

PROPOSED AMENDMENTS
TO THE WAUKESHA COUNTY
SHORELAND AND FLOODLAND PROTECTION ORDINANCE

as of 11/15/10

NOTES: To assist the reader, the page number refers to the page in the current ordinance where the section is located or where the new addition will be inserted. Text to be added appears in gray shading. Text to be deleted appears in strikethrough font. Some formatting may change as the Editor incorporates the proposed amendments into the existing code.

SECTION 1

Repeal and recreate section to Section 2(a) to read as follows:

(Structure is defined in code, therefore, it is removed from this section on general interpretations. Moved "town board" and "plan commission" to definitions section under 2.02.)

For the purpose of this Ordinance, and when not inconsistent with the context, words used herein in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; ~~the word "structure" includes buildings;~~ the word "occupied" includes designed or intended to be occupied; the word "used" includes designed or intended to be used; the word "inhabit" includes intended to be inhabited; the word "shall" is always mandatory and not merely permissive; "county" refers to the County of Waukesha, Wisconsin; ~~"town board" refers to the town board of supervisors of any town under the jurisdiction of this Ordinance;~~ "plan commission" refers to ~~local town plan commission established under village powers pursuant to Chapter 62 Wisconsin Statutes, the Town Park Commission established pursuant to Chapter 60 Wisconsin Statutes, or any other agency created by the town board and authorized by statute to plan land use;~~ and reference to any officer such as "clerk," "building inspector," "engineer," or "attorney," means that officer appointed or otherwise officially designated by the town or county in such capacity, unless otherwise specifically designated; the words "code" and "Ordinance" are to be used interchangeably; and the word "person" may be taken for persons, associations, partnerships or corporations.

SECTION 2

Create a new subsection in 2(b) to read as follows:

(p. 6 New Definition.)

Agricultural or farm use: The use of the land by tilling the ground, and growing, raising, cultivating, fertilizing, producing, harvesting and storing field crops; feeding, watering, grazing, breeding, managing, pasturing, or producing livestock, dairy animals, poultry, fur-bearing animals, or bees; by the sale, barter or trade of products related to livestock, dairy animals, poultry, fur-bearing animals, or bees; by any other horticultural, floricultural, or viticultural use; by animal or poultry husbandry; ~~or~~ by any combination thereof; and other similar uses.

SECTION 3

Repeal and recreate subsection 2(b)15 to read as follows:

(p. 7 Clarifies the definition and ties it to the Landowner Authorized Agent Form.)

Applicant: The applicant for any permit, variance, special exception, conditional use, site plan, plan of operation, rezoning, license or other application for governmental approval under this ordinance shall be the landowner, specifically a person or entity holding fee title to the property, ~~as set forth below.~~

The landowner must sign the application or execute the Landowner's Authorized Agent Form, which is available through the Waukesha County Department of Parks and Land Use.

- A. — In the case of a corporation, an officer or by a member of the corporation who has overall responsibility for the operation of the site for which the permit is sought.
- B. — In the case of a limited liability company, a member or manager.
- C. — In the case of a partnership, a general partner.
- D. — In the case of a sole proprietorship, the proprietor.
- E. — For a unit of government, by an elected official or other duly authorized representative.
- F. — In the case of an individual, by the individual, an attorney, or one allowed to act as power of attorney.

SECTION 4

Repeal and recreate subsection 2(b)21 to read as follows:

(p. 7 Clarifies the definition.)

Basement: A level of a building with a height, as measured between the floor and the bottom of the floor joists above, that is more than one-half below the finished yard grade on at least one side. If a lateral extension of the basement level does not have a story (as defined in this ordinance) above it, it is not considered a basement level, and shall be regulated as otherwise required in this ordinance.

SECTION 5

Repeal and recreate subsection 2(b)22 to read as follows:

(p. 7 To clarify the definition and make the definitions the same in both ordinances. Changed "lakefront: to "waterfront." (The editor will place this definition in alphabetical order in the list of definitions.)

Boathouse: An accessory structure located close to the ordinary high water mark and designed and used principally for the storage of boats and accessory marine equipment and other items normally used by the occupants of the lot normally used in the daily activities of lakefront waterfront property, and which has The structure shall have a large garage type door for primary access on the side of the building facing the water. A boathouse shall be placed on a foundation extending below the frost line or on a concrete slab and shall contain at least 200 square feet in area. Boathouses may contain limited plumbing facilities, not including showers and/or baths, for occasional use and convenience of the occupants of the lot but under no circumstances may the boathouse be used for human habitation, human habitation being defined as utilizing the building for occupancy for overnight living or longer periods of time and including the aggregate of normal living activities such as lounging, cooking, eating, sleeping, etc. This definition includes boat shelters.

SECTION 6

Create a subsection to Section 2(b) to read as follows:

(p. 7 New definition)

Breezeway: An above-ground, roofed area for passage for the purpose of connecting two structures or buildings, as between a house and a garage, with either open or enclosed sides, with or without a foundation, and which must be designed and constructed in keeping with the existing structures or buildings.

SECTION 7

Create a subsection to Section 2(b) to read as follows:

(p. 8 New definition)

Zoning Agency: The Waukesha County Park and Planning Commission is designated as the Zoning Agency pursuant to Section 41(a)1 of this ordinance. Also refers to the Waukesha County Zoning Agency or the County Zoning Agency.

SECTION 8

Create a subsection to Section 2(b) to read as follows:

(p. 9 New definition)

Entrance gate or entrance monument: A structure, usually built with a decorative feature or landscape feature and located at the entrance to a property, such as walls which are often constructed in conjunction with lights, fencing, gates, pillars with lights, property identification signage, or raised planting boxes.

SECTION 9

Repeal and recreate subsection 2(b)44 to read as follows:

(p. 9 Modifies the definition.)

Environmental Corridors: Environmental corridors (primary and secondary, and isolated natural resource areas) are the composite of the best individual elements of the natural resource base including surface water, streams, and rivers and their associated floodlands and shorelands; woodlands, wetlands and wildlife habitat; areas of groundwater discharge and recharge; organic soils, rugged terrain and high relief topography; and significant geological formations and physiographic features. A description of the process for defining and delineation of Primary and Secondary Environmental Corridors and Isolated Natural Resource Areas is set forth in the Southeastern Wisconsin Regional Planning Commission's Technical Record, Volume 4, No. 2 and is incorporated herein by reference.

SECTION 10

Repeal and recreate subsection 2(b)48 to read as follows:

(p. 9 Makes the definition more consistent with the Fair Housing Act.)

Family: A person who lives in a dwelling unit as a single housekeeping entity, or a ~~The~~ body of persons who live together in one (1) dwelling unit as a single housekeeping entity.

SECTION 11

Create a subsection to Section 2(b) to read as follows:

(p. 9 New definition. Editor will alphabetize when definition is added to the code.)

Agricultural or Farm Operation: One or more parcels of land owned, leased or rented, and managed and put to an agricultural or farm use.

SECTION 12

Create a subsection to Section 2(b) to read as follows:

(New definition as term is used in the ordinance)

Floor Area: The sum of the horizontal areas of each floor of an enclosed building as measured to the outside edges of the outside walls. This definition does not include basements, exterior balconies, unenclosed porches, unenclosed exterior steps, decks, patios, outdoor pools, driveways, or parking areas. Exposed basements may be included for the purposes of calculating minimum floor area as set forth in the regulations herein. Attached garages or detached accessory buildings are not included in the floor area of a principal structure.

SECTION 13

Create a subsection to Section 2(b) to read as follows:

(p. 12 New definition)

Greenhouse: An enclosed structure constructed mainly of glass, glasslike or translucent material, cloth or lath, and a support frame and which is devoted to the protection or cultivation of flowers, vegetables, or other plants.

SECTION 14

Repeal and recreate subsection 2(b)92 to read as follows:

(p. 14, Modified definition to update it with new terminology)

Kennel, commercial: An establishment, structure or premises where dogs are raised, ~~and~~ sold, bred, or boarded for any length of time, ~~trained or groomed~~ for commercial purposes. This definition includes businesses termed “doggy day care” and dog rescue operations or any similar operations. The raising and selling of three (3) or more litters of dogs from any number of adult dogs per year shall constitute a commercial kennel. The training or grooming of dogs without other related kennel activities, as listed above, is not considered a commercial kennel, but those activities are considered commercial type uses which are otherwise regulated in this ordinance.

SECTION 15

Create a subsection to Section 2(b) to read as follows:

(New definition as term is used in the ordinance)

Kitchen: Any room or part of a room principally used, designed, or intended to be used for cooking and the preparation of food, but not including a bar, wet bar, butler’s pantry, or similar room adjacent to or connected with a kitchen. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall be considered as establishing a kitchen.

SECTION 16

Create a subsection to Section 2(b) to read as follows:

(p. 15 New definition)

Lowest floor or level: The lowest floor or level of the enclosed area in a building, including a basement.

SECTION 17

Delete subsection to Section 2(b)107:

(p. 15)

~~**Minor structures:** Any small, moveable accessory erection or construction such as birdhouses; tool houses; pet houses; play equipment; arbors; and wall and fences under four (4) feet in height.~~

SECTION 18

Repeal and recreate subsection 2(b)116 to read as follows:

(p. 16, Modified definition to strike reference to the statute because the statute has changed.)

Mobile Home Park: Any plot or plots of ground upon which two (2) or more units occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations. ~~Wisconsin Statutes section 66.0435.~~

SECTION 19

Create a subsection to Section 2(b) to read as follows:

(p. 17 New definition)

Nursery: Any parcel of land used to cultivate, grow, raise, and harvest trees, bushes, shrubs, vines, ornamental plants, flowers, and other plants in the outdoors or in greenhouses and for sale to retail or wholesale outlets or garden centers.

SECTION 20

Create a subsection to Section 2(b) to read as follows:

(p. 17 New definition)

Nursery, retail: The sale of trees, bushes, shrubs, vines, ornamental plants, flowers, and other plants on the premises where they are grown, or the place of business where the nursery stock is received after being transported from an off-site location.

SECTION 21

Create a subsection to Section 2(b) to read as follows:

(p. 17 New definition)

Nursery, wholesale: The cultivation of trees, bushes, shrubs, vines, ornamental plants, flowers, and other plants on a property and where the nursery stock is transported to market and is not sold on site.

SECTION 22

Repeal and recreate subsection 2(b)132 to read as follows:

(p. 18 To expand the definition)

Patio: A structure characterized by a flat, open, horizontal surface or platform that is impervious and usually constructed of materials including, but not limited to, concrete, brick, flagstone, crushed stone, compacted stone, gravel, wood, or other natural or man-made materials. A patio which is located on the surface of the ground or at the average grade of the ground surface. This definition includes sport courts such as tennis courts, basketball courts, and similar structures that are not associated with normal driveway construction.

SECTION 23

Repeal and recreate subsection 2(b)147 to read as follows:

(p. 20, To clarify the definition to be consistent with use by the Land Resources Division.)

Quarrying: The removal of rock, slate, gravel, sand, topsoil or other natural materials from the quarrying site by excavating, stripping, leveling or any other such process, including the mining of non-metallic minerals.

SECTION 24

Repeal and recreate subsection 2(b)154 to read as follows:

(p. 21 To clarify the definition)

Retaining Wall: A structure more than 24 inches in height, as measured from finished grade, or a combination or series of multiple structures more than 24 inches in height from finished grade, constructed of man-made or natural materials for the main purpose of retaining land or stone and resisting the lateral pressure of the land or stone. For the purposes of this ordinance, outcroppings are also considered retaining walls if they meet the retaining wall definition, unless they are naturally occurring in the landscape.

SECTION 25

Create a subsection to Section 2(b) to read as follows:

(p. 21 New definition)

Selective vegetative cutting or removal: The process of selectively cutting or removing vegetation which would include a determination by a forester or naturalist of which plants, including woody vegetation and trees, middle layer species and ground layer vegetation, are to be removed or cut based upon the species type, quality, indigenous character (alien, invasive or native) or otherwise of poor quality (dead, diseased, dying).

SECTION 26

Create a subsection to Section 2(b) to read as follows:

(p. 21 New definition)

Self-service storage facility and mini warehouses: A building or a portion thereof, or a group of buildings, divided into separate, self contained, self-service storage units that are rented or leased by the

owner and generally used to meet the storage needs of a household or for the storage of personal property of the general public.

SECTION 27

Create a subsection to Section 2(b) to read as follows:

(p. 21 New definition. The term is used in the Limited Family Business conditional use section)

Service-Oriented Business: A business operated by a single person or family where personal services are performed or assistance is given, as opposed to the sale of products, and involves predominantly professional operations as outlined in Section 4(g)16 of this ordinance regarding a limited family business.

SECTION 28

Create a subsection to Section 2(b) to read as follows:

(p. 22 New definition)

Significant woodlands: Treed or forested areas that vary in their level of importance and provide environmental and economic benefits such as erosion prevention, water retention, provision of habitat, recreation and sustainable harvest of woodland products. Woodlands are significant in terms of their features, functions, representation and amount, and contribute to the quality and diversity of an identifiable geographic area.

SECTION 29

Repeal and recreate subsection 2(b)172 to read as follows:

(p. 23. Clarifies the definition for ease of administration of the ordinance)

Story: That portion of a building included between the surface of a floor and the surface of the floor next above it; or if there ~~be~~ is no floor above it, then the space between the floor and the ceiling or roof next above it, including basements that are exposed at least six feet on at least one side. ~~A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.~~

SECTION 30

Repeal and recreate subsection 2(b)184 to read as follows:

(p. 24. Revises the definition.)

Sustained yield forestry or silviculture: The management of forested lands, including planting, thinning, and harvesting, to provide annual or periodic crops of forest products.

SECTION 31

Repeal and recreate subsection 2(b)180 to read as follows:

(p. 24. Definition is changed to be consistent with the Zoning Code.)

Structure: Any man-made object with form, shape and utility that is constructed or otherwise erected on the ground or attached to something on the ground, or permanently or temporarily placed, either upon the ground or upon another structure. For the purposes of this ordinance, the term "structure"

includes, but is not limited to, buildings (including sheds and gazebos), signs, swimming pools, hot tubs, patios, decks, retaining walls, monuments, entrance gates, radio towers and television towers, but does not include landscaping, earthwork, or land altering activities including graded areas, filled areas, ditches, berms, or earthen terraces. The term “structure” does not include flag poles, mailboxes, fences, basketball hoops, satellite dishes 18 inches or less in diameter, or small objects that are easily moved by hand, such as lawn chairs, portable grills, portable picnic tables, fences, doghouses, bird feeders, birdhouses, and birdbaths.

SECTION 32

Create a subsection to Section 2(b) to read as follows:

(p. 24. New definition. Term already appears in the Zoning Code. Editor will move to the correct alphabetical location.)

Structure, temporary: A movable structure not designed for human habitation or occupancy, but for the temporary enclosure, protection or screening of goods or chattels during a period of construction, but not to exceed one (1) year, and which is regulated as a structure under the terms of this Ordinance.

SECTION 33

Create a subsection in 2(b) to read as follows:

(Definition moved from general interpretation section of 2(a) to specific definitions. Editor to alphabetize in the list of definitions.)

Town Board: the town board of supervisors of any town under the jurisdiction of this Ordinance.

SECTION 34

Repeal and recreate subsection 2(b)187 to read as follows:

(p. 24. Definition is changed to remove reference to the statute which has changed and to simply refer to the definition of Mobile Home Parks.)

Trailer camp or mobile home park: ~~Wisconsin statute section 66.058(1)~~ See “Mobile Home Park.” “Mobile home park means any plot or plots of ground upon which two (2) or more units occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.”

SECTION 35

Create a subsection in 2(b) to read as follows:

(Definition moved from general interpretation section of 2(a) to specific definitions. Added language to clarify that the Town Board may, by official action, designate itself as the entity to act anywhere under this ordinance when there is reference to the “plan commission.” Editor to alphabetize in the list of definitions.)

Plan Commission: The local town plan commission established under village powers pursuant to Chapter 62 Wisconsin Statutes, the Town Park Commission established pursuant to Chapter 60 Wisconsin Statutes, or any other agency created by the town board and authorized by statute to plan land use. A Town Board may, by official action, designate itself as the entity to act on behalf of the town anytime this Ordinance refers to the “plan commission.”

SECTION 36

Repeal and Recreate Section 3(c)2 to read as follows:

(p.28 Corrects reference to Section 41. Changes PPC to WCPLU. Expands the provisions to apply to “structures or buildings” instead of just “buildings.” In B adds a piece of information required in zoning applications – the location of wetlands and environmental corridors. Creates subsection G to require adequate water supply. Creates subsection H to set time limitations on three zoning permit application processes. Creates subsection I to address the possible need for preliminary site evaluation approval when a structure is proposed not involving human occupancy/habitation and/or a principal structure. Creates subsection J to address the situation when two kitchens are proposed in a single family residence. Creates subsection K to require a grading plan in certain situations.)

Application for: Zoning, occupancy and use permits shall be obtained from the county zoning administrator or designated deputy to the county zoning administrator as provided by section 41(b). No application for any permit, variance, special exception, conditional use, site plan, plan of operation, rezoning, license or other governmental approval under this ordinance shall be deemed to be properly filed unless it is signed by the applicant. The landowner must sign the application or execute the Landowner’s Authorized Agent Form, which is available through the Waukesha County Department of Parks and Land Use. Landowners are advised to also contact the town to determine the town’s requirements for additional forms or information. Application shall be made on a form required by the Zoning Administrator and made prior to or at the same time as the application for a building permit, and shall be prepared in triplicate and shall include for the purpose of proper enforcement of this ordinance the following data:

- A. A statement by the applicant as to the intended use of the premises and of any existing or proposed structures or buildings thereon.
- B. An accurate map of the property, in triplicate, drawn to a reasonable scale and properly dimensioned showing:
 - i. The boundaries of the property involved.
 - ii. The location of the centerline of any abutting streets.
 - iii. The location on the lot of any existing structures or buildings, proposed additions, or proposed new structures or buildings, including the measured distances between such structures or buildings and from the lot lines and from the centerline of any abutting street to the nearest portion of such structure or building.
 - iv. The location of any existing structures, septic systems or wells within fifty (50) feet of the boundaries of the property involved.
 - v. The proposed location of private septic systems and private wells in areas not served by public sewage disposal systems and public water supplies and the location and results of soil borings and percolation tests.

- vi. The proposed first floor elevation of any proposed buildings in relation to the existing and/or established grades of the lot, any abutting streets and the ordinary high water mark of any abutting stream, river or lake.
- vii. The ordinary high water mark of any stream, river or lake on which the property abuts.
- viii. The elevation and location of the floodplain of any abutting stream, river or lake.
- ix. The location of wetlands and environmental corridors.

C. Where the use involves human occupancy or use, and where such use is not served by sanitary sewer and water, a county sanitary permit shall be required prior to issuance of the county zoning permit.

D. If the development, improvements, or construction activities, are located in a floodplain the following information must be included:

- i. The location of floodplain and floodway limits as determined from the official zoning map or the Flood Insurance Rate Maps.
- ii. Where the development, improvements or construction activities are located in a floodplain, where flood profiles are not available or where flood profiles are available but floodways have not been determined, the following shall be submitted to the Zoning Administrator and the Zoning Administrator shall submit the same to the WDNR, along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data:
 - a. Two (2) copies of an aerial photograph or a plan, which shows the proposed development with respect to the wetland and floodplain limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures.
 - b. Two (2) copies of any of the following information deemed necessary by the WDNR to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - 1. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 - 2. A plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed

and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;

3. A profile showing the slope of the bottom of the channel or flow line of the stream;
 4. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- iii. The elevation of the lowest floor of proposed structures and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD).
 - iv. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of sections 7 and/or 8 of this ordinance are met.
 - v. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood elevation or discharge according to section 3(d)5.A of this ordinance. This may include any of the information noted in section 7(c).2 of this ordinance.
 - vi. For all subdivisions, as defined in Chapter 236 Wisconsin Statutes and all other proposed developments of five (5) acres or more in area, the applicant shall provide all survey data and computations required to show the effects of the project on flood elevations, velocities and floodplain storage. The applicant shall provide an analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity; a map showing location and details of vehicular access to lands outside the floodplain; and a surface drainage plan showing how flood damage will be minimized.
- E. All necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344. shall be required prior to issuance of the zoning permit, unless the zoning permit must precede the other applicable permits.
- F. A fee, as may be established and periodically modified under section 41(b) 5. shall accompany each application. Such fee shall be paid by cash, check or money order to the Waukesha County Department of Parks and Land Use ~~Park and Planning Commission~~.
- G. Satisfactory evidence that a safe and adequate supply of water is to be provided, and the location of any well for that purpose on the property.
- H. An application which is filed and is not complete, as it does not meet all of the requirements in Section 3(c)2(A through D), Section 3(d)(5), or Section

3(d)(9), shall be held for a period not to exceed six months from the date of application and shall then be denied by the Zoning Administrator and no refund of the application fee shall be made.

- I. Even when the proposed use of a structure or building may not involve human occupancy or habitation, or when there is no principal structure on the property, the use shall receive approval of a preliminary site evaluation as determined to be necessary by the Waukesha County Department of Parks and Land Use – Environmental Health Division.
- J. Where two or more kitchens are proposed within a single family residence, the owner shall file a deed restriction in the Waukesha County Register of Deeds office stating, at a minimum, that the residence is to be used for single family residential purposes and shall not be used as a multiple family residence.
- K. Where a new residence is proposed on a lot with one hundred (100) feet or less of minimum average width, a grading plan prepared by a Registered Architect, Landscape Architect or Engineer and specifying before and after grades, a timetable for completion, the source and type of fill, impacts on storm water and drainage, erosion control methods, and complete revegetation methods including seeding mixtures, amount of topsoil and mulch shall be submitted with the zoning permit application.

SECTION 37

Repeal and Recreate Section 3(c)3 to read as follows:

p. 31 (Corrects typo – adds the word “or” Expands the provision to apply to “structures and buildings” instead of just “buildings.” Adds section C to emphasize the need for compliance with the terms of any permit.)

- 3. **Issuance:** Zoning and occupancy and use permits shall be issued by the zoning administrator after adequate investigation as to compliance or upon recommendation of the deputy where he has made the necessary investigation.
 - A. Zoning permit: Provided the application is in order and any structure or building, occupancy, or use as proposed would be in compliance with the provisions of this ordinance, a zoning permit shall be issued upon such application, and a certification that such permit has been issued shall be posted in a prominent place on the premises during the period of any construction or other activity involved in readying the land or buildings for use or occupancy.
 - B. Occupancy and use permit: Within ten (10) days after the notification of the completion of the erection, alteration or relocation of a structure or building, or of intent to commence a use, the zoning administrator or his deputy shall make an inspection of the premises and any structures or buildings thereon; and, if such structure or building, intended use, or proposed occupancy complies with the requirements of this ordinance, an occupancy and use permit shall be issued.
 - C. After a permit has been issued by the Zoning Administrator, the applicant must comply with all terms of the permit. If any changes or

deviations are made from the approved application, a new permit is required. Failure to comply with the terms of the permit as issued will be a violation of this ordinance and may result in the issuance of a cease and desist order, penalties, injunctions or other enforcement actions.

SECTION 38

To repeal and recreate subsection 3(c)4 as follows:

(p. 31 Clarifies that only one 6 month extension will be granted, and subsequent permit applications are determined by the ZA, none of which can be extended, includes remedies for dealing with incomplete projects.)

Expiration: If within six (6) months of the date of issuance of a zoning permit, the proposed construction or preparation of land for use has not commenced, or if within eighteen (18) months an occupancy and use permit has not been issued, if required by the Town, or the construction has not been completed, said zoning permit shall expire, except that upon showing of valid cause, the Zoning Administrator may grant an extension of such permit for a period not to exceed six (6) months from the date of the expiration of the zoning permit, and only one such six month extension shall be granted. Said permit extension shall be issued for the full fee and shall comply with the ordinance in effect at the time the original permit was issued. ~~and based upon full conformance with this Ordinance at the time of issuance for the new permit.~~ If the construction has not commenced or is not completed after a total of twenty-four (24) months, and an occupancy permit has not been issued by the Town Building Inspector, the zoning administrator shall make an inspection of the subject property to determine if there is a valid reason a new permit should be issued. If allowed, a new permit must be applied for and ~~received~~ issued subject to all fees in effect at the time of such new permit issuance and subject to the Ordinance in effect at the time of such new permit issuance. Previous incomplete work is not entitled to a new permit if the Ordinance no longer permits said use or structure or if changes to the Ordinance have been made subsequent to the original issuance of the permit. If the zoning administrator determines a new permit should not be issued, a nuisance determination involving the town, fines, citations, an injunction, or other legal remedies may be used to facilitate the completion of the work, or the removal of the work that has occurred and restoration of the land that has been disturbed. The second and any subsequent permits shall not be eligible for any extensions. Subsequent permits are subject to all fees in effect at the time of permit issuance and are subject to the Ordinance in effect at the time of such subsequent permit issuance.

SECTION 39

Repeal and recreate subsection 3(c)6 as follows:

(p. 31 Clarifies the approval process when it is also a conditional use and provides the updated name of the Land Resources Division's ordinance.)

Zoning and Occupancy and Use Permits - Site Plans and Plans of Operation: Certain permitted uses as well as certain conditional uses require the submission of a Site Plan and Plan of Operation which provide a detailed description of the proposed use and serve as a basis for consideration prior to approval of the plan commission, and either the zoning agency or zoning administrator. The purpose of such a Site Plan and Plan of Operation review is to document the permit file, determine adequacy of the data submitted to describe the permitted and accessory uses and buildings proposed and document the plan and method of operation to enable a determination of compatibility with the Ordinance and consideration of approval.

If a Site Plan and Plan of Operation is requested in conjunction with a Conditional Use, then the decision should state that all future modifications proposed to the Site Plan and Plan of Operation must be approved by the Zoning Agency, in addition to the Plan Commission, unless the Zoning Agency and Plan Commission waive their approval rights, in which case the Site Plan and Plan of Operation is reviewed and approved by the Zoning Administrator and town staff. A Site Plan and Plan of Operation shall include the following information, as well as any other specific information requested by the plan commission, zoning agency or zoning administrator to review the plans and determine compliance with the regulations of this Ordinance:

- A. A Plan of Operation is a statement of operations, signed by the property owner and tenant or operator of the business or use, including a detailed description of the request, number of employees, hours of operation, and types of uses, products or services offered.
- B. A Site Plan and/or Plat of Survey of the property (in standard engineering or mapping scale which permits a clear representation of the property to a scale not to exceed two hundred (200) feet to one (1) inch), in quadruplicate, showing the location and dimensions of all existing and proposed buildings and structures and other attributes on the site, the location, number and arrangement of parking spaces or loading areas, lighting fixtures, easements, dumpsters, signs, landscaping and screening, and any other factors affecting the development of the site.
- C. A stormwater management and erosion control plan consistent with the requirements of the Waukesha County ~~Construction Site Erosion Control and Storm W~~water Management and Erosion Control Ordinance. A grading plan, where required, shall be submitted in quadruplicate to the same scale as the Site Plan, including existing and proposed contours at a maximum of two (2) foot vertical intervals for slopes less than twelve (12) percent and at no more than five (5) foot intervals for slopes twelve (12) percent or greater, existing and proposed features (i.e. berms, swales, ponds, ditches, storm sewers, inlets, etc.), vegetative plan, timetable for completion, the name of the responsible party and a letter of credit, if deemed necessary. The plan commission, zoning agency or zoning administrator has the discretion to request a grading plan in a scale different than the Site Plan in order to show with sufficient detail the contours and features of the property.
- D. One set of building plans, State approved if required, at a standard architectural scale, including exterior elevation drawings of all sides of all buildings proposed.
- E. A rendering of all signs visible from the exterior, along with the location, dimensions, overall height, illumination and colors of the signs.
- F. Lighting or photometric plan, including cut sheets of each type of exterior light fixture proposed or existing.
- G. A detailed landscaping plan showing the location, sizes and types of proposed vegetation, including seeding mixtures and the amount of topsoil and mulch, the timetable for completion, and any surfacing plan for parking and loading areas.

SECTION 40

Repeal and recreate subsection 3(d)1 to read as follows:

(p. 32 Deletes the portion that conflicts with the zoning district regulations, clarifies the ordinance regarding the current policy, and clarifies the language of the subsection.)

Building must be on a lot: Every building hereafter erected, structurally altered or relocated shall be located on a lot as defined herein. Any building used for the principal use permitted in that district shall constitute the principal building and there shall be no more than one (1) principal building on a lot unless otherwise stated in this ordinance ~~except in business districts, industrial districts, planned unit developments and agricultural districts. In the agricultural district, no more than one (1) residence may be permitted on a single parcel of land unless it can be demonstrated that more than one (1) residence is necessary and accessory to the principal agricultural use of the property. The plan commission and the zoning agency may give approval to permit more than one (1) principal building on a lot in any district where such grant would not be contrary to the spirit and intent of the Ordinance, and provided that sufficient lot area is provided and the building so located so as to individually meet the setback, offset, and lot size and open space requirements of the district in which it is located.~~ No accessory building shall be constructed until the principal building is under construction or completed, and no accessory building shall remain on a property once the principal building has been removed without a variance from the Waukesha County Board of Adjustment, unless: (1) a Letter of Credit or some other form of financial assurance acceptable to the Waukesha County Department of Parks and Land Use – Planning and Zoning Division is submitted to the Department in an amount sufficient for the Department to have the accessory building removed in the event a principal structure is not constructed on the property within two years of the date of issuance of the Zoning Permit for the new principal building or the date of removal of the accessory building, and (2) a deed restriction is recorded in the Waukesha County Register of Deeds office stating a principal structure shall be constructed on the property within two years of the date of issuance of the Zoning Permit for the new principal building or the date of removal of the accessory building or the Letter of Credit on file with the Department will be used to have the accessory building removed. Once the principal structure is constructed or the accessory building is removed, the Waukesha County Department of Parks and Land Use shall cooperate in the rescinding of the deed restriction and the release of the Letter of Credit or other financial assurance.

Where the use of the land is principally for agricultural pursuits, and ~~is a~~ ~~on~~ parcels of thirty-five (35) acres or more ~~in size~~, farm buildings may be allowed without the necessity of having a residence in place or under construction subject to the approval of the plan commission and zoning agency if it is determined that the building will not be contrary to the spirit and intent of the Ordinance and will not include the operation of a commercial boarding or riding stable for horses or agricultural pursuits specializing in the forced feeding of livestock, and where it is determined that the use of the building will be accessory to a farming operation which is consistent with the use provisions of the district in which it is located.

SECTION 41

Repeal and Recreate Section 3(d)5.A.1b to read as follows:

(p.35 Removes the word “also”.)

- b. Dredging and pond construction are ~~also~~ conditional uses pursuant to section 4(g)14 of this Ordinance where allowed and in addition, may require permits from the WDNR or the U. S. Army Corps of Engineers.

SECTION 42

Repeal and recreate subsection 3(d)5C to read as follows:

(p. 36 Clarifies the ordinance to provide that retaining walls cannot be averaged with the setbacks of other buildings or structures).

No change in the existing topography or drainage courses on any land shall be allowed which will result in adversely altering the drainage or increasing any portion of the existing slope through fill and/or grading to a ratio greater than three (3) horizontal to one (1) vertical. The construction of a retaining wall (stone, ties, brick or other material) five (5) feet or less from a property line may be specifically authorized by the plan commission and zoning agency and an agreement made between said plan commission and zoning agency and applicant stating that the method and purpose of construction will not in any way adversely affect drainage or aesthetics of the adjacent lot. A retaining wall greater than five (5) feet from a property line may be allowed pursuant to issuance of a zoning permit as long as said wall will serve to promote the purpose and intent as stated in this Ordinance. All retaining walls shall be set back at least seventy-five (75) feet from the ordinary high water mark of a navigable body of water and outside of the conservancy district unless the zoning administrator determines that the retaining wall is necessary to abate a known and identified soil erosion and sedimentation problem. Retaining walls cannot be averaged with the setbacks of other buildings or structures.

Fill or grading considered by the zoning administrator to be necessary backfill and/or excavation for an otherwise permitted structure may be permitted without the necessity of securing a conditional use permit as long as said fill or grading is accessory to said construction and does not create slopes greater than three (3) horizontal to one (1) vertical and does not extend to a distance greater than thirty (30) feet from the foundation and does not divert runoff directly onto adjacent property or adversely affect adjoining property. In order to make such a determination, the property owner shall submit a grading plan of existing and proposed grades on the subject lot and adjacent lands where said accessory fill and/or grading is closer than twenty (20) feet to a property line. The fill must be located outside of an area designated as floodplain or wetland.

Land altering activities extending greater than thirty (30) feet from the foundation may be allowed subject to issuance of a minor grading permit (zoning permit) as provided for in section 3(d) 5.D. without benefit of a conditional use permit unless the quantities and the area of fill and grading exceed those limits defined herein for minor grading, filling and land altering activity. This provision excludes the area normally associated with septic system installation and normal driveway construction.

Further, no fill or alterations on existing topography shall be allowed under any circumstances, which will alter the drainage or topography in a way, which will adversely affect the surrounding lands. In making such a determination, the zoning administrator shall have the authority to determine the affect of the construction or fill on surrounding property and require improvements and/or facilities as may be in the best interest of preserving the topography and drainage system and which will have the effect of lessening the impacts on either upstream, downstream or adjacent properties. In case of a dispute or

question arising as to the adversity or affect of the project on either the property owner, adjacent owners or the general public, said question shall be submitted to the Board of Adjustment for resolution to the question. Land altering activities may also be subject to locally adopted or State mandated Erosion and Sediment Control ordinances in addition to the requirements set forth herein.

SECTION 43

Repeal and recreate subsection 3(d)9 to read as follows:

(p. 39 Protects vegetation which is on shoreland jurisdiction properties designated as PEC, SEC, INRA (EC) areas, but which may not have actual shoreland frontage.)

Shoreland Cutting: Tree and shrubbery cutting shall be regulated to preserve shore cover, protect natural beauty, preserve wildlife habitat and protect spawning areas, control erosion and reduce the flow of effluents, sediments and nutrients from the shoreland area and shall be limited in accordance with the following provisions:

- A. In the area parallel to the ordinary high water mark and extending thirty-five (35) feet inland from all points along the ordinary high water mark, each property is allowed one (1) access/view corridor. The access/view corridor may extend along 30% of the shoreland frontage of the property to a depth of thirty-five (35) feet inland. Within the access/view corridor, selective cutting or removal of trees and shrubbery is allowed. Such cutting or removal shall only be allowed using accepted forest management and soil conservation practices to protect water quality. In the remainder of the area parallel to the ordinary high water mark and extending thirty-five (35) feet inland, the trees and shrubbery shall remain undisturbed, unless they are dead, dying, diseased, or a noxious invasive species, in which case a shoreland cutting plan shall be submitted to the zoning administrator for review and upon approval a zoning permit will be issued, and all trees or shrubbery removed in the remainder area outside of the access/view corridor must be replaced with native trees and shrubbery which are equally as effective in retarding runoff, controlling erosion and preserving natural beauty.
- B. Natural trees or shrubbery shall be preserved as far as practicable. Where natural trees or shrubbery are removed in the remainder area outside of the access/view corridor, they shall be replaced with other trees or shrubbery which are equally effective in retarding runoff, controlling erosion and preserving natural beauty.
- C. Any removal of trees or shrubbery in an area designated as Primary or Secondary Environmental Corridor or Isolated Natural Resource Area by this ordinance through Environmental Corridor zoning, or Isolated Natural Area on the Waukesha County Development Plan, shall require a shoreland cutting plan to be submitted prior to any cutting, including the cutting of trees or shrubbery which are dead, dying or diseased or a noxious invasive species. Said shoreland cutting plan shall be submitted to the zoning administrator for review and upon approval a zoning permit will be issued. An application for such a permit shall include a sketch of the lot providing the following information: location of parking, topography of the land, existing vegetation, proposed cutting, area, dimensions, type of trees or shrubbery to be removed, whether any of the trees or shrubbery are dead, dying or diseased or a noxious invasive species, and a proposed replanting plan. The zoning administrator may grant such a permit only if it finds that the shoreland cutting plan:

- i. Will be effective in retarding runoff, controlling erosion and preserving natural beauty, and
 - ii. Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the zoning administrator may require the submission of a Letter of Credit that guarantees the performance of the planted tree or shrubbery replacement by the lot owner.
- D. Shoreland cutting that disturbs the surface of the land requires an additional permit for the land altering activities.
- E. In the C-1 District, where silvicultural practices will take place on areas larger than five (5) acres in size, the requirements of this section shall not apply. Instead a forest management plan prepared in cooperation with a state forester shall be submitted to and approved by the Waukesha County Department of Parks and Land Use, Land Resources Division and the zoning agency prior to its implementation. In the C-1 District, where silvicultural practices will take place on areas smaller than five (5) acres in size, the requirements of this section 3(d)9 shall apply.

SECTION 44

Repeal and recreate subsection 3 (d)10 to read as follows:

(p. 40 Modifies section to reference and be consistent with the County Storm Water Ordinance.)

Adequate drainage required: In no case may a principal building be located in an area zoned conservancy or in an area considered to be one of the eight (8) types of wetlands (type 1-8) as described in Circular 39 of the Fish and Wildlife Service, U. S. Department of Interior published in 1956, and which are on record on the 1975 aerial maps of the Southeastern Wisconsin Regional Planning Commission. No principal building shall be erected, ~~structurally altered or relocated,~~ and no below grade structures shall be expanded ~~on land which is not on~~ newly created or existing lots that are not in compliance with the site drainage standards contained in the Waukesha County Storm Water Management and Erosion Control Ordinance, including all county technical procedures and forms used to enforce these standards (Chapter 14-342(c)). The lowest floor, including any basement floor, shall not be less than one (1) foot above the highest seasonal ground water level. For the purposes of this section, the highest seasonal ground water level is defined as the upper limit of the zone of soil saturation caused by underlying ground water at its highest level. Where groundwater limitations exist, subdivision plats and certified survey maps shall state the lowest allowed floor elevation for any proposed principal structure as needed to ensure compliance with the above noted site drainage standards. All basement elevations must comply with the subdivision plat or certified survey map master grading plan or with the master grading plan referenced on the subdivision plat or certified survey map. ~~adequately drained which has an observed or estimated high ground water table condition or having soil which may have a seasonal zone of water saturation as may be determined by use of U. S. D. A. soil survey, an onsite soil investigation by a certified soil tester or other qualified engineer or soil scientist, unless adequate measures are taken to protect the building, its basement and its foundation from such water conditions. The identification of mottled characteristics in the soil profile may be utilized to identify soil conditions which may require additional protective measures as outlined below. Where soil monitoring tests have been made, the data resulting from such testing procedures may also be utilized to assist in establishing soil conditions requiring protective measures. Normally, a few faint mottles or a~~

very low incidence of mottling will not necessitate any special consideration. Basements will be allowed to extend into such soils where those conditions exist as long as appropriate construction measures are provided. Where the incidence of mottling is considered very severe or where ground water is observed in the soil profile, the lowest floor, including any basement floor, shall not be less than one (1) foot above the highest seasonal ground water level no basement area will be allowed to be placed below the level at which such a condition exists. The zoning administrator and/or building inspector may review such conditions by observation and other evidence at the building site and shall require appropriate measures to be taken beyond normal footing drains as normally required by local building codes to adequately protect the building and its basement and foundation from such potential water related problems. The zoning administrator and/or building inspector may request at the owner's expense the advice and assistance of a licensed professional engineer specializing in soils engineering or other qualified person in fulfilling their duties pursuant to this provision. Building, drainage, grading or other similar plans may be required to determine compliance with this section. The town and the county accept no liability for construction activities involving groundwater limitations.

A. — The zoning permit and building permit issued for the erection, structural alteration or relocation of a principal building shall state specific design, engineering and construction requirements, as a condition of the permit, notwithstanding applicable construction codes, which must be incorporated within the improvement to be done on and in soil which has such conditions necessitating additional protection of the building, basement, foundation, occupants and personal property. Such provisions which may be required may include but shall not be limited to the techniques enumerated below: auxiliary power supplies; gravity drainage of foundation footings together with the installation of a normal sump pump which will be operative in the event of blockage of the gravity drains; gravel backfill and extra drains; waterproof poured concrete basements.

B. — Subdivision plats and certified survey maps shall state, on their face, whether protective measures, pursuant to the above are likely to be required as a condition of a zoning and building permit. The planning commission or the county zoning agency may cause such notice to be affixed to the face of the document.

CA. In the event the applicant a disputes arises as to the necessity for or the adequacy of the site drainage standards protective measures set forth noted above, the matter shall be reviewed by the Waukesha County Board of Adjustment pursuant to the appeal provisions of this Ordinance and the Waukesha County Storm Water Management and Erosion Control Ordinance. The applicant may also request a variance from the 1-foot groundwater separation requirement for basements which shall also be reviewed by the Waukesha County Board of Adjustment pursuant to the appeal provisions of this Ordinance and the Waukesha County Storm Water Management and Erosion Control Ordinance.

SECTION 45

Repeal and Recreate Section 3(e)4 to read as follows:

(p.42 Corrects a grammatical error by capitalizing the first letter of Board.)

Additional Requirements: For any use or structure in any district, which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, the owner or occupant may be

required to correct, improve or abate such conditions by such measures as may be mutually directed by the Plan Commission and Zoning Administrator consistent with reasonable technology and economic practicality and in conformance with reasonable standards or may be determined by the Plan Commission and Zoning Administrator as may be contained in this Ordinance. Any building determined to be unfit for human habitation or which may endanger the health, safety and welfare of the public as may be determined by the Town ~~board~~ Board after recommendation by the Plan Commission or Zoning Administrator may be removed pursuant to the procedures outlined by the Wisconsin Statutes.

SECTION 46

Repeal and recreate subsection 3 (h)1.A.v to read as follows:

(p. 44 Clarifies that there is no offset reduction or sewer reduction for private roads).

There shall be a required setback equal to the offset requirement of the district in which the property is located, from a private right-of-way providing ingress and egress to the subject land or other lands unless such private right-of-way is considered a mill tax road, in which case the normal road setback requirements contained in this Ordinance shall apply. The offset requirements for private rights-of-way shall not be subject to the sewer reduction provisions or any offset reduction provisions contained in this ordinance.

SECTION 47

Repeal and recreate subsection 3(h)1.I.(iv) to read as follows:

(p.47 Excludes retaining walls from application of the setback averaging formula.)

- iv. A retaining wall shall be set back at least seventy five (75) feet from the ordinary high water mark of a navigable body of water and outside of the conservancy district and wetlands and may be allowed if the zoning administrator determines that the retaining wall is necessary to abate a known and identified soil erosion and sedimentation problem. The setback averaging provisions below may not be used to locate a retaining wall closer than seventy-five (75) feet from the ordinary high water mark of a navigable body of water or within the conservancy district and wetlands. A retaining wall is not a structure that can be used in the setback averaging provisions below to reduce the shore setback or conservancy setback requirements for any other building or structure, including retaining walls themselves.

SECTION 48

Repeal and recreate subsection 3(h)1.I.(v) to read as follows:

(p.47 Change walkway width to four feet and require a permit for walkway.)

- v. A single stairway or walkway, determined by the zoning administrator, due to steep topography, to be necessary for access to a lake, pond or river, shall be permitted to have a shore setback of less than seventy five (75) feet provided the width of the stairway or walkway does not exceed ~~three (3)~~ four (4) feet, subject to the issuance of a Zoning Permit.

SECTION 49

Repeal and Recreate Section 3(h)1.I.(vi) to read as follows:

(p.47 Excludes retaining walls from the application of the setback averaging formula for a new structure.)

Where there is an existing pattern of development with principal buildings having shore setbacks less than seventy five (75) feet from the ordinary high water mark of a navigable body of water or the Conservancy District boundary line, the setback requirements for new principal buildings or additions to the principal building or structures immediately adjacent thereto (such as decks or patios, but not including retaining walls and swimming pools) shall be allowed to be reduced in accordance with the following setback averaging formulas, however, in no case shall the required minimum shore setback from the ordinary high water mark or Conservancy District boundary be reduced to less than thirty (30) feet:

- a. If there is a building which is non-conforming with respect to shore setback with a similar use as the proposed building and located on an adjacent parcel on one side of the proposed building and within two hundred (200) feet of the proposed building, the average of the shore setback of that building of similar use and the required minimum shore setback shall apply.
- b. If there are two buildings which are non-conforming with respect to shore setback with similar uses as the proposed building and located on adjacent parcels on each side of the proposed building and within two hundred (200) feet of the proposed building, the average of the shore setbacks of the two buildings of similar use shall apply.
- c. In the case of a proposed addition to an existing building which has less than the required shore setback, the shore setback of the addition shall be calculated by the average of the existing building and the shore setback of an existing building with a similar use as the proposed addition if it is located on the adjoining parcel on the same side as the proposed addition and within two hundred (200) feet of the proposed addition.
- d. In the case of a proposed addition to an existing building, which has less than the required shore setback, if there are not similar uses on either adjoining parcels, the shore setback of the addition shall be calculated by the average of the existing building and the required minimum shore setback.
- e. The effect of the shore setback regulations in combination with the road setback regulations shall not reduce the buildable depth of such lot to less than thirty (30) feet. Where such reduction would result in a depth less than thirty (30) feet after applying the shore setback and road setback averaging formulas, the zoning administrator shall have the authority to modify the road setback, shore setback, and offset provisions to the extent necessary to minimize the encroachment on the

offset and setback standards while maintaining the thirty (30) foot depth.

- f. In applying these shore setback averaging formulas to a proposed principal building or addition to a principal building, the shore setback measurements shall be taken from other principal buildings only and the measurements shall not be from any immediately adjacent structures, such as decks, ~~or~~ patios, retaining walls or swimming pools.
- g. In applying these shore setback averaging formulas to a proposed structure, such as a deck or patio, which is immediately adjacent to the principal building, the shore setback measurements may be taken from other principal buildings or immediately adjacent structures, such as decks or patios, but not from retaining walls and swimming pools.

SECTION 50

Repeal and Recreate Section 3(h)1.I.(vii) to read as follows:

(p.48 Deletes the words “or wetland” to clarify the requirement.)

A principal building, an addition to a principal building or a deck or patio immediately adjacent to a principal building may be located as close as fifty (50) feet from the Conservancy District boundary if it is in conformity with the required shore setback from the ordinary high water mark and if the existing natural ground elevation adjacent to the lowest level of the principal building, including an exposed basement, is at least three (3) feet above the regional flood elevation or the high water mark of the conservancy ~~or wetland~~ area.

SECTION 51

Repeal and Recreate subsection 3(h)2.A.vi to read as follows:

(p.49 Applies the offset requirement to the rear lot lines as well as to side lot lines.)

One detached accessory building on any parcel which is less than two hundred (200) square feet in area may be located five (5) feet to the side ~~and rear~~ lot lines unless otherwise excepted under any other provision.

SECTION 52

Create a subsection of 3(h)2.A.x to read as follows:

(p. 50 Clarifies the ordinance regarding the offset requirements for stairs.)

No stairs shall be hereafter erected or altered so that any portion thereof is located closer to any lot line than the offset distance hereinafter specified by the regulations for the district in which the stairs are located, unless the stairs are an integral part of a deck or patio constructed in accordance with Section 3(h)2.A.viii. Stairs constructed as an integral part of an accessory building must comply with the offset requirements in Section 3(h)2.A.iii.

SECTION 53

Repeal and recreate subsection 3(h)2.B to read as follows:

(p. 50 Corrects a grammatical error.)

Where a lot abuts a district boundary line, the offset from such line in the district of less ~~restricted~~ **restrictive** use shall be not less than that required for the district of more restrictive use.

SECTION 54

Repeal and Recreate Section 3(h)2.D to read as follows:

(p. 50 Moves this subsection regarding “Maintenance and use of setback and offset areas” out of the section on offsets to become a subsection under the more general heading of building location.)

- 3 D.** Maintenance and use of setback and offset areas: Any such required setback or offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse and shall not be used for the storage or display of equipment, products, vehicles or any other material.

SECTION 55

Repeal and Recreate Section 3(h)2.E to read as follows:

(p. 50 Moves this subsection regarding “Accessory Building Location” out of the section on offsets to become a subsection under the more general heading of building location. Clarifies the measurement.)

- 4 E.** Accessory building location: No detached accessory building shall be erected, structurally altered or placed on a lot so that any ~~roofed or enclosed portion thereof~~ is closer than ten (10) feet to the principal building on said lot, **as measured from the outside edge of the overhang of each building.**

SECTION 56

Repeal and Recreate Section 3(i)1 to read as follows:

(p. 50 Corrects a typographical error by deleting the repeated phrase “Maximum height restricted” and changes offset and setback requirements to exclude those for decks and patios.)

Maximum Height Restricted: ~~Maximum height restricted:~~ In any district no building or structure shall hereinafter be erected or structurally altered to a height in excess of that herein specified for the regulations of that district, except the maximum height of any structure or building may be increased by not more than ten (10) feet, provided all required offsets and setbacks, **except those for decks and patios,** are increased by one (1) foot for each foot which said building or structure exceeds the height limit in which the district it is located.

SECTION 57

Repeal and recreate subsection 3(i)2.B to read as follows:

(p. 50 Adds windmills to the list of structures to which height regulations apply.)

Subject to approval of the Plan Commission; cooling towers, elevators, bulkheads, fire towers, monuments, stacks, tanks, **windmills,** water towers, ornamental towers, spires, wireless or broadcasting towers, masts, aerials, and necessary mechanical appurtenances.

SECTION 58

Repeal and recreate subsection 3(j)1.C to read as follows:

(p. 51 Clarifies the requirement.)

Minimum required floor area shall be measured at each level from the outside edge of wall to outside edge of wall and, for purposes of computing total minimum floor area, shall not include attached or detached garages; other outbuildings; porches; or basements, except as noted below.

Exposed basements and the second floor of one-and-one-half and two-story residences may be included in computing total minimum floor area according to the following schedule:

- i. That portion of the exposed basement of an exposed basement residence which has been designed as an integral part of the living area of the home, may be included in computing total minimum floor area when at least one (1) side is completely exposed to grade level and access has been provided to the outside at grade level by means of at least one (1) door, but said area does not have to be included in calculating the maximum floor area ratio requirements.
- ii. That portion of the second floor of one-and-one-half and two-story buildings which has a minimum distance between the ceiling face and the floor of six (6) feet shall be included in computing the total minimum floor area provided there is a permanent stairway leading from the first floor to the second floor. Where the floor to ceiling height is less than six (6) feet and the area is part of living space in the residence and does not include a closet, attic or similar storage area, said area shall be included in the minimum floor area computation (i.e., "splayed" or sloped ceiling).
- iii. In split level units, floor area shall be computed as follows:
 - a. If less than one-half of the lower level(s) is above ground, such level shall be considered a basement and cannot be included in total floor area of the building unless such basement qualifies as an exposed basement section in 3(j) 1.C.i. above.
 - b. If more than one-half of the lower level(s) is above the ground, such areas can be included in determining floor area. If there is no basement below this level(s), two hundred (200) square feet of floor area shall be required in addition to the floor area requirement of the zoning district. This required floor area shall be finished as an integral part of the dwelling unit within six (6) months of the date upon which the building permit is issued.

SECTION 59

Repeal and recreate subsection 3(j)4 to read as follows:

(p. 53 Changes regulations regarding accessory buildings and structures.)

Accessory Buildings and Structures:

- A. The aggregate total floor area of all any accessory buildings on a lot in any zoning district may not exceed 3% of the total area of the lot nor exceed the total maximum floor area ratio requirements of the appropriate zoning district, with the following exception: except the 3% accessory building regulation may be exceeded in business and industrial districts when approved as a special exception by the Plan Commission and Zoning Agency. An attached garage shall not be included in this 3% limitation. Temporary structures must be included within those allowable square footages.

~~In no case shall more than two accessory buildings be permitted unless approved by the Plan Commission with the following exceptions:~~

- ~~A.i.~~ On parcels of fifteen (15) acres or more in area, the accessory building floor areas may be greater than the 3% limit when the accessory buildings are used ~~used solely for the pursuit of agriculture~~ agricultural use and where the accessory buildings will house equipment as regulated in Section 3(k)3.A, and when consistent with the total maximum floor area ratio requirements of ~~the zoning~~ this ordinance.
- ~~B.~~ ~~In all Business and Industrial Districts, when approved by the plan Commission as part of the plan of operation and site plan review, and where said buildings are used solely accessory to the principal use on said lot.~~ An attached garage shall not be included in the 3% limitation. Temporary structures shall not be included within the aggregate total floor area of any accessory buildings. The 3% accessory building floor area ratio is not subject to the sewer reduction provisions of the ordinance.
- ~~C.~~ ~~On parcels which are the subject of a conditional use permit and as regulated by the conditional use permit.~~
- ~~D.C.~~ When a ~~petitioner~~ applicant is proposing more square footage of accessory buildings than the 3% limit allows or as excepted above, the Board of Adjustment may grant a special exception to the above requirement in accordance with the procedure as outlined in Section 40 of this Ordinance. The ~~petitioner~~ applicant must submit a current plat of survey by a registered surveyor indicating all existing buildings on the parcel, their location, total square footages and the number of stories in existing structures and proposed buildings. The Board of Adjustment may require a deed restriction to be recorded prior to issuance of the zoning permit, restricting the use of the oversized accessory buildings to uses accessory to the principal use of the premises and may not allow uses prohibited in the zoning district in which the building is located.
- D. Where more than two (2) such accessory buildings are proposed, the Plan Commission shall review said buildings in light of the provisions of Section 3(d)3.B and render a finding to allow or disapprove of said buildings. In no case shall more than two accessory buildings be permitted unless approved by the Plan Commission with the following exceptions:
 - i. On parcels of fifteen (15) acres or more in area and when used for agricultural use and where the accessory buildings will house equipment as regulated in Section 3(k)3.A, and when consistent with the total maximum floor area ratio requirements of this Ordinance.
 - ii. In all Business, Industrial, Public and Institutional, and Quarrying Districts, when approved by the Plan Commission and Zoning Administrator as part of the plan of operation and site plan review, and where said buildings are used accessory to the principal use on said lot, and when consistent with the total maximum floor area ratio requirements of this Ordinance.
 - iii. On parcels which are the subject of a conditional use permit and as regulated by the conditional use permit, and when consistent with the total maximum floor area requirements of this Ordinance.

- E. All accessory buildings shall be constructed in such a way that the exterior appearance is compatible with the design, style, architecture and appearance of the principal ~~structures~~ **buildings** on the parcel. This determination shall be made by the local building inspector and the Zoning Administrator. In case of a dispute, such questions shall be submitted to the Plan Commission and the Zoning Agency for review and approval in accordance with Section 3(d)3.B. This requirement does not apply to ~~farming operations~~ **accessory buildings on parcels** ~~or more than thirty-five (35) acres and that are used in an agricultural or farm use.~~
- F. In no case shall ~~any~~ **accessory buildings** be used for purposes not allowed in the underlying zoning district or as ~~may be authorized by~~ **a use that would require** a conditional use permit ~~unless said conditional use permit is obtained.~~
- G. ~~Where more than two (2) such accessory buildings are proposed, the Plan Commission shall review said structures in light of the provisions of Section 3(d)12 and render a finding to allow or disapprove said structures.~~

SECTION 60

Repeal and recreate Section 3(k)3 to read as follows:

(p. 55 Regarding off-street parking: Adds listing of types of vehicles, adds references to specific districts where parking is allowed, adds the E-C district to the list of districts where parking is not allowed, and corrects a grammatical error by changing “necessary” to “accessory.”)

Parking of trucks and equipment: No other vehicular equipment of a commercial or industrial nature (such as trucks, construction vehicles, grading equipment, buses, semi-trailers and tractors, and similar vehicles, trailers and related equipment), ~~as excepted~~ **as allowed** in subsection 2. above, shall be parked or stored ~~for more than two (2) consecutive hours and four (4) accumulative hours during any twenty four hour period~~ on any lot in any zoning district except ~~business districts~~ **as permitted in the B-3, M-1, M-2, P-I and Q-1 Districts** or ~~except~~ **as follows:**

- A. Agricultural equipment (such as farm tractors, ~~plows,~~ farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of his or her farm, and similar related equipment ~~ete-~~) parked in an agricultural district and used in an active farm operation as defined in this ordinance.
- B. ~~As outlined in subsection 2. above, o~~ **One (1) panel, van, or pick-up truck** used in the conduct of a conforming business or trade or used for transportation to and from a place of employment of an occupant of the residence may be parked on any residential property as long as such use does not become a nuisance to the neighborhood ~~activity being carried on in a residential or agricultural district.~~ The board of adjustment may, upon demonstration of unique and special circumstances that meet the variance tests and which justify approval of a variance ~~if the need is evident,~~ permit more than one (1) such vehicle if the ~~town board and~~ **planning commission indicates in the Conditional Use approval that** it has no objection to the increase in the number of such vehicles. No limitation shall be placed on vans or pick-up trucks if they are used for private non-business or non-commercial recreational purposes **as long as such use does not become a nuisance to the neighborhood.**
- C. A conditional use permit pursuant to section 4(g) 10 may be granted to permit the parking of commercial or industrial type vehicles in any zoning district except C-1 Conservancy, **E-C Environmental Corridor,** and **A-E Exclusive Agricultural.** In ~~the B-~~

3, Q-1, M-1, M-2 and P-I business districts where such vehicles are necessary accessory to an otherwise permitted business, industrial, public and institutional, or commercial quarrying use, a conditional use permit will not be required and there are no limitations as to the number of such vehicles which may be parked on the property except as may be hereinafter established under the provisions of the applicable zoning district, or the approved Conditional Use or Site Plan and Plan of Operation.

SECTION 61

Create a subsection at 3(n)5 to read as follows:

(p. 57 To clarify the ordinance regarding signs.)

5. A zoning permit and site plan and plan of operation approval, as applicable, are required prior to erecting any sign.

SECTION 62

Repeal and recreate subsection 3(o)2 as follows:

(p. 57 To clarify that we use the equalized assessed value from the county real property tax listing when dealing with non-conforming issues.)

Classification and regulation: For the purposes of administration, legal non-conformity shall be classified and regulated as follows:

A. *Non-conforming structures:*

- i. No structure shall be modernized, expanded or enlarged except in conformity with the applicable district regulations or by order of the Board of Adjustment if such total repairs equal or exceed fifty (50) percent of the equalized assessed value obtained from the County Real Property Tax Listing.
- ii. Where the damage to such a structure equals or exceeds fifty (50) percent of its equalized assessed value obtained from the County Real Property Tax Listing, it shall not be restored except in conformity with the applicable district regulations or by order of the Board of Adjustment.
- iii. Nonconforming structures located in the floodplain shall be governed by the regulations of Section 8-Existing Floodplain Development Overlay District.
- iv. The Zoning Administrator shall keep a record, which lists all known nonconforming structures and structures housing nonconforming uses, their equalized assessed value, the cost of all modifications or additions, which have been permitted, and the percentage of the structure's total equalized assessed value those modifications represent.

B. *Non-conforming use of structures and lands:*

- i. No such use shall be expanded or enlarged.

- ii. ~~Upon petition to and approval of the county zoning agency, such use may be changed to another use provided the zoning agency determines that the new use would not result in a greater degree of non-conformity than the current use.~~
 - iii. When any such nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months or eighteen (18) cumulative months during a three-year period, any future use of the land or structure shall conform to the use regulations of the applicable district.
 - iiii. When the damage to a structure which houses such non-conforming use, equals or exceeds fifty (50) percent of its equalized assessed value obtained from the County Real Property Tax Listing, it shall not be restored for any use except in conformity with the applicable district regulations.
 - v. Total structural repairs or alterations to a structure housing a non-conforming use shall not equal or exceed fifty (50) percent of the equalized assessed value of the structure obtained from the County Real Property Tax Listing.
 - vi. Nonconforming uses in a floodplain or a nonconforming use of a nonconforming structure in a floodplain are governed by the regulations of Section 8-Existing Floodplain Development Overlay District.
- C. *Non-conforming lots:* The size and shape of such lots shall not be altered in any way which would increase the degree of such non-conformity to the applicable district regulations.

SECTION 63

Repeal and recreate subsection 3(r)6 to read as follows:

(p. 60 Replaces colon with a period.)

- 6. Floor area: The floor area of a guesthouse may be any size. In order to sell a guesthouse as a separate unit, its floor area must conform with the district regulations in which it is located.

SECTION 64

Repeal and recreate subsection 3(s)2 to read as follows:

(p. 60 Deletes height regulations for boathouses and relocates it.)

- 2. Habitation prohibited: A boathouse may not be used for human occupancy or habitation. A boathouse may contain limited plumbing facilities for occasional use and convenience of the occupants of the lot such as having a toilet facility or shower facility convenient for users of the lakefront, but under no circumstances may the boathouse be used for human habitation, human habitation being defined as utilizing the building for occupancy for overnight living or longer periods of time and including the aggregate of normal living activities such as lounging, cooking, eating, sleeping, etc. ~~No boathouse may contain more than one story and shall not exceed fifteen (15) feet in total height as measured to the peak of the roof from the average grade surrounding the structure.~~

SECTION 65

Create subsection 3(s)8 to read as follows:

(p. 61 Relocates a section for boathouse height regs as a separate section.)

8. **Height:** A No boathouse may not contain more than one floor level story and shall not exceed fifteen (15) feet in total height, as defined in this Ordinance measured to the peak of the roof from the average grade surrounding the structure.

SECTION 66

Create a subsection of 4(b)6 as follows:

(p. 64 Conditional Uses: creates a time limitation on the conditional use application process.)

6. A Conditional Use application which is filed and is not complete, and therefore is not scheduled for a public hearing as it does not meet all of the requirements as outlined in Section 4(b)1 through 5, shall be held for a period not to exceed six months from the date of application and shall then expire and be voided by the Zoning Administrator and a letter shall be sent to the applicant notifying them of the same. No refund of the application fee shall be made.

SECTION 67

Repeal and recreate Section 4(c) to read as follows:

(p.64 Conditional Uses: removes redundant language of “unless time is extended”, changes petitioner to applicant and clarifies town action procedures. Expands the time for sending notice to the town and for the town to act after the public hearing. Also changes the notice requirements for certain projects applied for by the municipality or other governmental agency to include the county.)

Public Hearing

Upon receipt of the application, the foregoing data and fees, the Zoning Administrator shall establish a date for a joint public hearing by the Town Plan Commission and the County Zoning Agency, or its designee, and shall publish notice of said hearing once each week for two (2) consecutive weeks in a newspaper of general circulation in the area of the proposed conditional use. Notice of the public hearing shall be given by certified mail to the owners of all lands within three hundred (300) feet of any part of the land included in such conditional use at least seven (7) days before such public hearing. Notice is not required to be mailed to each affected property owner or those who own property within three hundred (300) feet of the project area for projects that affect more than six (6) properties and are applied for and the responsibility of the municipality, the county, or other governmental agency as mentioned in section 4(b). An exception to this requirement for notice to surrounding property owners is that for projects which are applied for and the responsibility of the municipality or other governmental agency as mentioned in section 4(b), notice is not required to be mailed to each affected property owner or those who own property within three hundred (300) feet of the project area. All other requirements for notice shall be provided as specified herein.

A copy of the notice of public hearing along with pertinent information relative to the specific nature of the matter (copy of application and map) shall be transmitted without delay to the Town Clerk by certified mail not less than ~~ten (10)~~ fourteen (14) days prior to the date of the hearing. Testimony of all interested parties will be recorded at the public hearing and the Town Plan Commission shall take action within ~~thirty (30)~~ forty-five (45) days, to either recommend approval or disapproval of the application along with any recommended conditions of approval or reasons for recommending denial. If additional time is necessary beyond the ~~thirty (30)~~ forty-five (45) days referred to above, ~~unless time is extended~~, such time may be extended with the consent of the applicant petitioner. The action of the

~~Town Plan Commission, and any conditions made applicable thereto, shall then be sent in writing to the County Zoning Agency. In the case of conditional use applications for a cemetery or mausoleum, the recommendation of the Town Plan Commission must first be submitted to the Town Board for official action of that body before transmittal to the County Zoning Agency. Failure to act shall be deemed to be a recommendation of approval. The recommendations of the Town Plan Commission, and any conditions suggested shall be sent in writing to the Zoning Administrator. In the case of conditional use applications for a cemetery, mausoleum, or a quarry, the recommendation of the Town Plan Commission must first be submitted to the Town Board for official action of that body before transmittal to the Zoning Administrator and said action by the Town Board shall be an integral part of the conditional use permit.~~

SECTION 68

Repeal and recreate Section 4(d) to read as follows:

(p.65 Conditional uses: moves misplaced language within the same sentence.)

Final review and approval

The county zoning agency shall review the proposal as submitted along with requirements as may be established by the WDNR and any applicable federal requirements. Any conditions as may be deemed necessary by the federal government, the state, the town plan commission or the county zoning agency shall be made an integral part of the permit. The applicant ~~and any deviation~~ shall comply with these conditions ~~and any deviation~~ or alteration of the conditions set forth in the permit shall constitute a violation of the terms of the conditional use permit. Such violation shall constitute a violation of this ordinance and will be subject to prosecution and penalties under the terms of this ordinance. Notification of county zoning agency action on conditional uses shall be sent to the WDNR within ten (10) days of the approval by the county zoning agency.

SECTION 69

Repeal and Recreate Section 4(f) to read as follows:

(p. 65 Conditional Uses – creates a process to allow for a voluntary termination of a conditional use permit.)

- (f) ~~Expiration, or Modification or Termination of conditional use status:~~ Conditional use status will terminate ~~upon, after public hearing, and a class 2 notice is published and notice provided the town and the owner of the subject property, the plan commission and county zoning agency determine any of the following:~~

~~1. The conditional use has not continued in conformity with the conditions of the permit.~~

1. Voluntary Termination: The applicant or holder of the Conditional Use and the property owner shall give notice, in writing, to the County Zoning Agency that the Conditional Use is voluntarily being terminated. There is no need for a public hearing, but the Plan Commission and County Zoning Agency shall place it on their agendas and take official action regarding the voluntary termination. If the Conditional Use Permit was recorded in the Waukesha County Register of Deeds Office, then upon termination the applicant or holder of the Conditional Use Permit shall also record with the same office a document detailing said termination of the Conditional Use Permit.

Upon such termination, the owner of the premises shall bring all such land and

buildings into conformity with the district in which it is located, and all other provisions of this ordinance within sixty (60) days from such termination.

~~2. A change in the character of the surrounding area or if the conditional use itself causes such use to be no longer compatible with surrounding uses.~~

2. Determination by the Plan Commission and the County Zoning Agency, after public hearing, that any of the following exist:

- A. The Conditional Use has not continued in conformity with the conditions of the permit.
- B. A change in the character of the surrounding area or in the Conditional Use itself causes such use to be no longer compatible with surrounding uses.
- C. The Conditional Use has been discontinued for a period of twelve (12) consecutive or eighteen (18) cumulative months during a three (3) year period. A business of a seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e., summer camps, snowmobile courses, ski areas, marinas, quarries, etc.).

Upon such determination, the owner of the premises shall be required to bring all such land and buildings into conformity with the district in which it is located, and all other provisions of this ordinance within sixty (60) days from such determination. When changes in the use or changes in the conditions of the use are found to be more appropriate by the County Zoning Agency and the Plan Commission, the County Zoning Agency and the Plan Commission may modify the terms of the conditional use and the property owner and permit holder shall bring the property into compliance within sixty (60) days.

~~(C) The conditional use has been discontinued for a period of twelve (12) consecutive or eighteen (18) cumulative months in a three year period. A business of a seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e., summer camps, snowmobile courses, ski areas, marinas, quarries, etc.). Upon such determination, the owner of the premises shall be required to bring all such land and buildings into conformity with the district regulations of the district in which such former conditional use is located, and all other provisions of this Ordinance within ninety (90) days from such determination.~~

~~Upon such determination, the owner of the premises shall be required to bring all such land and buildings into conformity with the district regulations of the district in which such former conditional use is located, and all other provisions of this Ordinance within ninety (90) days from such determination.~~

SECTION 70

Repeal and Recreate Section 4(g)10 to read as follows:

(p.70 Adds references to the M-1, M-2, C-1, and A-E Districts and corrects grammatical errors.)

10. **Commercial Truck Parking:** Such uses are uses permitted by right in the B-3, M-1, M-2, P-1, Industrial and Quarry Quarrying districts. In all Residential, Agricultural, B-1 and B-2 Business Districts, except the E-C Environmental Corridor District, the C-1 Conservancy District, and the A-E Exclusive Agricultural Conservancy District, such uses are permitted subject to the following:
- A. The parking and the storage of commercial type vehicles, dump trucks, school buses, construction vehicles, semi trailers and tractors may be allowed as long as the vehicle is owned or leased and operated by the owner or occupant of the premises. No such use shall be allowed on any parcel, except as may front directly upon and have access to an arterial or collector street as defined herein.
 - B. No more than one (1) such vehicle shall be allowed to be parked or stored on the occupant's property and no more than two (2) additional construction vehicles (backhoes, front end loaders, grading equipment, etc.) shall be allowed. Such vehicles shall be fully operative and in active use. Where considered appropriate, two (2) semi-trailers may be allowed, but in no case may there be more than one (1) semi-tractor or "cab" unit.
 - C. No such vehicle shall be allowed to be parked or stored closer than fifty (50) feet to any adjacent lot line, and not closer than one hundred (100) feet from the base setback line. In the case of refrigerator trucks, the refrigeration unit may not be operated in the open if said truck is parked closer than five hundred (500) feet to the nearest neighboring residential property line.
 - D. In determining whether or not the proposed conditional use permit should be issued, a determination of compatibility with adjacent land uses shall be made by the Town Plan Commission and County Zoning Agency in issuing this conditional use permit. If it is determined that it would in any way be incompatible and represent an adverse effect or nuisance to adjacent land uses, the conditional use permit shall not be issued.
 - E. The conditional use permit shall be reviewed every two (2) years by the Town Plan Commission in order to determine conformance with the terms of the permit and if it is determined that the use is no longer compatible with adjacent land uses as they develop in the vicinity, the conditional use permit may be revoked in accordance with the revocation procedures contained in this Ordinance.

SECTION 71

Repeal and Recreate Section 4(g)12 to read as follows:

(p.71 Adds references to A-P Agricultural Land Preservation District and A-T Agricultural Land Preservation Transition District. Deletes reference to an A-6 District. Removes the third reference to the A-B district to clarify that these activities are permitted by right in the A-B District. Includes the county zoning agency in the review of site plans and plans of operation. Modifies the provision regarding animal waste. Adds subsection D providing that no approval for this use will be granted on a lot less than 5 acres in size.)

12. Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations: In A-1, A-B, A-O, A-5 and ~~A-6~~ A-P, and A-T districts. Commercial or custom grain drying, poultry and/or egg production are considered permitted uses by right in the A-B Agricultural Business district and conditional uses in A-1, ~~A-B~~, A-O, A-5, and ~~A-6~~ A-P, and A-T districts. The following minimum requirements shall be complied with in the granting of conditional uses under this Section:

- A. The location, building and site plans, and plan of operation shall be subject to the review and approval of the town plan commission and county zoning agency.
- B. No building other than one used only for residential purposes shall be located closer than one hundred (100) feet to the lot line of an adjoining lot in a residential district. In all other cases a minimum offset of fifty (50) feet shall be maintained.
- C. ~~Although the ordinance does not prescribe exactly how a plan of operation is to be put together, of particular interest to the plan commission will be the method by which~~ The animal waste ~~will~~ shall be handled in a safe and healthful manner and the method shall be approved by the town plan commission and the county zoning agency. ~~No such consideration or approval will be granted on a lot of less than five (5) acres in size.~~
- D. No such consideration or approval for this use will be granted on a lot of less than five (5) acres in size.

SECTION 72

Repeal and recreate subsection 4(g)14.B to read as follows:

(p. 72 Land Altering Activities. Modifies the ordinance to reflect the practice of the Parks and Land Use Department and provides the updated name of the storm water ordinance.)

- B. The above land-altering activities permitted as a conditional use shall be subject to the following:
 - i. Detailed grading plans, at a scale of not less than 1" = 100', of the project prepared by a Registered Architect, Landscape Architect or Engineer including areas to be graded, filled or otherwise altered along with existing and proposed grades, the source and type of fill, impacts on storm water and drainage, a timetable for completion, seeding and/or vegetation plans and planting schedule, and erosion and sedimentation practices to be employed shall be submitted for review and approval.
 - ii. No such use shall create flooding, concentrated runoff, inadequate drainage, unfavorable topography, excessive erosion and sedimentation, or restrict navigation in navigable waters.
 - iii. Such use shall comply with any ordinances or regulations established by a town and other county regulation as well as Chapter 30, 87, and 281 of the Wisconsin Statutes and any federal regulations.
 - iv. Such use conforms to sections 3(d) 4, 5 and 9 of this Ordinance.

- v. If a rezoning is required, the procedure established in this Ordinance shall be complied with and the amendment to any other appropriate zoning district shall be approved.
- vi. The proposed grading and land-altering activities shall conform to the Waukesha County Storm Water Management and Erosion Control Ordinance and a permit under that ordinance must be received from the Waukesha County Department of Parks and Land Use, Land Resources Division, prior to the issuance of the conditional use permit.

SECTION 73

Repeal and recreate subsection 4(g)16 to read as follows:

(p. 73 Excludes Limited Family Businesses from certain zoning districts and explains the new definition.)

Limited Family Business: The purpose and intent of this Section is to provide a listing of procedures and standards of operation for limited family businesses that may operate in an attached garage or detached accessory building under a conditional use permit in residential or agricultural districts **except the EC and A-E Districts.**

- A. A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owner and any future development of the area. Any expansion of the limited family business will be subject to an amendment to the conditional use permit and, if said amendment is denied, the conditional use permit would either terminate or the expansion could not take place.
- B. All employees, except one full-time equivalent, shall be members of the family residing on the premises.
- C. The plan commission and zoning agency shall determine the percentage of the property that may be devoted to the limited family business and the more restrictive determination shall apply.
- D. The limited family business is restricted to a service oriented business ~~or home occupation business~~ as defined in this ordinance and is prohibited from manufacturing or assembling products. The sale of products on the premises which are not produced by the limited family business is prohibited. The sale of products available for sale as accessories to the business may be permitted or limited by specific conditions in the conditional use permit (i.e. hair care products such as shampoo and conditioners normally associated with a business that cuts or styles hair). Examples of service oriented businesses include, but are not limited to, the following: non-health related office or studio for professions such as accountant, architect, artist, attorney, barber, beautician, crafter, dance teacher, housekeeping, indoor storage, insurance agent, interior decorator, massage therapist, music teacher, photographer, realtor, salesman, shoe repair, small engine repair, tailor/seamstress, travel agent, woodworker (not a cabinet maker), an office for a business that is otherwise located completely off site with the exception of vehicles transported to and from a job site on a daily basis, etc.

In the event a question arises, the zoning administrator shall make a determination as to whether or not a business is considered a limited family business, service oriented business, or home occupation business.

- E. The conditional use permit shall restrict the number and types of machinery and equipment the limited family business operator may be allowed to bring onto the premises and whether the machinery and equipment must be stored inside a building.
- F. The structures used in the limited family business shall be considered to be residential accessory buildings and shall meet all the requirements for such buildings. The design and size of the structures are subject to conditions in the conditional use permit.
- G. The conditional use permit shall automatically expire and terminate on the sale of the property or its transfer to a non-occupant of the property.
- H. The limited family business shall not operate on a parcel having less than the minimum parcel size for the district in which it is located. For certain uses which are determined by the town and county to have a potential adverse affect on adjacent residential zoned properties, additional requirements regarding location and site standards (i.e. screening) may be required as conditions of the use.

SECTION 74

Repeal and recreate Section 4(g)17.D to read as follows:

(p. 74 Corrects a grammatical error.)

- D. ~~Sewerage~~ ~~The sewage~~ disposal field shall be located not closer than one hundred (100) feet from the ordinary high water mark.

SECTION 75

Repeal and recreate Section 4(g)18.E to read as follows:

(p. 75 Clarifies the section.)

- 18. ~~Mobile home parks and camps~~ ~~Home Parks and Trailer Camps~~: In any district other than the agricultural districts, conservancy, exclusive agricultural, suburban estate or residential districts subject to the following:
 - A. The provisions of all other trailer camp or mobile home ordinances shall be met.
 - B. No such use shall be allowed unless municipal sewerage facilities are used or unless the minimum lot size per family is one-half acre having a minimum width of not less than one hundred twenty (120) feet, offsets at twenty (20) feet and a setback of fifty (50) feet.
 - C. Owners or operators of all mobile home parks and camps shall provide adequate surface drainage to minimize flood damage, prepare and secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

- D. In existing mobile home parks, all new mobile homes on existing pads, and substantially improved homes shall have the lowest floor elevation to the flood protection elevation, be anchored so they do not float, collapse or move laterally during a flood.
- E. New mobile home parks and camps are not allowed in the floodplain. Replacement, modifications, or additions to modular or ~~and substantially improved~~ manufactured homes shall meet the residential development standards provided in Section 8-Existing Floodplain Development Overlay District.

SECTION 76

Repeal and recreate Section 4(g)20 to read as follows:

(p. 75 Adds reference to B-2 Local Business District and clarifies requirements for allowing a duplex in the A-5 district.)

- 20. **Multiple Family Units:** In the R-3 Residential District, B-1 Restricted Business District, ~~B-2 Local Business District,~~ AD-10 Agricultural Density District, RRD-5 Rural Residential Density District, A-5 Mini Farm District or in a Planned Unit Development which may be allowed pursuant to section 4(g) 22. of this Ordinance, subject to the following:
 - A. Only a duplex (2-family residential use) may be allowed in the AD-10 Agricultural Density District and the RRD-5 Rural Density District.
 - B. ~~Only~~ A duplex (2-family residential use) may be allowed in a A-5 Mini Farm District, ~~and but~~ only if the duplex is proposed to be made by conversion of a farm dwelling that existed at the time of the adoption of this original Ordinance (July 30, 1970).
 - C. The location and building plans, and a Site Plan and Plan of Operation shall be submitted to and approved by the plan commission and zoning agency.
 - D. The minimum lot area shall be determined by the number of units to be constructed. The number of units shall be based on a density of one (1) unit for each fifteen thousand (15,000) square feet of land area, exclusive of wetlands, floodplains, or lands zoned C-1. Where the use will be served by municipal sewage ~~or water~~ facilities, the density requirements can be increased to a minimum of ten thousand five hundred ~~(10,000~~ 10,500) square feet per unit, and ~~eight nine~~ thousand (8,000 9,000) square feet if both municipal sewer and water service is available. ~~The density may be further increased if the requirements of section 3(f) 4. are met.~~ The width of the lot shall be increased as the size of the lot increases in order to avoid excessively long and narrow lots and shall, however, be no less than one hundred and eighty (180) feet in width. The amount of green space on the property, exclusive of parking areas, driveways, roads and other paved or impervious areas, shall be five thousand (5,000) square feet per unit.

- E. The manner in which the units are to be serviced with sewage disposal is subject to approval by the State Department of Commerce and the Waukesha County Department of Parks and Land Use, Environmental Health Division prior to any approval of the proposed conditional use by the plan commission and the zoning agency.
- F. The minimum floor area per unit shall be nine hundred (900) square feet for one bedroom units, one thousand (1,000) square feet for two-bedroom units, and one thousand one hundred (1,100) square feet for three-bedroom units.
- G. Architectural review of the project may be required by the plan commission and zoning agency.
- H. There shall be two (2) off-street parking spaces required for each dwelling unit. The location and arrangement of these parking spaces shall be subject to the approval of the plan commission and the zoning agency.
- I. The offset, setback and landscaping requirements are subject to approval by the plan commission and the zoning agency. However, the offset requirements shall not be reduced to less than twenty (20) feet from any lot in a residential district. The road setback minimum shall be fifty (50) feet. The maximum height shall not exceed thirty five (35) feet. Additional height may be permitted if the offset and setback requirements are increased by one (1) foot for each additional one (1) foot in height beyond thirty-five feet.

SECTION 77

Repeal and recreate Section 4(g)22 to read as follows:

(p. 77 Corrects a typographical errors in the first paragraph and in two references as noted, adds lot width in (A) to the list of dimensions that are modifiable under certain conditions, and corrects the reference in (F) to residential use to conform with the rest of the example, and changes 10% to 20% and 30% to 40% to be consistent with 2009 Waukesha County Development Plan.)

22. **Planned Unit Development:** Due to increased urbanization and the associated greater demands for open space and the need to create a more desired and creative living environment than would result through the strict application of the standard zoning requirements, it is herein provided that there ~~be~~ flexibility in the regulations governing the development of land. This provision is intended to encourage planned unit development in directions which will recognize both the changes in design and technology in the building industry and the new demands in the housing market. It is intended that these provisions create imaginative and interesting communities with substantial open area owned in common or dedicated to the public and for the enjoyment of the residents, and will encourage a more efficient and desirable use of the land and open space areas thereby resulting in more variety of the physical development of the County.

An overall development plan showing how the above objectives are to be achieved must be submitted to the Plan Commission and the County Zoning Agency for review and approval. This use is permitted in any district except A-E Exclusive Agricultural, A-B Agricultural Business, A-P Agricultural Land Preservation, AD-10 Agricultural Density, and the RRD-5 Rural Residential Density, except that no portion of any building lots or structures shall be allowed in the C-1 Conservancy district, subject to the following:

- A. Lot size, lot width, height, offset, setback, open space, floor area ratio, building size and building location requirements may be modified according to the following conditions:
- i. That all sanitary provisions are approved by the Waukesha County Department of Parks and Land Use, Environmental Health Division.
 - ii. That the proposed development is in conformity with the Town comprehensive plan, is not contrary to the general welfare or economic balance of the community, and that the benefits and amenities of the resultant development justifies the variation from the normal requirements of the district.
 - iii. That all other requirements of planned unit developments are met as set forth in section 4(g) 22.

B. Residential Planned Unit Development:

- i. The following table may be utilized to compute the maximum dwelling unit density requirements of the P.U.D., except that areas which are Upland or Secondary Environmental Corridors are also subject to ~~(b)~~ (ii) below.

A-1	120,000 sq. ft. (2.75 acres) per dwelling unit
A-2	120,000 sq. ft. (2.75 acres) per dwelling unit
A-3	80,000 sq. ft. (1.84 acres) per dwelling unit
A-5	200,000 sq. ft. (4.59 acres) per dwelling unit
Environmental Corridor	5 acres per dwelling unit *
A-P	35 acres per dwelling unit
A-T	35 acres per dwelling unit
R-1a	39,000 sq. ft. (0.89 acres) per dwelling unit
R-1	39,000 sq. ft. (0.89 acres) per dwelling unit
R-2	25,000 sq. ft. (0.57 acres) per dwelling unit
R-3	15,000 sq. ft. (0.34 acres) per dwelling unit**

* Calculation for Environmental Corridor shall occur as established in ~~(b)~~ (ii) below.

** The density may be increased by 30% in the R-3 District to 10,500 square feet per dwelling unit if municipal sewer or water service is provided, and by 40% to 9,000 square feet per dwelling unit if both municipal sewer and water service are provided.

- ii. If all of the Upland, Primary and Secondary Environmental Corridor or Environmental Corridor zoned lands are preserved in their entirety within the public open space or common open space and preserved in its natural state, the density of one unit per five (5) acres may be added to the maximum number of dwelling units derived from utilizing the table above.
- iii. Lands currently zoned C-1 or A-E may not be used in formulating the density of the project. When lands border a lake or other public body of water,

pyramiding as defined herein, may be allowed if the minimum water frontage at the high water mark is one hundred (100) feet for the first dwelling unit and an additional twenty-five (25) feet for each additional dwelling unit thereafter. No more dwelling units may have access to the water body than would result from the application of this provision irrespective of the overall size of the development parcel.

- iv. Public open space or common open space shall be of a size and shape to provide an integrated system of open spaces to the greatest extent possible and to provide protection of environmentally significant lands; they shall not consist of long, narrow bands or corridors, but shall be larger blocks or wide corridors of land, usually not less than one (1) acre in area. Corridors linking large blocks of public open space or common open space shall be not less than fifty (50) feet in width to provide adequate buffers from adjacent residential lots. The size, shape and location of said public open space or common open space shall be subject to review and approval of the Plan Commission and Zoning Administrator in order to qualify the project for consideration as a P.U.D. Public open space or common open space shall be a minimum of ~~30%~~ **forty (40) percent** of the entire development, while no more than ~~40%~~ **twenty (20) percent** of the entire acreage of the development included in the required ~~30%~~ **forty (40) percent** open space can be Conservancy or A-E zoned land. In any development, no more than ~~5%~~ **five (5) percent** of the public open space may be used for public buildings, such as schools, fire stations, municipal buildings, etc.
- v. In public open space or common open space containing environmentally significant areas, a maximum of ~~2%~~ **two (2) percent** of the environmentally significant areas may be used for limited construction of recreational related structures and recreational/trails.
- vi. Public open space or common open space shall contain at least ~~90%~~ **ninety (90) percent** green space. Such public open space or common open space shall not be part of individual residential building lots and all but ~~5%~~ **five (5) percent** of the open space shall be free of structures and impervious surface. The Zoning Administrator and the Plan Commission may increase as a special exception the maximum requirement in conformance with the overall intent of these provisions while also protecting the public's interest.
- vii. Adequate guarantee shall be provided for permanent retention of the open space resulting from these regulations, either by private reservation for use of the residents within the development or others as may be specifically provided for, i.e.: farmers use of open space, dedication to a public entity or development of a private recreational facility open to the general public in perpetuity for a fee, subject to Plan Commission and Zoning Agency approval. There shall not be any clear cutting or clearing of vegetation other than dead, diseased or dying vegetation or removal of invasive species on any lands being so preserved in public open space or common open space which are considered Primary or Secondary Environmental Corridor or Isolated Natural Areas, as depicted on the Waukesha County Development Plan, except as provided in (v) for limited trail or recreational related development.

- viii. Perpetual care and maintenance of public open space or common open space shall be provided for by an agreement recorded with the Waukesha County Register of Deeds. Said agreement shall include an operation plan, which shall preserve the natural qualities of the environmentally significant lands. The agreement shall be submitted to and approved by the Plan Commission and the Zoning Administrator and may be subject to review by the Waukesha County Naturalist if required by the Plan Commission and/or the Zoning Administrator and this condition is not satisfied unless all such appropriate approvals are granted.
 - ix. Ownership and tax liability of the open space areas shall be established in a manner acceptable to the Plan Commission and Zoning Administrator and made part of the conditions of approval.
- C. Commercial P.U.D.: The use of a Commercial P.U.D. may be authorized only where the underlying zoning is mapped in one or more of the business districts on the parcel or a portion thereof. If only a portion is zoned for business, the commercial P.U.D. may only be used for the same percentage of the site that would result from the normal application of the Business district requirements. The location of the proposed business uses can however, be flexed on the site so long as no more area is devoted to such use than is permitted in the underlying district. The attendant parking areas and service facilities for the commercial areas shall be included in the areas allocated to such non-residential uses.
- i. The proposed P.U.D. shall be served by adequate off-street parking, loading and service facilities.
 - ii. The P.U.D. shall not create an adverse effect upon the general traffic pattern or adjoining property values.
 - iii. Architecture, landscaping, lighting and general site development shall be compatible with the surrounding neighborhood.
 - iv. The aforementioned requirements shall be certified by the Town and County as having been fully met.
- D. Mixed P.U.D.: A mixed P.U.D. shall consider allowing a mixture of business, residential or other uses as the underlying zoning would allow. The percentage of area in the project shall be the same as would result from the application or the strict adherence of the normal district regulations. The location of the uses can however be flexed on the site so long as no more area is devoted to the various uses than would be permitted in the underlying zoning district. The attendant parking and service facilities for the non-residential part of the project shall be included in the area allocated to such non-residential uses.
- i. The proposed mixture of commercial, industrial, residential, and other uses shall produce a unified composite which is compatible both within itself and with the surrounding neighborhood.
 - ii. The mixed uses shall conform to the general requirements applicable to each of them as here-in-before set forth.

- iii. The maximum allowable dwelling unit density shall be computed using only the residential area portion of the total P.U.D. area. If residential use and non-residential use occur in the same proposed building, that percentage of the commercial use of the building shall be deducted from said building lot and only the remaining area shall be used in the density computation for the remaining residential units.
- E. After all conditions of a planned unit development project are certified by the town and county as being completed, the conditional use status of such completed development shall be changed to a permitted use in the district in which it is located.
- F. Example - Computing Maximum Dwelling Unit Density in a Planned Unit Development: A developer wishes to divide one hundred (100) acres of land into a planned unit development. Ten (10) of these acres are zoned C-1 Conservancy. The rest is zoned R-1 residential. The preliminary plan shows an additional ten (10) acres devoted to commercial uses. The following computations demonstrate the method of determining how many residential units may be allowed in the project.

Gross acreage.		100 acres
Less ten (10) acres zoned C-1	<u>- 10 acres</u>	90 acres
Less ten (10) acres zoned for B-2 Business use.	<u>- 10 acres</u>	80 acres
Total residential acreage in sq. ft.		
(80 acres x 43,560)		3,484,800 square feet
Divide by square feet per dwelling unit requirement for R-1 Residential districts		
(3,484,800 divided by 39,000)	=	89 units

The 10 acres zoned for commercial use can not be included in the PUD as it is not zoned for ~~business residential~~ use and must be rezoned to be considered.

SECTION 78

Repeal and recreate Section 4(g)23 to read as follows:

(p. 81 Adds a reference to riding arenas and game farms.)

- 23. Private Clubs and Resorts: Without limitation because of enumeration, this category includes resorts and private clubs such as outdoor/indoor recreational facilities as defined herein, driving ranges, tanning booths, campgrounds, golf courses, beaches, yacht clubs, boarding stables, ~~riding arenas, game farms~~, etc. These uses are permitted in any district, except that buildings and structures (including, but not limited to, the

temporary or permanent placement of camping units) are not permitted within C-1 or A-E zoned districts, subject to the following;

- A. No such use shall be permitted on a lot less than three (3) acres in area except in a restricted business or less restrictive district.
- B. No building, other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
- C. Off-street parking shall be provided as required by the Plan Commission adequate to meet the particular needs of the proposed use.
- D. No such permitted use shall include the operation of a commercial facility such as a bar, restaurant or arcade except as may be specifically authorized in the grant of permit.

SECTION 79

Repeal and recreate Section 4(g)24 to read as follows:

(p. 81 Corrects a typographical error by making "use" plural.)

- 24. Public and semi-public buildings and use uses: In any district except the C-1 Conservancy District, subject to the following:
 - A. Such ~~use~~ uses shall conform to the setback, height, and double the offset requirements of the district in which ~~it is~~ they are located.
 - B. The height limitation may be extended to a maximum of fifty (50) feet provided the minimum required setbacks and offsets shall be increased two (2) feet for every additional foot of height in excess of the permitted maximum of that district.

SECTION 80

Repeal and recreate Section 4(g)25 to read as follows:

(p. 82 Adds/deletes references to other Districts and corrects typographical errors. Clarifies the ordinance and updates it in accordance with NR 135 and the storm water ordinance. Extends time for decision. Corrects name of Department and cross references.)

- 25. Quarrying as defined in this Ordinance: In any district except C-1 Conservancy/Wetland, EFD, A-E Exclusive Agricultural, E-C Environmental Corridor, AD-10, RRD-5, A-2 Rural Home, A-3 Suburban Estate, A-4 Country Estate, R-1, R-2, R-3, ~~Residence~~, P-I, ~~or Restricted Business Districts~~ B-1, B-2, B-3, B-4, BP, or M-1, subject to the following:
 - A. ~~Procedure for application~~ Procedure for application:
 - i. Permit: No quarrying operation shall take place in any district until a conditional use permit has been ~~secured~~ received and approved by ~~from the~~ Plan Commission, Town Board and the County Zoning Agency. Except in a quarrying or general industrial district such

permit shall be for an initial period as is deemed appropriate to the specific situation but not exceed five (5) years, and may be renewed thereafter for periods not to exceed three (3) years provided application thereof shall be made at least sixty (60) and no more than one hundred twenty (120) days before expiration of the original permit. Application after such date shall be treated as an original application.

ii. Application: Application for a conditional use permit shall be made on forms supplied by the Waukesha County ~~Park and Planning Commission~~ Department of Parks and Land Use and shall be accompanied by a fee as may be established and periodically modified under section 41(a) 4. of this Ordinance. Such fee shall be paid by cash, check or money order to the Waukesha County ~~Park and Planning Commission~~ Department of Parks and Land Use, and shall be accompanied by:

- a. A full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made part of the description.
- b. A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation.
- c. A topographic map of the area at a minimum contour interval of five (5) feet extending beyond the site to the nearest public street or highway or to a minimum distance of three hundred (300) feet on all sides.
- d. A ~~restoration~~ reclamation plan as required by section 4(g) 25.G and Chapter 14, Article XIV, County Code of Ordinances – Nonmetallic Mining Reclamation Ordinance or any applicable nonmetallic mining reclamation ordinance adopted by the town in which the subject quarrying site is located.

B. ~~Procedure for action and on applications~~ *Procedure for action on applications:*

- i. Referral to Plan Commission: The application and all data and information pertaining thereto shall be referred to the Plan Commission and the Waukesha Zoning Agency for a joint public hearing and the Plan Commission shall make a report and recommendation ~~back~~ to the Town Board within thirty (30) days after the public hearing.
- ii. Public hearing: Within thirty (30) days after an application has been filed, a joint public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing,

notices also shall be sent through the mail or otherwise placed in the hands of all land owners within a half mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed or delivered at least ten (10) days prior to the date of hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient. ~~No hearing shall be required precedent to issuing a permit in a quarrying district.~~

- iii. Action by the Town Board: The Town Board shall, within ~~ten (10)~~ fourteen (14) days after receipt of the recommendation of the Plan Commission, take action to approve or disapprove the application for the proposed quarrying operation and shall be guided by consideration of the public health, safety and welfare, and shall give particular consideration to the following factors in making their decision:
 - a. The effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety and efficiency.
 - b. The effect of the proposed operation on drainage and water supply.
 - c. The possibility of soil erosion as a result of the proposed operation.
 - d. The degree and effect of dust and noise as a result of the proposed operation.
 - e. The practical possibility of ~~restoration~~ reclamation of the site.
 - f. The effect of the proposed operation on the natural beauty, character, tax base, land value, and land uses in the area.
 - g. The most suitable land use for the area with particular consideration for future residential value.
- iv. Approval by Zoning Agency: The determination of the Town Board shall be immediately transmitted to the County Zoning Agency which shall within thirty (30) days approve or disapprove of the determination.
- v. Additional conditions: Any conditions accessory to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the Town and of the County Zoning Agency.
- vi. Renewals: The procedure as designated in i., ii., iii., iv. and v. above shall apply to applications of renewal of a permit. Determination in regard to renewal shall be based particularly on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the Town and of the County Zoning Agency.

- C. ~~General Requirements~~ *General Requirements*:
 i. No part of the quarrying operations shall be permitted closer than one thousand (1,000) feet, nor shall any accessory access road, parking area or office building be permitted closer than five hundred (500) feet to a district zoned ~~A-2, A-3, A-4, R-1, R-2, R-3 rural home or residential~~ at the time of the grant of permit except with the written consent of the owners of all ~~A-2, A-3, A-4, R-1, R-2, R-3 rural home or residentially~~ zoned properties within one thousand (1,000) feet, or except in a quarrying or general industrial district, but in no case shall such operation be permitted closer than two hundred (200) feet to a ~~any~~ residential district.
 ii. No quarrying operation shall be permitted except in a quarrying, ~~limited industrial~~ or general industrial district if thirty (30) or more families reside within a band one-half mile wide around the perimeter of the proposed operation.
- D. ~~Setback requirements~~ *Setback requirements*: No part of the quarrying operation other than access roads shall be located closer than two hundred (200) feet, nor shall any accessory parking area, stock pile, or office building be located closer than one hundred (100) feet to the base setback line along any street or highway.
- E. ~~Offset requirements~~ *Offset requirements*: No part of the quarrying operation shall be permitted closer than two hundred (200) feet, nor shall any accessory access road, parking area, or office building be located closer than fifty (50) to any property line except with the written consent of the owner of adjoining property, or except where said line is abutting a quarrying, ~~limited industrial~~ or general industrial district, or abutting an existing quarrying operation, but in no case shall such operation be closer than twenty (20) feet to any property line except by agreement between abutting quarrying operations, or be in conflict with the provisions of section 3(d) 5. relating to preservation of topography.
- F. ~~Operational Requirements~~ *Operational Requirements*:
 i. Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where in the determination of the Town Board such fencing or barrier is necessary for the protection of the public, and shall be of a type approved by the Town Board.
 ii. All machinery and equipment used in the quarrying operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust-free condition by surfacing or treatment as directed by the Town Engineer.
 iii. The crushing, washing, refining, or other processing other than the initial removal of material, may be permitted as an accessory use only

as specifically authorized under the terms of the grant of the permit or as otherwise provided in a quarrying or general industrial district.

- iv. In stone quarries, the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stock-piling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be otherwise specifically authorized under the terms of the grant of the permit or as otherwise provided in a quarrying or general industrial district.
- v. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the quarrying operation shall not be permitted except as otherwise provided in a quarrying or general industrial district.
- vi. The washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity or where the quantity of water required will, in the opinion of the Town Engineer, seriously affect the water supply of other uses in the area.
- vii. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Plan Commission to screen the operation so far as practical from normal view, to enhance the general appearance from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding countryside. Such planting shall be started as soon as practicable, but no later than one (1) year after quarrying operations have begun and shall be done according to the recommendations of the Waukesha County ~~Park and Planning Commission~~ Department of Parks and Land Use.
- viii. Except in a quarrying or General Industrial District, quarrying operations shall not begin before the hour of 7:00 a.m. and shall not continue after the hour of 6:00 p.m. and no operation shall take place on Sundays or legal holidays. During periods of national or unusual emergency, times and hours of operation may be altered at the discretion of the Town Board and through the issuance of a special permit which shall be renewable at thirty (30) day intervals.

G. ~~Reclamation Restorative requirements~~ *Reclamation requirements:*

- i. In order to insure that the area of the quarrying operation shall be ~~restored~~ reclaimed to a condition of practical usefulness and reasonable physical attractiveness, the owner ~~or~~ and operator shall, prior to the issuance of a permit, submit to the Town Board or the Waukesha County Department of Parks and Land Use – Land Resources Division, as applicable, a plan for such ~~restoration~~ reclamation in the form of the

~~following:~~ accordance with Chapter 14, Article XIV, County Code of Ordinances – Nonmetallic Mining Reclamation Ordinance or any applicable nonmetallic mining reclamation ordinance adopted by the town.

- ~~a. — An agreement with the town whereby the applicant contracts to restore the premises to a condition and with a time satisfactory to the town.~~
 - ~~b. — A physical restoration plan showing the contours of the restoration, plantings and other special features of restoration, the method by which such restoration is to be accomplished and documentation that the plan complies with the Waukesha County Code of Ordinances, Chapter 12 – Non metallic Municipal Mining Restoration Ordinance or other ordinances adopted pursuant to Section 295.14, Wisconsin Statutes and Section NR 135.32(2), Wisconsin Administrative Code.~~
 - ~~c. — A bond, written by a licensed surety company, a certified check, or other financial guarantee satisfactory to the town, in an amount sufficient in the opinion of the town engineer to secure the performance of the restoration agreement.~~
 - ~~d. — Such agreement and financial guarantee shall be in a form approved by the town attorney.~~
- ii. ~~In the event of the applicant's failure to fulfill this agreement such bond, check or other financial guarantee shall be deemed forfeit for the purpose of enabling the town to perform the restoration. If minor changes are proposed to the adopted reclamation plan, a revised plan shall be submitted to the Town Engineer and the Waukesha County Department of Parks and Land Use – Land Resources Division for review and approval prior to proceeding with reclamation. If major changes are proposed to the adopted reclamation plan, a joint informational public hearing, scheduled by the Waukesha County Department of Parks and Land Use – Land Resources Division with the affected town(s), shall be held to solicit input on the proposed changes. If the changes are approved, a revised reclamation plan shall be submitted to the Town Engineer and the Waukesha County Department of Parks and Land Use – Land Resources Division for review and approval prior to proceeding with reclamation. If the changes are not approved, reasons for the decision shall be provided, in writing, to the owner and operator.~~
- iii. ~~Restoration shall proceed as soon as practicable and at the order and direction of the town engineer. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two (2) years.~~

- iv. ~~At any stage during the restoration the plan may be modified by mutual agreement between the Town and the owner or operator.~~
- v. ~~Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility, or unsightliness. In any case the finished grade of the restored area except for rock faces, outcroppings, water bodies, or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.~~
- vi. ~~Within one (1) year after the cessation of the operation, all temporary structures (excepting fences), equipment, stock piles, rubble heaps, or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.~~
- vii. ~~In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of three (3) horizontal to one (1) vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.~~

H. ~~Exceptions~~ Exceptions:

- i. The provisions of this section, 4(g) 25, shall not apply to the removal of sod.
- ii. When the operation is limited to the removal of topsoil, the Pplan Ceommission and the County Zoning Agency may, consistent with the intent of these regulations, modify any or all of the provisions of this section 4(g) 25, provided, however, that in no case shall such operation be permitted closer than ten (10) feet from any property line, or to a depth in excess of eighteen (18) inches or so as to adversely affect the drainage of the area.
- iii. ~~The provisions of this section 4(g) 25, shall not apply to an operation which is incident to legitimate use of the premises; provided, however, where such operation involved the~~ Where the quarrying operation will involve the commercial disposal of the material removed from a quarrying operation, the approval of the Pplan Ceommission and the County Zoning Agency shall be required and such operation shall comply with the provisions of Section 4(g)25 and shall be limited to a maximum period of six (6) months.
- iv. In a quarrying or general industrial district the Pplan Ceommission and County Zoning Agency may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation; and where the character of the terrain, of surrounding development, or other special conditions would justify such modification, may permit a reduction in the required setback or offset; provided, however that in no case shall the setback be less than one

hundred (100) feet, or the offset be less than one hundred (100) feet for quarrying operations or twenty (20) feet for any accessory access road, parking area, or office building except as may be otherwise provided by section 4(g) 25.D and 4(g) 25.E.

- I. ~~Application to existing operation~~ *Application for existing operations:*
- i. Permit: Within sixty (60) days after the adoption of this ordinance all existing quarrying operations shall be required to register with the town clerk submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A ~~quarrying conditional use~~ permit shall be granted to such existing operation subject to compliance with the operational requirements, section 4(g) 25.F, of this ordinance where they can be reasonably applied under existing circumstances.
 - ii. Plan for ~~restoration~~ reclamation: There shall be required within one (1) year after adoption of this ordinance, the submission of a plan for ~~restoration~~ reclamation of the site of any existing quarrying operation as provided by section 4(g) 25.G. The plan for ~~restoration~~ reclamation in such case shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this ordinance.
 - iii. Renewal permit: Within three (3) years after the date of this Ordinance any such existing operation shall be required to make application for a renewal permit the same as for re-application in the case of a new operation under this ordinance except in a quarrying or general industrial district.

SECTION 81

Repeal and Recreate Section 6(a) to read as follows:

(p. 89 Removes the A-D District and adds the B-4 and B-P districts from the list of county zoning districts. Editor is to remove the Editor's Note on Page 94 of the existing code once this change is made.)

(a) **Establishment of districts**

For the purpose of this ordinance, the county is hereby divided into zoning districts which shall be designated as follows:

- A-B Agricultural Business District.
- ~~A-D Agricultural Density District.~~
- A-E Exclusive Agricultural Conservancy District.
- A-O Existing Agricultural Overlay District.
- A-P Agricultural Land Preservation District
- A-T Agricultural Land Preservation Transition District.
- A-1 Agricultural District.
- A-2 Rural Home District.
- A-3 Suburban Estate District.
- A-4 Country Estate District.

- A-5 Mini-Farm District.
- AD-10 Agricultural Density-10 District
- B-1 Restricted Business District.
- B-2 Local Business District.
- B-3 General Business District.
- B-4 Community Business District
- B-P Mixed Use Business Park District
- C-1 Conservancy District.
- EC Environmental Corridor District.
- EFD Existing Floodplain Development Overlay District.
- M-1 Limited Industrial District.
- M-2 General Industrial District.
- P-I Public and Institutional District.
- Q-1 Quarrying District.
- R-1 Residential District.
- R-2 Residential District.
- R-3 Residential District.
- RRD-5 Rural Residential Density District

SECTION 82

Repeal and recreate subsection 7(c)1.I to read as follows:

(p. 95 C-1 Conservancy District: Corrects a spelling error of wildlife refuges.)

The establishment and enhancement of public and private parks and recreation areas, wilderness or walk-in unimproved boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife ~~refugees~~ refuges, game preserves and wildlife habitat areas provided that no filling is done in the C-1 Conservancy District and that no other improvements and/or construction occurs within a wetland area. The owner or operator of any new private park, recreation or wildlife area to be located in a C-1 Conservancy District shall be required to notify the county zoning agency of the proposed project before beginning any development activities. Unsided and open shelters may be permitted within a floodplain, but outside of the wetland area. Ditching, excavating, dredging, and dike construction may be allowed in said areas for the purpose of improving wildlife habitat or to otherwise enhance wildlife values provided all necessary state and federal permits are obtained and said activities shall only be approved after review and approval and issuance of a conditional use permit. Roads to service recreational uses, launching ramps, hiking and riding trails may be permitted but said roads, ramps and trails may not include filling or other construction activity within wetlands without WDNR and ACOE approvals, if required, and shall not impact the storage or flow of surface water and flood water. Said filling and construction activity which may be located within a C-1 conservancy zoning district will be subject to conditional use procedures contained herein.

SECTION 83

Repeal and recreate subsection 7(c)1.C to read as follows:

(p. 94 C-1 Conservancy District: clarifies permitted use.)

The practice of silviculture including planting, thinning and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling or excavation is done except as required to construct and maintain roads which are necessary to conduct silvicultural activities which cannot, as a practical matter, be located outside the C-1 Conservancy District and which are designed and constructed to minimize the adverse impact upon the natural functions of the conservancy area or

except as required for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact upon the conduct of silvicultural activities if not corrected. Where such silvicultural practices will take place on areas larger than five (5) acres in size, a forest management plan prepared in cooperation with a state forester shall be submitted to and approved by the Waukesha County Department of Parks and Land Use, Land Resources Division and the zoning agency prior to its implementation. Where such silvicultural practices will take place on areas smaller than five (5) acres in size, the requirements of Section 3(d)9 shall be met. All fill material associated with the construction and maintenance of roads necessary to conduct silvicultural activities must be removed from the conservancy zoned lands after any temporary silvicultural activities are completed.

SECTION 84

Repeal and recreate subsection 8(b)2.A.viii to read as follows:

(p. 103 EFD Existing Floodplain Overlay District: Clarifies existing language.)

Where more than one (1) principal building, as defined in this Ordinance, exists on a single property and one (1) or more of said buildings is destroyed or damaged beyond fifty (50) percent of their current equalized assessed value as heretofore set forth, the reconstruction, or repair of only one (1) of such buildings is allowed, but only if all other principal buildings are removed from the property. Where only one (1) principal building on a property exists, and is destroyed or damaged as set forth above, beyond fifty (50) percent of its current equalized assessed value as heretofore set forth, the reconstruction or repair of that building would not be allowed unless all other principal buildings were removed. The intent of this provision is to allow for the reasonable use of the developed floodplain lands but not to the degree of intensity which may have existed prior and so that the intensity of use of floodplain lands will be diminished.

SECTION 85

Repeal and recreate subsection 8(b)2.B to read as follows:

(p. 103 EFD Existing Floodplain Overlay District: Clarifies existing language.)

- B. If an existing legal nonconforming structure or a structure with a nonconforming use is substantially damaged or destroyed by a nonflood disaster, as defined in this ordinance, the repair or reconstruction of any such nonconforming structure may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming structure will meet all of the minimum requirements under applicable FEMA regulations at 42 USC 4001 to 4219, 44 CFR Part 60.3 regarding floodplain management criteria for flood-prone areas, or the regulations promulgated thereunder.

For the convenience of the reader, the regulations of 44 CFR 60.3 are summarized below, however, the reader is directed to the Code of Federal Regulations for the specific language of the regulation.

44 CFR 60.3(a):

- (a)1 requires permits for all proposed construction or other development,
(a)2 requires all necessary permits from governmental agencies as required by federal or state law,

(a)3 requires a determination that the proposed building site will be reasonably safe from flooding,

(a)4 requires review of subdivision proposals and other proposed new development to determine that the proposal will be reasonably safe from flooding,

(a)5 requires water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems, and

(a)6 requires new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters.

44 CFR 60.3(b):

(b)1 requires permits for all proposed construction or other development,

(b)2 requires the application of the standards set forth in (a)2, 3, 4, 5, and 6,

(b)3 requires that all new subdivision proposals and other proposed developments greater than 50 lots or 5 acres, whichever is the lesser, include data regarding base flood elevations,

(b)4 requires utilization of base flood elevation and floodway data as criteria for requiring that new construction, substantial improvements, or other development meet the standards in (c)2, 3, 5, 6, 12, 14, and (d)2 and 3,

(b)5 requires that where base flood elevation data is utilized, the elevation of the lowest floor of all new and substantially improved structures shall be obtained and if the structure has been floodproofed, the elevation of the floodproofing shall be obtained and a record of the information shall be kept,

(b)6 requires notification for any alteration or relocation of a watercourse,

(b)7 requires maintenance of the flood carrying capacity within an altered or relocated watercourse, and

(b)8 requires that all manufactured homes shall be installed using methods and practices which minimize flood damage.

44 CFR 60.3(c):

(c)1 requires compliance with subsection (b),

(c)2 requires that all new construction and substantial improvements of residential structures to be elevation to or above the base flood level,

(c)3 requires that all new construction and substantial improvements of non-residential structures have the lowest floor elevation to or above the base flood level, or be designed to be watertight,

(c)4 requires that where a non-residential structure is intended to be watertight below the base flood level, a registered professional engineer or architect conducts a specified review and certification,

(c)5 requires for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters,

(c)6 requires that manufactured homes be located on specifically listed sites and requires elevation criteria for a manufactured home that has incurred substantial damage as a result of a flood,

(c)7-9 do not apply to Waukesha County,

(c)10 requires, until a regulated floodway is designated, that no new construction, substantial improvements or other development is permitted

unless the cumulative effect will not increase the water surface elevation of the base flood more than one foot,
(c)11 does not apply to Waukesha County,
(c)12 requires that manufactured homes, not included in the provisions of subsection (c)6, meet specific elevation requirements,
(c)13 provides that a community may apply for a conditional FIRM revision from FEMA for certain developments which increase the water surface elevation of the base flood by more than one foot, and
(c)14 requires that recreational vehicles meet specific requirements in order to be placed within a floodplain.

44 CFR 60.3(d)

(d)1 requires compliance with subsection (c) 1-14,
(d)2 requires the adoption of a regulatory floodway,
(d)3 requires a prohibition on encroachments within the floodway unless it is proven that the proposed encroachment would not result in any increase in flood levels, and
(d)4 allows a community to permit encroachments in the regulatory floodway by obtaining a conditional FIRM and floodway revision from FEMA.

For the purposes of this subsection only, “lowest floor” has the meaning as defined in 44 CFR 59.1, which is “lowest floor of the lowest enclosed area (including basement). **Also for the purposes of this subsection only, a**An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement area, is not considered a buildings lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements.”

For the purposes of this subsection only, “basement” has the meaning as defined in 44 CFR 59.1, which is “any area of the building having its floor subgrade (below ground level) on all sides.”

If an existing legal nonconforming structure or a structure with a nonconforming use is damaged due to a nonflood disaster and the valuation to repair such damage would not exceed 50% of its current equalized assessed value (as computed over the life of the structure and including past improvements) said structure may be restored to its condition before the damage occurred. If modifications or additions are proposed, which are unrelated to restoring the structure’s condition before damage, the provisions of Section 8(b)2.C must be met.

SECTION 86

Repeal and recreate subsection 9(b) as follows:

(p. 109 EC Environmental Corridor District: Eliminates the words “Permitted Uses” in the title of the subsection as a prohibited use is being added to the Use Regulations list.)

(b) **Use Regulations: ~~Permitted Uses~~**

SECTION 87

Repeal and recreate subsection 9(b)3 as follows:

(p. 109 EC Environmental Corridor District: To clarify what is/is not permitted regarding poultry and livestock.)

3. Keeping of poultry and livestock, on not less than five (5) acres of land, where there shall be no more than one head of livestock or twenty (20) poultry for the first three (3) acres of land, and one additional head of livestock or twenty (20) additional poultry for each additional one (1) acre of land thereafter. ~~except that the~~ The keeping of hogs, male goats or fur-bearing animals shall not be permitted ~~on less than twenty (20) acres.~~

SECTION 88

Create subsection 9(b)7 to read as follows:

(p. 110 EC Environmental Corridor District: Adds regulation that guesthouses are prohibited in this district.)

7. Guesthouses are prohibited in the EC District.

SECTION 89

Repeal and recreate Section 9(e)2.A to read as follows:

(p. 110 EC Environmental Corridor District: Lot Size: Corrects the density requirement for Environmental Corridor District and corrects the reference to land altering activity.)

- A. ~~Minimum area~~ *Minimum area*: the overall density of parcels lying entirely within the Environmental Corridor shall be not ~~less~~ *more* than one dwelling unit per five (5) acres of corridor area, with no lot area being less than two (2) acres in size. On parcels which contain area outside of the environmental corridor or partially within the environmental corridor and in a zoning category requiring less than a five (5) acre lot, the five (5) acre density requirement shall not apply and the lot can be the size required for that adjacent zoning category as long as any ~~earth land~~ altering activity and/or building envelopes are located outside of the corridor area and appropriately restricted as such on the face of the Certified Survey Map, Subdivision Plat or other appropriate matter and recorded in the office of the Register of ~~less~~ *more* than one (1) dwelling unit for each five (5) acres of environmental corridor lands.

SECTION 90

Repeal and Recreate Section 9(e)3.A to read as follows:

(p. 111 EC Environmental Corridor District: Area Regulations: Preservation of Open Space: Corrects the reference to land altering activity and clarifies the maximum size for land altering and vegetative removal area.)

- ~~(A) For parcels lying entirely within an Environmental Corridor Zoning District, no open space regulation shall apply. However, all earth altering activities and vegetative removal including building sites and drive areas (area of disturbance) shall be no more than 15% of five (5) acres (32,600 square feet in the environmental corridor may be disturbed with such land disturbance.~~

- (A) A. For parcels lying entirely within an Environmental Corridor Zoning District, no open space regulation shall apply. However, the area of disturbance in the Environmental Corridor District for all earth land altering activities and vegetative removal, including building sites and drive areas, (area of disturbance) shall be no more than 15% of the parcel five acres or larger in size, up to a maximum of 32,670 square feet. Where the parcel is less than five (5) acres in size, the area of land altering activities and vegetative removal in the Environmental Corridor District shall be no more than 15% of the parcel.

SECTION 91

Repeal and recreate subsection 10(b)4 to read as follows:

(p. 112 A-E Exclusive Agricultural Conservancy District: Use Regulations: Creates the ability to regulate retail uses for compatibility with the potential mix of uses in the area and to have the opportunity to place restrictions on said use which can get intensive.)

4. Nurseries, greenhouses and hatcheries limiting the retail sales of such produce product to that which is produced by the farm operator-, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3(c)6 of this ordinance. Roadside stands do not require review and approval of a Site Plan and Plan of Operation.

SECTION 92

Repeal and recreate subsection 10(c) to read as follows:

(p. 113 Strikes the type of CU in 4(g)(2) because that section does not list the A-E district as an allowable district.)

(c) **Conditional uses**

Conditional uses as provided in Section 4(g)1 and 4(g)2.

SECTION 93

Create subsection 10(f)2 to read as follows:

(p. 113 A-E Exclusive Agricultural Conservancy District: Area Regulations: adds minimum parcel size).

2. Minimum parcel size, thirty-five (35) acres, except as may be provided in Section 11(c)4 for those residual existing dwellings and parcels that result due to farm consolidation.

SECTION 94

Repeal and recreate Section 11(b)4 to read as follows:

(p.114 A-P Agricultural Land Preservation District: Lands to be included within the A-P District: Corrects a typographical error.)

Lands use used for the production of specialty crops such as onions, herbs, sod, fruits and vegetables.

SECTION 95

Create subsection 11(c)5 as follows:

(p.115 A-P Agricultural Land Preservation District: Lands to be included within the A-P District: adds a permitted use to the district.)

5. Hobby kennels as regulated in Section 18(a)8.

SECTION 96

Repeal and recreate the title to Section 12 to read as follows:

(p. 116 Corrects the title of section 12.)

SECTION 12 A-T AGRICULTURAL LAND PRESERVATION ~~TRANSITION~~ DISTRICT

SECTION 97

Repeal and recreate subsection 13(b)2 to read as follows:

(p. 118 A-B Agricultural Business District: Uses and Regulations: Gives the ability to regulate retail uses for compatibility with the potential mix of uses in the area to have the opportunity to place restrictions on said use which can get intensive.)

2. Horticultural services, including the retail sale of nursery landscape material and other agricultural crops and related commodities, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3(c)6 of this ordinance. Roadside stands do not require review and approval of a Site Plan and Plan of Operation.

SECTION 98

Repeal and recreate Section 13(f)2.A to read as follows:

(p. 119 A-B Agricultural Business District: Area Regulations: Corrects a typographical error.)

- A. Minimum area: Five (5) acres, unless the plan commission determines that an existing use ~~or~~ on a smaller parcel is appropriate and consistent with section 13(a).

SECTION 99

Repeal and recreate subsection 15(c)2 to read as follows:

(p.122 AD-10 Agricultural Density -10 District: Use Regulations: To clarify how to determine the number of livestock/poultry on a property)

2. ~~Ordinary farm~~ Agricultural or farm uses on parcels having a minimum of five (5) acres, except on parcels having less than five (5) acres one horse shall be allowed on parcels having a minimum of three (3) acres and there may be one (1) additional horse for each additional one (1) acre thereafter. ~~, including dairy, livestock, poultry raising, raising of crops, and truck farming on parcels having a minimum of five (5) acres and subject to the requirements of Section 8.01(1)(A).~~ The keeping of hogs, male goats or fur-bearing animals shall not be permitted on less than twenty (20) acres. Those practicing agricultural or farm uses under this section must comply with standard manure disposal practices.

SECTION 100

Repeal and recreate subsection 15(c)5 to read as follows:

(p.123 AD-10 Agricultural Density -10 District: Use Regulations: Gives the ability to regulate wholesale uses for compatibility with the potential mix of uses in the area to have the opportunity to place restrictions on said use which can get intensive.)

5. Wholesale nurseries, greenhouses and hatcheries, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3(c)6 of this ordinance.

SECTION 101

Repeal and recreate Section 15(f)(3) to read as follows:

(p. 124 AD-10 Agricultural Density -10 District: Open Space: Qualifies the open space requirement.)

3. Open space: ~~Thirty thousand (30,000)~~ Fifteen thousand (15,000) square feet per family.

SECTION 102

Repeal and recreate Section 15(f)4.B to read as follows:

(p. 124 AD-10 Agricultural Density -10 District: Density Division Standards and Lot Size: Clarifies the context of the development requirement.)

- B. In the event of a transfer of development rights from AD-10 to RRD-5, the following shall apply:
 - i. In any RRD-5 zoned district, development shall occur at a 1.2 dwelling units per ten (10) acres of AD-10 zoned land.
 - ii. Only 20% of the C-1 or A-E zoned areas may be calculated in the overall density. Where more than 50% of the site is zoned in the C-1 or A-E categories, only that amount of acreage up to the 50% amount may be used in the above calculations for purposes of computing allowed densities.
 - iii. In the RRD-5 Residential district, development shall only be allowed on non-prime agricultural soils, (U.S.D.A. Class III and below) or Class I and II soils which are not tillable because of natural vegetation, unless on prime agricultural soils of less than twenty (20) contiguous acres.
 - iv. All farm fields in the RRD-5 district which must be preserved are those areas which are a minimum of twenty (20) acres in contiguous area and consist of (U.S.D.A. Class I and II) prime agricultural soils and are tillable. The twenty (20) acre minimum area may be on the subject parcel or contiguous to prime agricultural areas on an adjacent parcel.

SECTION 103

Repeal and recreate subsection 16(c)5 to read as follows:

(p. 127 RRD-5 Rural Residential Density District 5: Use Regulations: Gives the ability to regulate wholesale uses for compatibility with the potential mix of uses in the area to have the opportunity to place restrictions on said use which can get intensive.)

5. Wholesale nurseries, greenhouses and hatcheries, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3(c)6 of this Ordinance.

SECTION 104

Repeal and recreate Section 16(f)3 to read as follows:

(p.128 RRD-5 Rural Residential Density District 5: Area Regulations. : Open Space: Qualifies the open space requirement.)

3. Open space: ~~Thirty thousand (30,000)~~ Fifteen thousand (15,000) square feet per family.

SECTION 105

Repeal and recreate Section 16(f)4.B to read as follows:

(p.129 RRD-5 Rural Residential Density District 5: Area Regulations: Clarifies the requirements for development of parcels larger than 20 acres in this district and corrects a grammatical errors by adding a period to the end of the sentence in subsection ii and removing a comma in subsection iii.)

- B. Parcels greater than twenty (20) acres in size must conform to the following standards:
 - i. They must be developed at no more than a five (5) acre density, taking into account only 20% of any C-1 Conservancy and A-E Exclusive Agricultural Conservancy zoned lands, ~~where~~ **Where** more than 50% of the site is zoned C-1 or A-E, only the amount of acreage up to the 50% amount may be used in the calculation of allowable density.
 - ii. Residential development would be allowed only on non-prime agricultural soils (U.S.D.A. Class III and below) which are tillable.
 - iii. All farm fields which must be preserved ; are those areas which are a minimum of twenty (20) acres in contiguous area and consist of U.S.D.A. Class I and II prime agricultural soil and are tillable. The twenty (20) acre minimum area may be on the subject parcel or contiguous to prime agricultural areas on an adjacent parcel.

SECTION 106

Repeal and recreate Section 18(a)3 to read as follows:

(p. 131 A-1 Agricultural District: Use Regulations: Clarifies the farming requirements.

~~Ordinary farm~~ Agricultural or farm uses on parcels having a minimum of five (5) acres, except one horse shall be allowed on parcels having a minimum of three (3) acres and there may be one (1) additional horse for each additional one (1) acre thereafter. ~~including dairy, livestock, poultry raising, raising of crops, and truck farming on parcels having a minimum of five (5) acres and subject to the requirements of Section 8.01(1)(A).~~ The keeping of hogs, male goats or fur-bearing animals shall not be permitted on less than twenty (20) acres. Those practicing

agricultural or farm uses under this section must comply with standard manure disposal practices.

SECTION 107

Repeal Section 18(a)4:

(p. 131 A-1 Agricultural District: Use Regulations: Clarifies the farming requirements.

4. ~~The keeping of poultry and livestock, except that the keeping of hogs, male goats or fur-bearing animals shall not be permitted on less than twenty (20) acres.~~

SECTION 108

Repeal and recreate Section 18(a)7 to read as follows:

(p. 131 Adds another condition (G). Once Section 18 is amended, this subsection is re-numbered as section 18(a)6 because the amendment above removes a section.)

76. Home occupations and professional offices as defined in this ordinance, when incident to the residential use and when situated in the same dwelling, subject to the following conditions:
- A. No nameplate exceeding three (3) square feet in area shall be permitted.
 - B. Such home occupation or professional office shall not occupy more than twenty (20) percent of the floor area of the principal building.
 - C. Such home occupation or professional office shall not employ more than one (1) person not a resident on such lot.
 - D. Adequate off-street parking facilities shall be provided adjacent, or reasonably adjacent to the building which houses such occupation or office.
 - E. Such permitted use shall not include conduct of any retail or wholesale business on the premises, nor the removal of sand, gravel or stone for commercial purposes.
 - F. Such permitted use shall not include the use of any machinery, tools or other appliances which can reasonably be construed as creating an abnormal nuisance to the surrounding property owners.
 - G. Such use conducted in an attached garage or accessory building requires a Conditional Use to be granted in accordance with Section 4(g)16 of this ordinance.

SECTION 109

Repeal and recreate subsection 19(a)1 as follows:

(p. 133 A-2 Rural Home District: Use Regulations: Clarifies the use regulations. Adds an “s” to the word “use”.)

Any use permitted in the A-1 Agricultural District, except that the keeping of poultry or livestock shall not be permitted on any lot less than three (3) acres, and the keeping of hogs, male goats or fur-bearing animals shall not be permitted. There shall be no more than one head of livestock or twenty (20) poultry for the first three (3) acres of land. There may be one additional head of livestock or twenty (20) additional poultry for each additional one (1) acre of land. All lands to be utilized for the keeping of livestock or poultry must be under the same ownership or additional leased lands may be used to increase the maximum permitted livestock or poultry if contiguous to the owners’ property. Where such use lawfully existed prior to the date of this Ordinance, such use may be continued subject to the limitations regulating non-conforming uses as regulated in Section 3(o) of this Ordinance.

SECTION 110

Repeal and recreate subsection 27(c)4 to read as follows:

(p. 140 P-I Public and Institutional District: Permitted Accessory Uses: Gives the ability to regulate retail uses for compatibility with the potential mix of uses in the area to have the opportunity to place restrictions on said use which can get intensive, and to be consistent with definition of roadside stands.)

4. Horticulture, including greenhouses and nurseries, and roadside stands to the extent associated with an otherwise permitted use, ~~retail fruit and vegetable stands~~. Horticulture, including greenhouses and nurseries, are subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3(c)6 of this ordinance. Roadside stands do not require review and approval of a Site Plan and Plan of Operation.

SECTION 111

Repeal and recreate Section 27(d)1 to read as follows:

(p. 140 P-I Public and Institutional District: Building Location: Corrects a typographical error.)

1. ~~Setbacks~~ Setback: Fifty (50) feet minimum.

SECTION 112

Create Section 28(a)4 to read as follows:

(p. 141. B-1 Restricted Business District. Allows limited commercial truck parking.)

Delivery and service vehicles shall be permitted only in conjunction with or accessory to an otherwise permitted use.

SECTION 113

Repeal and recreate subsection 28(d)3 as follows:

(p. 142 B-1 Local Business District: Area Regulations: Clarifies the required amount of open space.)

3. Open space: ~~Twenty-four~~ Fifteen thousand (24,000 15,000) square feet minimum per family.

SECTION 114

Create a subsection 29(a)2 to read as follows:

(p. 143 B-2 Local Business District: Use Regulations: adds temporary fireworks stands to the list of permitted uses in this district, adds restaurant to the list of permitted uses and renumbers the list. adds any similar use subject to the approval of the Plan Commission and Zoning Administrator, and alphabetizes the list.)

2. Any of the following retail and customer service establishments, providing the location, building and Site Plan and Plan of Operation are submitted to and approved by the plan commission and the zoning administrator:
 - A. Art shop.
 - B. Appliance store.
 - C. Bakery (not over ten (10) employees).
 - D. Bank or savings and loan office.
 - E. Barber shop.
 - F. Beauty shop.
 - G. Book or stationery store.
 - H. Clinic.
 - I. Clothing or drygoods store.
 - J. Confectionery store.
 - K. Drug store.
 - L. Furniture store.
 - M. Fruit and vegetable market.
 - N. Grocery or other food products store.
 - O. Hardware store.
 - P. Ice cream store.
 - Q. Jewelry store.
 - R. Meat and fish market.
 - S. Music and radio store.
 - T. News-stand.
 - U. Notion or variety shop.
 - V. Parking lot.
 - W. Pharmacy.
 - X. Radio and television sales and repair shop.
 - Y. Photographer.
 - Z. Restaurant.
 - AA. Shoe store.
 - BB. Soda fountain.
 - CC. Tailor or dressmaking shop.
 - DD. Telegraph and telephone office and telephone exchange.
 - EE. Temporary fireworks stand that sells Class "C" fireworks, if allowed by local ordinance.
 - FF. Utility company office.
 - GG. Any similar use subject to the approval of the Plan Commission and Zoning Administrator.

SECTION 115

Create subsection to 30(a)2. to read as follows:

(p. 144 B-3 General Business District: Use Regulations: Adds self service storage to the list of businesses permitted.)

A building, or portion thereof, or a building designed with self-contained units, which is leased by the owner for storage.

SECTION 116

Create a subsection 29(a)5 to read as follows:

(p. 142. B-2 Local Business District. Allows limited commercial truck parking.)

Delivery and service vehicles shall be permitted only in conjunction with or accessory to an otherwise permitted use.

SECTION 117

Repeal and recreate Section 30(a)3 to read as follows:

(p.144 Expands regulations for signage in the B-3 District.)

~~Signs, billboards and other similar advertising media.~~

3. **Signs: Signs**

A. A Site Plan and Plan of Operation for signs must be submitted to, reviewed and approved by the plan commission and the zoning administrator.

B. ~~Sign regulations~~ *Sign regulations:*

(i) Wall signs: Placed on or against the exterior wall of the building or attached to the building may be permitted and shall be subject to the following:

- (a) Owner occupied units or single-use tenant signs shall not exceed 120 square feet in area whether illuminated or non-illuminated.
- (b) Owner occupied units or multi-use tenant signs shall not exceed a maximum of 120 square feet in area, whether illuminated or non-illuminated, to be divided proportionately between the number of units in the multi-tenant or owner occupied building.
- (c) Wall signs used for identification of individual tenants in multi-tenant buildings must be uniform with regard to panel design, letter style and color. Said signs may contain painted metal surfaces with or without illumination or individual letters routed out of metal, plastic or wood surfaces.

(ii) Free standing signs may be permitted and shall be subject to the following:

- (a) Non-illuminated and internally illuminated free standing signs shall not exceed 120 square feet in area. All illuminated free standing signs must be internally lit.
- (b) One free standing sign is permitted per property and may be erected in conjunction with one wall sign for each unit of a multi-tenant building. A double faced sign shall be back to back with no more than 18 inches between faces. A free standing sign on one property may not be closer than 100 feet from another free standing sign on an adjacent property and not closer than 200 feet to a residence, if sufficient distance exists. If sufficient distance does not exist, the sign shall be placed to meet the location requirements to the extent possible.
- (c) A landscape plan for the base of any free standing sign shall be submitted in conjunction with the Site Plan and Plan of Operation for review and approval by the plan commission and the zoning administrator.
- (iii) The materials of all signage on the property shall be compatible with the materials of the principal building on the subject property.

SECTION 118

Repeal and recreate Section 31(j) to read as follows:

(p.146, Adds to list “Other similar uses as approved by the Plan Commission and Zoning Administrator” and alphabetizes list.)

1. Architects, engineers or other professional offices.
2. Art, dance, music teaching studios or other similar uses.
3. Bakery goods, stores.
4. Banks, savings and loan association and other financial institutions.
5. Barber and beauty shops.
6. Cafes or restaurants.
7. Candy, confectionery stores.
8. Clothing stores.
9. Delicatessens.
10. Dentist, physician or other similar professional health offices.
11. Department stores.
12. Drugstores.
13. Dry cleaning pick-up and delivery establishments.
14. Fruit stores.
15. General public book stores.
16. Gift stores.
17. Grocery stores.
18. Hardware stores, paint or decorating stores.
19. Hobby shops.
20. Meat, fish, or poultry markets.
21. Optical stores.
22. Packaged beverage stores.
23. Photo and film pick-up stores.
24. Retail florists.

- 25. Shoe repair shops.
- 26. Shoe stores.
- 27. Soda and ice cream stores.
- 28. Sporting goods stores.
- 29. Tobacco stores.
- 30. Variety stores.
- 31. Vegetable stores.
- 32. Video stores.
- 33. Any similar use subject to the approval of the Plan Commission and Zoning Administrator.

SECTION 119

Repeal and recreate Section 31(j)4 to read as follows:

(p.148 B-4 Community Business District: Lot Area, Frontage and Yard Regulations: Corrects a numbering error – should be 2 instead of 4 – the number four is deleted here.)

- 42. Lot Size – Sewered:
Free-standing building sites shall have a minimum lot size of 20,000 square feet.

SECTION 120

Create Section 32(b)6 to read as follows:

(p.156 B-P Mixed Use Business Park District: Adds to list of Permitted Principal Uses.)

- 6. Any similar use subject to the approval of the Plan Commission and Zoning Administrator.

SECTION 121

Repeal and recreate Section 32(e)2.V to read as follows:

(p.157 B-P Mixed Use Business Park District: Prohibited Uses: Corrects a typographical error in reference to coal tar.)

- V. Manufacturing or processing of ammonia, asbestos, asphalt, cement, chlorine, ~~old~~ coal tar, creosote, explosives, fertilizer, glue, gypsum, insecticides, poison, pulp, proxylin, radium and radioactive materials.

SECTION 122

Repeal and recreate Section 32(h)2.B to read as follows:

(p. 152 B-P Mixed Use Business Park District: Signs: Corrects a grammatical error by striking the word “the” in the second sentence.)

- B. Free Standing Signs:
One free standing sign may be permitted per property and may be in conjunction with a wall sign and may not exceed 30 square feet in area on each sign face. Free standing signs may not be closer than ~~the~~ 150 feet from another free standing sign.

SECTION 123

Repeal and recreate subsection 34(b) to read as follows:

(p. 153 Q-1 Quarrying District: Use Regulations: clarifies the use regulations of the quarrying district. The subsections are renumbered to incorporate the new text in (b).)

(a) **Use regulations: Permitted Uses**

1. Any use as permitted in the A-1 agricultural district.

(b) **Use Regulations: Conditional Uses**

21. Quarrying although permitted by right, shall be authorized as a conditional use under Section 4(g)25 of this Ordinance. ~~By placing a property in this category, it has been determined that the subject area is appropriate for such quarrying designation and the~~ The issuance of a conditional use permit to authorize the quarrying of the site shall be conditional on compliance with the standards and regulations as set forth in Section 4(g) 25.
32. The following ~~related~~ operations shall be authorized as a conditional use under section 3(h) of this Ordinance but only where accessory to ~~the permitted~~ an approved quarrying operation, and subject to the regulations of Section 4(g) 25.:
 - A. The manufacture of concrete building blocks or other similar blocks.
 - B. Production of ready-mixed concrete.

SECTION 124

Repeal and recreate Section 35(a)1 to read as follows:

(p.154 M-1 Limited Industrial District: Use Regulations: Removes reference to A-1 District because the B-3 category includes it.)

1. Any use as permitted in a B-3 general business ~~or A-1 agricultural district~~, except that residential use shall be permitted only in conjunction with or accessory to an otherwise permitted use.

SECTION 125

Repeal and recreate Section 35(a)2.A to read as follows:

(p.154 M-1 Limited Industrial District: Use Regulations: Corrects reference to salvage yards.)

- A. ~~Junk~~ Salvage yards.

SECTION 126

Repeal and recreate Section 38(c)2 to read as follows:

(p. 158 Board of Adjustment: Corrects a grammatical error by removing dashes and adding commas.) Updated with 2008 Flood Plain amendments.

2. Additional requirements: In making its determination, the Board shall consider whether the proposed exception, variance or use would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and may impose such requirements and conditions with respect to

location, construction, maintenance and operation, in addition to any which may be stipulated in this ordinance, as the board may deem necessary for the protection of adjacent properties and the public interest and welfare.

A variance shall not grant, extend, or increase any use prohibited in the zoning district; be granted for a hardship based solely on an economic gain or loss; be granted for a hardship which is self-created; damage the rights or property values of other persons in the area; allow actions without the appropriate amendments to this ordinance or map(s); allow any alteration of a historic structure in a floodplain, including its use, which would preclude its continued designation as a historic structure.

SECTION 127

Repeal and recreate Section 38(d)3 to read as follows:

(p. 160 Corrects a grammatical error in the first sentence by removing a dash between the words “(90) days” and “from.”)

3. **Hearing:** Each appeal shall be heard within a reasonable time and not to exceed ninety (90) days from the time the appeal was filed with the board. Notice of hearing shall be given by publishing in a newspaper of general circulation in the vicinity of the appeal at least once each week for two (2) consecutive weeks and not less than seven (7) days from the date of hearing. The notice shall be published pursuant to Wisconsin Statutes and shall specify the date, time, place and subject of the hearing. Written notice shall be given to the WDNR not less than ten (10) days prior to the hearing. Written notice shall also be given to the administrative officer appealed from and by first class mail to the petitioner, the clerk of the town wherein the affected lands are located, the owners of each parcel of land within one hundred (100) feet of the land in question, and any other specifically interested parties not less than ten (10) days prior to the hearing. At the hearing, any party may appear in person, or by agent or by attorney.

SECTION 128

Create subsection 38(d)6 to read as follows:

(p. 160 Board of Adjustment: Appeals: Specifies time limit for BOA decisions).

6. The owner or applicant must exercise any variance or special exception that does not involve a permit within two (2) years of the date of the Board of Adjustment granting the variance or special exception, or the approval shall expire and become null and void, and no refund of any fees shall be made. If the special exception or variance does require a permit, the permit must be obtained within two (2) years of the date of the granting of the variance or special exception, or the approval shall expire and become null and void, and no refund of any fees shall be made. If the permit is not exercised or obtained within the time allowed, the permit or approval shall expire and become null and void, and no refund of any fees shall be made. However, the Board of Adjustment, upon a written request, may grant an extension of the permit or approval without additional fee for good cause as determined by the Board of Adjustment.

SECTION 129

Repeals and recreates Section 39a to read as follows:

(p. 160 Corrects grammatical errors, corrects statute references).

- (a) **Authority**

Pursuant to the provisions of ~~section~~ ~~sections~~ 59.69 and 59.692 of the Wisconsin Statutes, the county board may amend the regulations of this Ordinance or change the district boundaries.

SECTION 130

Repeals and recreates Section 39b to read as follows:

(p. 160 Adds statute reference so several sections can be deleted, and creates time limitations on the rezone application process.)

(b) Procedure

1. **Petition:** A petition for amendment of this ordinance may be made by any property owner in the area to be affected by the amendment, by the town board of any town wherein the ordinance is in effect, by any member of the county board or by the county zoning agency. ~~In the case of a comprehensive map amendment to a large area of lands affected by this ordinance (more than 6 properties) and which does not set forth a specific amendment to a particular property owner's land and where such petition is initiated by the county zoning agency or the town board, the requirements for individual notice, as set forth in section 40(b) 1.B. to individual property owners, shall not be required. All the requirements of posting and publication and hearing notice shall be provided in accordance with this Ordinance. With respect to any change in the text of this ordinance, no specific notice to property owners is required. All other notice requirements shall be followed.~~
2. **Filing of petition:** One (1) original and five (5) copies of the amendment shall be submitted directly to the zoning administrator in order that notice of public hearings and other processing may be initiated without unnecessary delay (Waukesha County Board Resolution 9/54). One (1) copy of the petition and the notice of public hearing shall be forwarded to the SE District Office of the WDNR not less than ten (10) days prior to the hearing. When the amendment involves a change in zoning of a floodland area, said notice and petition shall also be sent to FEMA. In addition, all requirements set forth in section 39(f) shall be followed. When the petition involves a change in shoreland wetlands, the additional requirements set forth in section 39(e) shall be followed.
3. **Fee:** A petition submitted by other than a governmental body or agency shall be accompanied by the proper fee as established under section 41(b) 5. of this Ordinance, payable to the Waukesha County Park and Planning Commission to help defray administrative costs of such petition.
4. **Data required:** In addition to all information required on the petition form, the petitioner shall supply the following:
 - A. Six (6) copies of a map accurately drawn to scale of not less than one hundred (100) feet to the inch showing the land in question, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land, and the principal use of all properties within three hundred (300) feet of such land.
 - B. The names and complete mailing addresses, including zip codes, of the owners of all properties within three hundred (300) feet of any part of the land included in the proposed change.

- C. Any further information which may be required by the zoning administrator to facilitate the making of a comprehensive report to the county board including a detailed description of the intended new use.
- D. A Zoning Amendment application which is filed and is not complete, and therefore is not scheduled for a public hearing as it does not meet all of the requirements as outlined in Section 39(b)4A through C, shall be held for a period not to exceed six months from the date of the application and shall then expire and be voided by the Zoning Administrator and no refund of the application fee shall be made.
5. A petition to amend this Ordinance or change the district boundaries shall follow the procedure set forth in Section 59.692 of the Wisconsin Statutes. Hearing: As soon as practical after receipt of each petition, the zoning agency shall call a public hearing thereon. Notice of the time and place of such hearing shall be given in the manner prescribed under section 40 of this Ordinance.
- ~~6. Zoning agency action and report: As soon as possible after such public hearing, the county zoning agency shall act on such petition either approving, modifying and approving, or disapproving of the same. If its action is favorable to granting the requested change, or any modification thereof, it shall cause an ordinance to be drafted effectuating its determination and shall submit such proposed ordinance directly to the county board with its recommendations. If the county zoning agency, after its public hearing, shall recommend denial of the petition, it shall report its recommendation directly to the county board with its reasons for such action. Proof of publication of the notice of the public hearing held by the county zoning agency and proof of the giving of notice to the town clerk of such hearing shall be attached to either such report.~~
- ~~7. County board action: Upon receipt of the report of the county zoning agency, the county board may adopt the ordinance as drafted by such zoning agency or with amendments, or it may refuse to deny the petition for amendment as recommended by the county zoning agency, in which case it shall refer the petition back to the county zoning agency, with direction to draft an ordinance to effectuate the petition, and report the same back to the county board which may then adopt or reject such ordinance, or it may refer the petition back to the county zoning agency for reconsideration including possible further public hearing.~~
- ~~8. Protest: In case a protest against a proposed amendment is filed with the county clerk at least twenty four (24) hours prior to the date of the meeting of the county board at which the report of the county zoning agency is to be considered, duly signed and acknowledged by the owners of fifty (50) percent or more of the area proposed to be altered, or by the owners of at least fifty (50) percent of the frontage immediately in the rear or along the side boundaries thereof within three hundred (300) feet of the area proposed to be changed, or by the owners of at least fifty (50) percent of the frontage directly opposite and across a public street, highway or alley, from the area proposed to be altered, action on such ordinance may be deferred until the county zoning agency shall have had a reasonable opportunity to ascertain and report to the county board as to the authenticity of such ownership statements. Each signer of such protest shall state the amount of area or frontage owned by him, and shall include a description of the lands owned by him. If such statements are found to be true, such ordinance shall not be adopted except by the~~

~~affirmative vote of three-fourths of the members of the county board present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present, such protest may be disregarded.~~

96. Effectuation: Any such amendatory ordinance when so adopted by the county board, shall become effective after passage by the county board and publication pursuant to Section 59.69, Wisconsin Statutes except as may be modified in section 39(e) herein. In the case of floodplain amendments and adjustments, the amendment shall not become effective until the WDNR approves the amendment after certification that the area has been removed from the floodplain and until a letter of map amendment is issued by the Federal Insurance Administration of FEMA. Upon receipt of the above cited approvals, the county clerk shall record in the clerk's office the date on which such ordinance is passed by the county board and approved by the other agencies required to approve and shall notify the town clerk of all towns affected by such ordinance of such date that the ordinance will take effect and also make such report to the county zoning administrator and the county board which report shall be printed in the proceedings of the county board.

SECTION 131

Repeal and recreate Section 39(d)1 to read as follows:

(p. 163 Changes and Amendments: Edits first sentence for clarity.)

1. Removal from map: When any lands previously under the jurisdiction of a county zoning Ordinance shall have been finally removed from such jurisdiction by reason of annexation to an incorporated municipality, and after the regulations imposed by the county zoning Ordinance have ceased to be effective as provided in Section 59.69 of the Wisconsin Statutes, the county board may, on the recommendation of its zoning agency, adopt such amendatory Ordinances and shall remove or delete such annexed lands from the official zoning map or written descriptions without following any of the procedures provided in Section 59.69 Wisconsin Statutes, and such amendatory ordinances shall become effective upon passage and publication. A copy of such ordinance shall be forwarded by the county clerk to the clerk of each town in which the lands affected were previously located. Nothing in this paragraph shall be construed to nullify or supersede the provisions of ~~section 80.64~~ of the Wisconsin Statutes regarding street and highway width.

SECTION 132

Repeal and recreate Section 39(d)2 to read as follows:

(p. 163 Corrects three typos (underline heading, of/or change, delete dash in second last line.)

2. Continued effect of ordinance: As provided in Chapter 59, Wisconsin Statutes, whenever any area which has been subject to a county zoning ordinance petitions to become part of a village or city, the regulations imposed by such county zoning ordinance shall continue in effect, without change, and shall be enforced by such village or city until the village or city enacts, administers and enforces an ordinance which meets the requirements of Section 59, Wisconsin Statutes, NR 116, Wisconsin Administrative Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the village or city's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the village or city zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway. In the event

an ordinance of or annexation is contested in the courts, the county zoning shall prevail and the county shall have jurisdiction-over the zoning in the area affected until ultimate determination of the court action.

SECTION 133

Repeal and recreate Section 39(f)(4) to read as follows:

(p. 166, combined 4 and 5 for clarification purposes.)

4. Following the procedures in this section of the Ordinance does not remove the requirement for the mandatory purchase of flood insurance. The property owner should contact FEMA and request a Letter of Map Change (LOMC) to avoid being required to obtain flood insurance.

SECTION 134

Repeal Section 39(f)(5) as follows:

(p. 166, original language was not clear.)

- ~~5. Prior to any changes of the official zoning map, the property owner must obtain a Letter of Map Change (LOMC) from FEMA.~~

SECTION 135

Repeal and recreate Section 40(b)1.B. as follows:

(p. 166. Public Hearings. Changes notice requirements for certain projects of the municipality, the county or other governmental agencies.)

When the hearing involves a proposed change in the zoning district classification of any property, or the granting of a conditional use, notice of the public hearing shall be given by first class mail to the owners of all lands within three hundred (300) feet of any part of the land included in such proposed change or conditional use at least seven (7) days before such public hearing. In the case of any proposed text amendment or a conditional use request, zoning map amendment or zoning map refinement affecting more than six (6) properties and which does not solely set forth a specific amendment or use change to a single particular property owner's land and where such petition is initiated by the municipality, the county or other governmental agency, the requirements for individual notice to affected property owners or those who own property within 300 feet of the project area shall not be required. The failure of such notice to reach any property owner, provided such failure be not intentional, shall not invalidate any amending ordinance or granting of conditional use.

SECTION 136

Repeal and recreate Section 40(b)2 to read as follows:

(p.166 Public Hearings. Corrects process to reflect statutes.)

2. **Joint Hearing:** A petition to amend this Ordinance or change the district boundaries shall follow the procedure set forth in Section 59.692, Wisconsin Statutes. Public hearings shall be conducted by the County Zoning Agency or its designee. When the hearing involves a proposed change in the zoning district classification of any property or a conditional use request, the hearing shall be held jointly by the County Zoning

Agency, or its designee, and the plan commission of any town or towns affected by such change, except for multi-jurisdictional or county-wide zoning map modernization, zoning map refinements or zoning map amendments that are proposed by the County Zoning Agency or its designee and which affect more than six (6) properties, in which case, the hearing shall be held by the County Zoning Agency or its designee. Public Hearings for zoning text amendment requests shall be heard by the Zoning Agency or its designee. ~~Within thirty (30) days after the hearing, the plan commission shall transmit its recommendation on the proposed change to the county zoning administrator. Approval by the town board in such zoning amendments is not required and disapproval by such town board is advisory only.~~

SECTION 137

Repeal and recreate Section 41(b)4 to read as follows:

(p.169 ZA: Deputies: Corrects section reference.)

4. **Deputies:** To expedite local administration of this ordinance, the zoning agency may designate in each town a deputy to the county zoning administrator for the purpose of field inspection and verification of the conditions shown on the application for zoning and the occupancy and use permits. The deputy shall be authorized to accept application for zoning and occupancy and use permits and shall promptly make any necessary inspection to verify the correctness of the application and transmit the application to the county zoning agency. The deputy shall also make the necessary inspection as provided in section ~~3.03(3)(B)~~ **3(c)3B** of this ordinance before an occupancy and use permit shall be issued.

SECTION 138

Repeal and recreate Section 41(c)1 to read as follows:

(p.170 Violations: Corrects dollar amount to reflect existing citation forfeiture schedule.)

1. **Penalties:** Any person, firm, company, or corporation who violates, disobeys, omits, neglects, refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance, shall be subject to a fine of not less than ten dollars (\$10.00) and not to exceed the sum of ~~two hundred~~ **one thousand** dollars (~~\$200.00~~) (**\$1,000.00**) for each offense, together with the costs of the action, and in default of the payment thereof, shall be imprisoned in the County Jail of Waukesha County, for a period of not to exceed six (6) months, or until such fine and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such. Restoration of environmental damage may also be required in addition to any forfeitures levied.

SECTION 139

Repeal and recreate Section 41(c)4.B.viii to read as follows:

(p.171 Violations: Makes a stylistic change.)

- viii. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under ~~subpara-~~

subparagraph vii. above has been read. Such statement shall be sent or brought with the cash deposit.

SECTION 140

Repeal and recreate Section 42(a) to read as follows:

(Corrects a typographical error from annual to annul.)

(a) **Abrogation and greater restrictions**

It is not intended by this ordinance to repeal, abrogate, ~~annual~~ annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this ordinance imposes greater restrictions, the provisions of this ordinance shall govern. This ordinance, where it relates to floodlands, supersedes all the provisions of any municipal zoning ordinance enacted under Section 59.69, 59.692 or 59.694 for counties; Section 62.23 for cities; Section 61.35 for villages; or Section 87.30, Wisconsin Statutes. Where an ordinance is more restrictive than this ordinance in relation to floodlands and shorelands, only its greater restrictions are effective. The shoreland and floodplain protection provisions of this Ordinance required by the National Flood Insurance Program (NFIP) and ch. NR115 and ch. NR116 Wisconsin Administrative Code, supersede all less restrictive provisions of any other county zoning ordinance.

SECTION 141

Repeal and recreate subsection 42(h) to read as follows:

(p. 173 Further clarifies duties.)

Official Revisor and Editor

The Corporation Counsel shall be the official revisor and editor of this Code and the Corporation Counsel, or his or her designee, is authorized to revise this Code in accordance with any enrolled ordinance. The Corporation Counsel is hereby authorized to correct any typographic or punctuation errors, and make changes to the numbering sequence, lettering, organization, or formatting or capitalization of words of an enrolled ordinances or these Code sections, as needed to create a consecutive sequence and orderly format of the code, change cross references that are affected by amendments to this Code, and change titles to positions, divisions, departments, boards, committees or commissions as the County Board has directed in any other official action, ordinance or resolution. The Corporation Counsel is further authorized to change statutory references when said references are affected by subsequent legislation.

SECTION 142

Repeal and recreate the Zoning Violation Forfeiture Schedule as referenced in Section 41(c)4:

(p. 170 The schedule is on file with the County Clerk. The proposed changes are available in a separate handout – they correct references to sections of the code, correct the description of several violations to match the wording of the code, add a forfeiture for a violation of the Streambank and Shoreline Stabilization regulations of section 3(d)5.D, and add a general category of violation called “Failure to comply with the terms of a permit” under section 3(c)3.C.)

See handout entitled “Zoning Violation Forfeiture Schedule.”