shall be required to maintain:
1. The fence in a safe and suitable condition, and
  2. The yard from the fence to the property line.

33.070 Essential Services Regulations.

- A. Since essential services, as defined in Section 2 (Rules and Definitions), may effect urbanizing area of the development, the location of all such essential services in any zoning district shall be filed with the zoning office prior to actual construction or condemnation action.
- B. Applications for essential services not located within highway and street right-of-ways shall require a conditional use permit, as regulated in Section 26 (Conditional Use Permits), and shall be governed by the following:
1. The applicant shall file with the zoning office such maps indicating location, alignment, and type of service proposed, together with the status of any applications made or required to be made under state or federal law.
  2. The maps and accompanying data shall be submitted to the zoning office for review and recommendation regarding their relationship to urban growth, land use, highways, and recreational area policies and plans.
  3. Following zoning office review, when necessary or requested by the Zoning Committee, the zoning office shall report its findings and recommendations on the proposed essential services and file the report with the Zoning Committee.
  4. Upon receipt of the above report, the Zoning Committee shall consider the maps and accompanying data, and shall recommend to the County Board for its approval or modifications considered desirable to carry out the policies of the ordinance.
  5. In the case of pipelines, the zoning office may require modifications to protect existing agricultural drainage systems, tiles or ditches, whether public or private. The zoning office may also require the applicant to modify the depth or routing of the pipeline to accommodate future agricultural drainage systems, tiles or ditches, whether public or private, if such information is provided by the owner of the agricultural land to the applicant within sixty (60) days of the start of construction.
  6. Maintenance structures serving local distribution lines are exempt from this section if the following conditions are met:
    - a. Structures of forty (40) square feet or less can be placed in the front yard if not in the vision triangle or impair the vision at a driveway intersection.
    - b. Structures greater than forty (40) square feet if placed at the front yard setback or greater.

- c. All structures shall be screened and compatible with surrounding land uses. Compatibility shall be determined by the zoning office.

33.075 High Capacity Wells. Wells as they are defined in Wisconsin Administrative code NR812 and NR820.

- A. High capacity wells shall only be permitted under the following conditions in any zoning district:
  - 1. Approval by the Planning Commission has been granted,
  - 2. If required, State approval has been granted,
  - 3. A public hearing has been completed by the Zoning Committee pursuant to the process in Section 26 of this Ordinance,
  - 4. The conditional use permit is approved by the Zoning Committee.

33.080 Private Recreational Facilities. The following rules and regulations shall apply to private recreational facilities allowed as accessory uses and structures in all residential, A-1 and I-1 districts:

- A. Private swimming pools, provided that:
  - 1. The pool, pump, and filter are not located within ten (10) feet of any property line, or within fifty (50) feet of a public right-of-way,
  - 2. No electrical power lines are located over or under the pool, pump, or filter,
  - 3. A wall or fence of a height of four (4) feet or more is installed around the pool or yard prior to the use of the pool.
- B. Within only the R-4 and I-1 districts, tennis courts and full basketball courts, provided that:
  - 1. No part of the court is located closer than twenty (20) feet to a property line,
  - 2. If lights are installed for night play, they must be turned inward to minimize glare on the road or street adjacent to the property,
  - 3. The playing area shall be properly fenced to prevent misguided balls from going out into roads, streets or adjacent property.
- C. Nothing in this section shall be construed as to prohibit the installation of basketball equipment in a driveway area within residential and A-1 districts in accordance with district requirements.

33.090 Travel Trailers, Recreational Vehicles, and Buses for Habitation. Travel trailers, recreational vehicles, buses, and similar recreational shelters shall not be used for habitation in any district, unless such use is permitted as a permitted or conditional use. The storage of travel trailers, recreational vehicles or buses is not permitted, unless there is a principal structure in use on the property. Other than the driveway area, such vehicles shall not be stored within the front yard or road right-of-way, or within any water setback.

33.100 Exemptions for Accessory Structures. Certain accessory structures (i.e. school bus shelters, dog houses, garbage can shelters, etc.) shall be exempt from conditions of Section 34.030 (Administration, Permits Required), provided that all of the following conditions are satisfied:

- A. Structure used shall be limited to one hundred (100) square feet,
- B. Structure height shall be a maximum of six (6) feet,
- C. The use must be compatible to the district as a permitted accessory use,

- D. There shall be no utility service to the structure.

33.110 Accessory Structure in the Absence of a Principal Structure. The placement of a private storage garage in the absence of a principal residence is allowed in the R-1, R-2, R-3, R-4 and R-R districts under the following conditions:

- A. A residence shall be constructed on the property within two (2) years,
- B. The use of the structure is permitted as an accessory use only and shall be used for the storage of materials for supplies for the construction of the residence, motor vehicles, or maintenance machinery for the lot,
- C. All required sanitary and building permits have been issued.

33.120 Community Living Arrangements. The placement of group homes or community living arrangements not located within the I-1 district shall be provided for as follows:

- A. Density and spacing.
  - 1. Community living arrangements not located within the I-1 district shall not be immediately adjacent to an existing community living arrangement.
  - 2. Total capacity of a community living arrangement not located within R-4 or I-1 district shall not exceed eight (8) persons.
- B. In all residential districts and the A-1 district, foster homes for four (4) or fewer children are permitted without meeting density or spacing requirements.
- C. Community living arrangements licensed for eight (8) or fewer persons are permitted in all residential districts and A-1 district.
- D. Community living arrangements licensed for nine (9) or more persons are permitted in the R-4 district.

33.130 Family Day Care Homes. The placement of day care homes in the R-1, R-3, R-R and A-1 districts are allowed as permitted uses where licensed by the Department of Health and Social Services, and where care is provided for not more than eight (8) children. Centers with more than eight (8) children shall require a conditional use permit.

33.140 Bed and Breakfast Establishments and Boarding Houses. Bed and breakfast establishments and boarding houses are conditional uses in the R-1, R-R and A-1 district and shall meet the following requirements:

- A. Site plan showing location of principal structure, accessory structures, and parking for guest vehicles. Plan should indicate distance to nearby properties.
- B. A six (6) square foot sign showing only the name of the establishment, name of manager or owner, and address is allowed.

33.150 Truck Bodies, Mobile Homes, Buses, and Semi-Trailers as Accessory Structures.

- A. Truck bodies and semi-trailers are allowed in only the UID-1 and I-2 districts as a permitted accessory structure when properly screened from adjacent properties.
- B. Mobile homes are allowed as accessory structures in the C-1, C-2, I-1 UID-1 and I-2 districts and shall not be used as a residence.
- C. Buses are not allowed as an accessory structure in any district or for permanent human habitation.

33.160 Screening for C-1, C-2, UID-1, and I-2 Districts. Any property being developed or expanded in a C-1, C-2, UID-1, or I-1 district shall have effective solid screening along all lot lines adjoining any residential district, except where waived by the zoning committee after recommendation from the zoning office. All outside storage areas shall be effectively screened from public road right-of-ways.

A. Screening Requirements:

1. Front yard screening shall be made of natural screening, or of man-made materials five (5) feet in height.
2. Side and rear yard screening shall be made of natural screening, or man-made materials six (6) feet in height.
3. Natural screening shall not be less than three (3) feet in height at the time of planting.

B. Waiver Conditions:

1. A reasonable probability, that the adjoining properties will be re-zoned for commercial or industrial use.
2. There is an existing natural topographic or vegetative screen.
3. If written agreements are arrived at with the affective property owners.

33.170 Solid Waste and Recycling Facilities. Recycling drop-off stations, resource recovery facilities, and resource recovery processing facilities shall meet the following requirements:

A. Recycling drop-off stations are permitted uses in the UID-1 and I-2 districts, and conditional in the C-1 and C-2 districts. A recycling drop-off station must meet the following requirements:

1. The area for the station shall not exceed one thousand five hundred (1,500) square feet. It may be an accessory use on the property.
2. The site shall be screened from residential uses by either a fence or six (6) feet in height, or by natural vegetation. The site cannot be closer than one hundred (100) feet from a residential property line.
3. There shall be parking for not less than two (2) vehicles, and adequate space for the vehicles to turn around for exiting.
4. All driveways and traveled portions on site shall be of dust free material.
5. There shall be no outside storage of materials on site, and the station must be attended when open.
6. The facility shall meet all applicable state and federal regulations.

B. Resource recovery facilities are permitted uses in the I-1 district and conditional uses in the UID-1 district. A resource recovery facility shall meet the following requirements:

1. The facility shall not be sited within one hundred fifty (150) feet of a residential district or use.
2. All collection, processing, and storage shall take place within a building. No power driven equipment in excess of fifteen (15) horsepower is allowed for the processing of recyclables.
3. Noise shall be limited to sixty (60) decibels at the property line utilizing an hourly average.
4. All driveways and traveled areas must be made of dust free materials. All vehicles waiting to unload must be located on the property.

5. No dust, fumes, smoke, or vibration is permitted above the ambient levels at the property line.
  6. Within two hundred fifty (250) feet of a residential district, hours of operation are limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday.
  7. Access must be from a Class B or a Class C highway as defined in Section 20.050 (Highway Access and Setbacks; Highway Setbacks and Access Requirements) and must be gated after business hours.
  8. The facility shall meet all applicable state and federal regulations.
- C. Resource recovery processing facilities are permitted uses in the I-2 district and conditional uses in the UID-1 district. A resource recovery processing facility shall meet the following requirements:
1. The facility shall not be sited within two hundred fifty (250) feet of a residential district or one hundred fifty (150) feet of a residential use.
  2. All outside storage and processing of recyclables must be behind a site obscuring fenced area equal to the height of the machinery or eight (8) feet, whichever is greater. All wind born materials shall be collected daily.
  3. All driveways and traveled areas shall be of dust free materials. All vehicles waiting to unload must be located on the property.
  4. Within five hundred (500) feet of a residential district, the hours of operation shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday; and noise levels shall be limited to seventy (70) decibels at the property line.
  5. Access must be from a Class B or class C highway as defined in Section 20.050 Highway Access and Setbacks; Highway Setbacks and Access Requirements) and must be gated after business hours.
  6. The facility shall meet all applicable state and federal regulations.
- D. Solid waste transfer sites are permitted in the I-2 district and conditional uses in the UID-1 district. A solid waste transfer site shall meet the following requirements:
1. The facility shall not be sited within two hundred fifty (250) feet of a residential district, or one hundred fifty (150) feet of a residential use.
  2. All outside storage and processing of materials must be behind a site obscuring fenced area, equal to the height of the machinery or eight (8) feet whichever is greater. All wind born materials shall be collected daily.
  3. All driveways and traveled areas shall be of dust free materials. All vehicles waiting to unload must be located on the property.
  4. Within five hundred (500) feet of a residential district, the hours of operation shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday; and noise levels shall be limited to seventy (70) decibels at the property line.
  5. Access must be from a Class B or Class C highway as defined in Section 20.050 (Highway Access and Setbacks; Highway Setbacks And Access Requirements) and must be gated after business hours.
  6. The facility shall meet all applicable state and federal regulations.

33.180 Works of Art.

- A. Purpose. To provide the opportunity for artistic communication with a minimum of restrictions, while protecting the public interest in aesthetics as well as public safety and welfare.

- B. Setbacks. Works of art shall be exempt from front yard setbacks, however a work of art shall not be placed within the right-of-way or in a visibility triangle, or create a hazard to public safety.

33.190 Satellite Signal Receiving Equipment (Satellite Dishes). Satellite dishes shall be exempt from front yard setbacks, however a satellite dish shall not be placed within a right-of-way or a visibility triangle, or create a hazard to public safety.

33.200 Pets and Livestock.

- A. Except as provided in 33.200, B., all pets in residential districts, must be kept exclusively within the dwelling.
- B. Canine and feline pets, and caged domestic rabbits not kept in the dwelling in any residential district, shall be limited to not more than two (2).
- C. Livestock, including, but not limited to, horses, bovine, sheep, goats, pigs and fowl are permitted to be kept outside only in agricultural districts.

33.210 Adult-Oriented Establishments.

- A. Purpose:
  - 1. Whereas: Convincing evidence the adult entertainment businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and downgrading of property values.
  - 2. Whereas: Adult entertainment businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to blight and downgrading the quality of life in the adjacent area.
  - 3. Whereas: Efforts must be made to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the property values and character of surrounding areas and deter the spread of blight.
  - 4. Whereas: It is not the intention of the county to condone or legitimize the distribution of obscene material. Stat and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against such illegal activities in the county.
  - 5. Whereas: It is not the intent to suppress any speech activities protected by the First Amendment, but to enact content neutral regulations that address the secondary effects of adult entertainment businesses.
- B. Definitions related to Adult-Oriented Establishments:
  - 1. Adult Entertainment: Any dance, amusement, show, display, exhibition, pantomime, modeling or any other like performance of any type for the use or benefit of a member or members of the public or advertised for the use or benefit of a member of the public where such is characterized by the performer's nudity or the exhibition of specified sexual activities, or which emphasizes and seeks to arouse or excite the patrons's sexual desires.
  - 2. Adult Entertainment Business: An Adult Arcade, Adult Bookstore, Adult Novelty Store, Adult Video Store, Adult Motion Picture Theater, and Exotic

- Dance Studio, more specifically defined in (a-d) below. Any commercial establishment with any revenue from, or inventory or floor space dedicated to any of the uses, activities, items or materials described in (a-d) shall be considered an to be dealing in adult entertainment, whether or not such commercial establishment has other principal business purposes.
- a. Adult Arcade: An establishment where, for any consideration, one or more still or motion picture projectors, slide projectors, computer generated or enhanced pornography, panorama, peep show, or similar machines, or other image producing machines, for personal viewing, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which provides materials for individual viewing by patrons on the premises of the business which are characterized by the depiction or description of nudity or specified sexual activities. "Panorama" or "Peep Show" means and device which, upon insertion of a coin or by other means, exhibits or displays a picture or view by film, video, or by other means.
  - b. Adult Bookstore, Adult Novelty Store, or Adult Video Store: A commercial establishment which offers for sale or rental books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other photographic reproductions or visual representations which are characterized by the depiction or description of nudity or specified sexual activities.
  - c. Adult Motion Picture Theater: A commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by the depiction or description of nudity or specified sexual activities are regularly shown for any form of consideration.
  - d. Exotic Dance Studio: "Exotic Dance Studio", also commonly known a "topless bar" and "adult cabaret", shall mean a night club, bar, restaurant, or other commercial establishment to which any member of the public is invited or admitted and where an entertainer provides live adult entertainment performances to any member of the public.
3. Nudity: Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola, and human male genitals in a discernibly aroused state, even if completely and opaquely covered.
  4. Specified Sexual Activities: "Specified sexual activities" shall include (a) human genitals in the state of sexual stimulation or arousal, (b) acts of sexual intercourse, sodomy, masturbation or oral sexual acts, (c) fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- C. Location Restrictions & Separation from protected uses: An adult entertainment business shall be permitted in Menominee County provided it meets all of the location requirements set forth in (1-8) below. Distances provided hereafter shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed entertainment business is or is to be located, to the nearest point of property or zoning district boundary line from which the proposed adult entertainment business is or is to be separated.

1. Adult entertainment businesses shall be prohibited in or within one thousand (1,000) feet of any residential zoning district.
2. Adult entertainment businesses shall be prohibited in or within one thousand (1,000) feet of a residential dwelling, whether or not such structure is in a zoning district that allows such structures, or whether or not such structure is located within the borders the county.
3. Adult entertainment businesses shall be prohibited within one thousand (1,000) feet of any church, synagogue, mosque, temple or other place of religious assembly, whether or not such religious facility is located within the borders of the county.
4. Adult entertainment businesses shall be prohibited within one thousand (1,000) feet of any public or private school offering general education for students between the years of kindergarten through twelfth grade, whether or not such facility is located within the borders of the county.
5. Adult entertainment businesses shall be prohibited within one thousand (1,000) feet of any day care home or family day care home, whether or not such day care facility is located within the borders of the county.
6. Adult entertainment businesses shall be prohibited within one thousand (1,000) feet of any public park or playground, whether or not such park or playground is located within the borders of the county. For the purpose of the section, bike paths, trails, waterways and boat launches shall not be deemed to be a public park.
7. Adult entertainment businesses shall be prohibited from locating within one thousand (1,000) feet of another adult entertainment business.
8. Adult use businesses shall be prohibited from locating within one thousand (1,000) feet of any existing establishment selling alcoholic beverages for consumption on the premises.

33.220 Domesticated chickens/ducks.

- A. Purpose and intent. It is the purpose of this ordinance to provide standards for the keeping of domesticated chickens/ducks. It is intended to enable residents to keep a small number of chickens/ducks on a non-commercial basis.
- B. Definitions.
  1. Chicken – The common fowl (*Gallus gallus*)
  2. Duck - Any of various swimming birds (family Anatidae, the duck family) in which the neck and legs are short, the feet typically webbed, the bill often broad and flat, and the sexes usually different from each other in plumage.
  3. Pen - shall mean a wire enclosure connected to a coop for the purpose of allowing chickens/ducks to leave the coop while remaining in an enclosed, predator-safe environment.
  4. Coop - shall mean a structure for the sheltering of chickens/ducks. An existing shed or garage can be used for this purpose if it meets the standards contained in this ordinance including the required setbacks from property lines.
- C. Number and type of chickens/ducks allowed.
  1. The maximum number of chickens and/or ducks allowed is eight (8) per

- lot.
- 2. Only female chickens are allowed, no roosters. Male or female ducks are allowed. There is no restriction on chicken or duck species.
- D. Coop and pen construction. The chickens/ducks shall be provided with a covered coop and attached pen. Chickens/ducks shall not be allowed out of the coop or pen.
- E. Location.
  - 1. Chicken/duck coops and pens shall not be located closer than ten (10) feet to any lot line.
  - 2. Chicken/duck coops and pens shall not be located closer than seventy-five (75) feet from the ordinary high-water mark (OHWM) of any lake, river, or stream.
  - 3. Coops or pens, pursuant to this section are allowed in the following districts:
    - a. Section 8 Rural Residential
    - b. Section 8.5 Legend Lake Residential
    - c. Section 8.6 Moshawquit Lake Residential
    - d. Section 8.7 LaMotte Lake Residential
    - e. Section 8.8 Southeast Bass Lake Residential
    - f. Section 8.9 Round Lake Residential
  - 4. Minimum lot size is one-half (1/2) acre.

\*Section 33.220 adopted by County Board as an amendment on 6/18/2020