DRAFT ORDINANCE 8/12/16
The version of the underlying code has been updated through enrolled Ordinance 171-2, effective 6-10-16.

Strikethroughs are deletions.
Colored ink is new language.

Page #'s will be updated upon completion of final ordinance.
Table of contents may be enlarged to include the titles of subsections.

SHORELAND AND FLOODLAND PROTECTION ORDINANCE
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Editor's Note:
Updated through Enrolled Ordinance 171-??, effective 05/??/16.

SECTION 1 AUTHORITY, INTERPRETATION AND PURPOSES

(a) Authority

This Ordinance is adopted under authority granted by Chapters 59, 87, 145 and 281 of the Wisconsin Statutes and amendments thereto.

(b) Purpose and Intent

Uncontrolled use of shorelands and pollution of navigable waters will adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Waukesha County, Wisconsin. For the purpose of promoting the public health, safety, convenience and welfare, this Ordinance has been established to:

1. Further the maintenance of safe and healthful conditions and prevent and control water pollution through:

   A. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.

   B. Establishing minimum lot sizes to control density and provide suitable area for private sewage disposal facilities.

   C. Controlling land altering activities to prevent serious soil erosion.

   D. Limiting impervious surfaces to control runoff which carries pollutants.

2. Protect spawning grounds, fish and aquatic life through:

   A. Preserving wetlands and other fish and aquatic habitat.

   B. Regulating pollution sources.

   C. Controlling shoreline alterations such as dredging and lagooning.

3. Control building sites, placement of structures and land uses through:

   A. Reducing and eliminating conflicting land uses.

   B. Prohibiting uses detrimental to the shoreland area.

   C. Setting minimum lot sizes and widths.

   D. Regulating building, structural placement and height.

   E. Regulating land and water uses so as to assure a more compatible relationship to the carrying capacity of the land and water.

4. Preserve and restore shore cover and natural scenic beauty through:

A. Restricting the removal of natural shoreland cover.

B. Preventing shoreline encroachment by structures.

C. Controlling shoreland excavation and other land altering activities.

D. Regulating the use and placement of boathouses and other structures.

5. Prevent uncontrolled development and use of the floodplains through:

A. Protecting life, health and property,

B. Minimizing expenditures of public funds for flood control projects,

C. Minimizing rescue and relief efforts undertaken at the expense of the taxpayers,

D. Minimizing business interruptions and other economic disruptions,

E. Minimizing damage to public facilities in the floodplain,

F. Minimizing the occurrence of future flood blight areas in the floodplain,

G. Discouraging the victimization of unwary land and home buyers,

H. Preventing increases in flood heights that could increase flood damage and result in conflicts between property owners, and

I. Discouraging development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

6. Provide for adequate light, air, sanitation, drainage, convenience of access, safety from fire, flood hazard and other dangers, promote the safety and efficiency of the public streets and highways, conserving and stabilizing the economic value of the community, preserve and promote the general attractiveness and character of the community environment and guide the proper distribution and location of population and the various land uses.

(Ord. No. 141-44, § II, 7-22-1986)
(Section 1(a), formerly Section 1.01, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 1(b) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 1(c) was repealed by Enrolled Ordinance 169-54, effective 10-08-2014.)

SECTION 2 DEFINITIONS

(a) General interpretation

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 “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; 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.

(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(b) Specific words and phrases

For the purposes of this Ordinance certain words and phrases shall be defined as follows:

1. ACOE: See Army Corps of Engineers.
(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

2. A ZONES: Those areas shown on the Official Zoning Map and depicted on the Flood Insurance Rate Map, which would be inundated by the regional flood. These areas may be numbered and studied A Zones, which are reflective of flood profiles, or unnumbered A Zones, which are unstudied or approximate areas and where a flood profile is unavailable.
(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

   Access and Viewing Corridor: A strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

3. Administrative Officer: Any officer such as a Clerk, Building Inspector, Engineer, Attorney, or Zoning Administrator, or his agent, who is appointed, elected or is otherwise officially designated by the Town, and/or County and does not include any Committee, Commission, or Board or its individual members.

4. Adult Arcade: Any place to which the public is permitted or invited wherein coin, slug, electronically, or mechanically controlled or operated still or motion picture machines, projectors, computers, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing “Specified Sexual Activities” or “Specified Anatomical Areas”.

5. Adult Bathhouse: A commercial establishment which provides a bath as a service and which provides to its patrons an opportunity for engaging in “Special Sexual Activities.”

6. Adult Body Painting Studio: A commercial establishment wherein patrons are afforded an opportunity to be painted or to paint images on “Specified Anatomical Areas”. An Adult Body Painting Studio does not include a tattoo parlor.

7. Adult Bookstore: Any commercial establishment having as its stock in trade the sale, rental or lease for any form of consideration, any one or more of the following:

   A. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”;

   B. Instruments, devices, or paraphernalia which are designed for use in connection with “Specified Sexual Activities”;

   C. Facilities for the presentation of “Adult Entertainment” as defined herein,

including Adult-Oriented films, motion pictures, video cassettes, video reproductions, slides or other visual representations for observation by patrons therein.

8. Adult Cabaret: A nightclub, bar, restaurant, or similar commercial establishment which features:

   A. Live performances which are characterized or distinguished by the exposure of "Specified Anatomical Areas" or the removal of articles of clothing; or,

   B. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas."

9. Adult Entertainment: Any exhibition of any motion picture, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by any one or more of the following:

   A. Specified Sexual Activities;

   B. Specified Anatomical Areas;

   C. Removal of articles of clothing.

10. Adult Massage Parlor: A commercial establishment with or without sleeping accommodations which provides the service of massage or body manipulation, including exercise, heat and light treatment of the body, and any form or method of physiotherapy, which also provides its patrons with the opportunity to engage in "Specified Sexual Activities."

11. Adult Motel: A hotel, motel or other similar commercial establishment which:

   A. offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, film, motion pictures, video cassettes, video reproductions, slides, or other visual reproductions characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas"; and, has a sign visible from the public right of way which advertises the availability of this type of Adult Entertainment; or

   B. offers a sleeping room for rent for a period of time that is less than 10 hours; or

   C. allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than 10 hours.

12. Adult-Oriented Establishment: Includes Adult Arcade, Adult Bathhouse, Adult Body Painting Studio, Adult Bookstore, Adult Cabaret, Adult Massage Parlor, Adult Motel, Adult Theater, and any commercial establishment presenting Adult Entertainment, whether or not such establishment is operated or maintained for a profit.

13. Adult Theater: An enclosed building such as theater, concert hall, auditorium or other similar commercial establishment that is used for presenting "Adult Entertainment."

14. Agricultural Accessory Use: Any of the following land uses on a farm:

A. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.

B. An activity or business operation that is an integral part of, or incidental to, an agricultural use.

C. A farm residence that existed on May 31, 2015.

D. A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in paragraph (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

E. Any other use that the Department of Agriculture, Trade and Consumer Protection ("DATCP"), by rule, identifies as an agricultural use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

15. Agricultural or Farm Use: Any of the following uses:

A. Any of the following activities:

i. Crop or forage production.
ii. Keeping livestock, horses and poultry.
iii. Beekeeping.
iv. Nursery, sod, or Christmas tree production.
v. Floriculture.
vi. Aquaculture.
vii. Fur farming.
viii. Forest management.
ix. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

B. Any other use that DATCP, by rule, identifies as an agricultural use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.) (Amended by Enrolled Ordinance 170-71, effective 12-31-15.)

16. Agriculture-Related Use: Any of the following uses:

A. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.

B. Any other use that DATCP, by rule, identifies as an agriculture-related use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

17. Apartment: A suite of rooms or a room in a multiple-family dwelling which suite or room is arranged, intended, or designed to be occupied as a residence of single family, individual or group of individuals.

18. 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 a utility company that holds an appropriate easement or has established prescriptive rights under s. 893.28(2), Wisconsin Statutes or the landowner, specifically a person or entity holding fee title to the property, as set forth below:

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 authorized to act as agent under a power of attorney.

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.

(Created by Enrolled Ordinance 161-12, effective 7-13-2006.)
(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

19. Arcade: Any premises containing three (3) or more amusement devices or games usually of an electronic nature, for the primary use of entertainment of the public or the patrons of the establishment.

20. Army Corps of Engineers (ACOE): Federal agency commonly referred to as ACOE.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

21. Base Flood: A flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a Flood Insurance Study and depicted on a Flood Insurance Rate Map. Base floods are numbered A-Zones on the Flood Insurance Rate Map.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

22. Base Flood Elevation (BFE): The elevation of a Base Flood. Commonly referred to as BFE.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

23. Base Setback Line: The ultimate street line as established by the building location provisions of this code and from which all required road setbacks shall be computed.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

24. 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. For Floodplain purposes only, a basement is any enclosed area of a building having its floor sub-grade, i.e. below ground level, on all sides.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

25. Bed and Breakfast Facility: An owner occupied residence often in a building with landmark or historically significant qualities where lodging for paying guests is offered and which offers breakfast to these guests as its only meal.

26. Boathouse: A permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.

(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

27. Boat-livery: See "marina."

28. 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.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

29. Building: Any structure used, designed or intended for the protection, shelter or enclosure of persons, animals or property.

30. Building, Accessory: A building or portion of a building subordinate to and detached from the principal building and used for a purpose customarily incident to the permitted use of the principal building.

Building Footprint: The surface area of all roofed structures on a lot, except for the area of a roof overhang that measures twenty-four inches (24") or less in depth.

31. Building, Height of: The vertical distance measured from the lowest exposed point of a structure to the highest point of any roof.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Amended by Enrolled Ordinance 160-02, effective 05-13-2005.)

32. Building, Principal: The main building on a lot, intended for primary use as permitted by the regulations of the district in which it is located. Any building intended to be used for human habitation shall constitute the principal building, except as in Section 3(r).

33. Bulkhead Line: A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the WDNR pursuant to s. 30.11, Wisconsin Statutes, and which allows limited filling between the bulkhead line and the original ordinary high water mark, except where such filling is prohibited by the floodway provisions of this Ordinance.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

34. Campground: Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by two (2) or more camping units, or which is advertised or represented as a camping area.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

35. Camping Unit: Any portable device used as a temporary shelter, including but not limited to a tent, camping trailer, mobile home, bus, van, or pick-up truck that is fully licensed, if required, and ready for highway use. Any such portable device is not defined as a camping unit if it exceeds 400 sq. ft. in area and is located in the Floodplain.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

36. Channel: A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

37. Conditional Use: A use which may not conform with permitted uses of a category but which may be permitted by the terms of this Ordinance provided that certain conditions specified herein or as may be determined to be necessary by the county and town are required as part of the permit issued by the County Zoning Agency pursuant to this Ordinance.

(Created by Enrolled Ordinance 161-12, effective 7-13-2006.)

38. Contiguous: When referred to in this Ordinance in the context of farmland preservation provisions, contiguous lands or parcels shall mean adjacent to, sharing a common boundary and including lands that are separated by a road, stream or section line.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

39. Contractor's Yard: The exterior premises on which construction and maintenance materials (i.e. salt, sand, cement, decorative block, stone, etc.) or landscaping materials (i.e. sand, gravels, stone, timbers, wood chips, etc.) or construction or maintenance

equipment (i.e. bulldozers, front-end loaders, back-hoes, trucks, trailers, etc.) are stored to be utilized for off-site construction, maintenance, or landscaping purposes. Where landscape materials are stored or sold for retail or wholesale markets and accessory to an otherwise permitted use by right, such uses shall not be considered a Contractor's Yard.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

County Zoning Agency: The committee or commission created or designated by the County Board under Section 59.69(2)(a) Wis. Stats. , to act in all matters pertaining to County Planning and Zoning. Also referred to as Zoning Agency.

40. Clean Fill Disposal Site: A tract of land operated by a public or private agent as a Conditional Use under Section 4 of this Ordinance which involves only materials such as sand, dirt, gravel, concrete or other forms of clean fill material.

41. Crawlspace: An enclosed area below the first usable floor of a Building, generally less than five feet in height, which may be used for access to plumbing, electrical, and other utilities.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

42. Dance Hall: A facility including any room, place or space in which a public dance, public ball with live or amplified music (not including juke box) and live entertainment including shows, disc jockeys, comedy or dramatic acts, is conducted excluding any public or parochial school or church hall when used for public dances sponsored by the school or church authority or of a parent teachers' association.

43. Deck: A structure characterized by a flat open horizontal surface or platform suspended above the grade of the land it covers and which may be supported by posts, beams, cantilever and/or by other methods.

44. Development: Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of principal or accessory structures; the construction of additions or alterations to principal or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of structures; land division layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

45. Development Right: When used in the context of the Farmland Preservation ("FLP") or Farmland Conservancy ("FLC") Districts, the term, Development Right, shall be synonymous with the number of dwelling units and new parcels of less than 35 acres that a farm tracking unit is entitled to create.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

Diameter at Breast Height: The diameter of a tree trunk measured 4.5 ft. above grade.

46. District: An area of land of the County of Waukesha for which the zoning regulations are the same.

47. Dryland Access: A vehicular access route which is above the regional flood elevation and which connects land located in the Floodplain to land outside the Floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

48. Dwelling, Single-family: A Building designed for and occupied exclusively by one (1) family.

49. Dwelling, Multiple-family: A Building or portion thereof designed for and occupied by more than one (1) family, including row houses, duplex houses, town houses and apartments.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

50. 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.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

51. Environmental Corridors: Environmental corridors (Primary, Secondary, and Isolated Natural Resource Areas) are concentrations of key significant natural resource elements including surface water such as lakes, streams, and rivers and their associated undeveloped floodlands and shorelands; woodlands, wetlands, and wildlife habitat; prairie remnants; areas of groundwater discharge and recharge; unfarmed wet, poorly drained and organic soils, rugged terrain and high relief topography; and significant geological formations and physiographic features. In general, Primary Environmental Corridors are concentrations of significant natural resources at least 400 acres in area, at least two miles in length, and at least 200 feet in width. Secondary Environmental Corridors are concentrations of significant natural resources at least 100 acres in area and at least one mile in length (possibly smaller and shorter if considered a primary link). Isolated Natural Resource Areas are concentrations of significant natural resources at least five acres in area and at least 200 feet in width. Generalized environmental corridor boundaries are mapped by the Southeastern Wisconsin Regional Planning Commission, typically at five-year intervals, and precise boundaries are field delineated by or reviewed and approved by the Southeastern Wisconsin Regional Planning Commission Staff. A description of the processes for further defining and delineating 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.

(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Amended by Enrolled Ordinance 169-47, effective 09-09-2014.)

52. Environmentally Significant Areas: Environmentally Significant Areas are lands which are zoned as C-1 Conservancy District or EC Environmental Corridor District, are designated as Primary Environmental Corridor, Secondary Environmental Corridor, or Isolated Natural Resource area on the Waukesha County Comprehensive Development Plan.

(Created by Enrolled Ordinance 161-12, effective 7-13-2006.) (Amended by Enrolled Ordinance 169-47, effective 09-09-2014.) (Amended by Enrolled Ordinance 170-71, effective 12-31-15.)

53. Equalized Assessed Value: The value of a property (either the improvements on the property or the land or both), which is calculated by dividing the assessed value of the subject property established by the local community assessor by the assessment ratio established for the community. This value is indicated on the local tax roll or on the County tax roll and is an expression of the current market value of the subject land or improvement or both. For the purposes of this Ordinance, the valuations utilized will be the valuation of the improvement/s.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

Existing Development Pattern: A pattern of principal structures that exist within two hundred fifty (250) feet of a proposed principal structure in both directions along the shoreline.

54. Farm: All Contiguous land under common ownership that is primarily devoted to Agricultural Use.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

55. Farm Acreage: The size of a farm in acres.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

56. Farm Consolidation: A division of land that includes a farm house or houses and may include existing associated agricultural buildings that splits a limited amount of land from a larger pre-existing farm.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

57. Farm Residence: Any of the following structures that is located on a farm:

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

i. An owner or operator of the farm.
ii. A parent or child of an owner or operator of the farm.
iii. An individual who earns more than 50 percent of his or her gross income from the farm.
iv. A migrant labor camp that is certified under s. 103.92.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

58. Farm Tracking Unit: One or more Contiguous parcels that were part of a single farm or in the same ownership on May 31, 2015 that are designated on the Comprehensive Development Plan for Waukesha County as a Farmland Preservation Area.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

59. Farmland Preservation Area: An area that is planned primarily for Agricultural Use or Agriculture-Related Use, or both, and that is one of the following:

A. Identified as an agricultural preservation area in a farmland preservation plan described in s. 91.12(1), Wis. Stats.

B. Identified under s. 91.10(1)(d), Wis. Stats. in a farmland preservation plan described in s. 91.12(2), Wis. Stats.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

60. Farmland Preservation Plan: A plan for the preservation of farmland in a county, including an agricultural preservation plan under subch. IV of ch. 91, 2007 stats.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

61. FEMA: See Federal Emergency Management Agency.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

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

(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

63. Farm, Fur: A tract of land devoted in whole or in part to the raising of fur bearing animals for commercial purposes.

64. Farm, Pig: A tract of land devoted principally to the raising and feeding of pigs and hogs.

65. Farm, Poultry and/or Egg Production: A tract of land, which may or may not be a part of a larger farm operation, devoted principally to the raising of poultry and/or egg production.

66. Federal Emergency Management Agency: The federal agency that administers the National Flood Insurance Program. Commonly referred to as FEMA.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

67. Flood or Flooding:
A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

A. The overflow or rise of inland waters,

B. The rapid accumulation or runoff of surface waters from any source, or

C. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

68. Flood Frequency: The probability of a flood occurrence, which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

69. Flood Insurance Rate Map: A map of a community on which the Federal Insurance Administration has delineated both Floodplains and the risk premium zones applicable to the community. Commonly referred to as FIRM. This map can only be amended by the Federal Emergency Management Agency.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

70. Flood Insurance Study: A technical engineering examination, evaluation, and determination of the local floodplain areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and Base Flood Elevations and may provide floodway lines. The floodplain areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program. Commonly referred to as FIS.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

71. Flood Profile: A graph or longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

72. Flood Protection Elevation: The elevation corresponding to two (2) feet of freeboard above the Floodplain as defined herein.

73. Flood Stage: The elevation of the floodwater surface above an officially established datum plane. In Waukesha County, the datum plane used shall be NAVD88.

74. Flood Storage or Flood Storage Capacity: Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

75. Floodfringe: That portion of the Floodplain, outside of the floodway, which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

76. Floodlands: See Floodplain.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

77. Floodplain: Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes. Also known as floodlands.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

78. Floodplain Certificate of Compliance: A certification that the construction and the use of

the land or a structure, the elevation of fill, and the lowest floor of a structure are in compliance with all of the floodplain provisions of this Ordinance.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

79. Floodplain Encroachment: Any fill, structure, equipment, use or Development in the Floodplain.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

80. Floodplain Island: A natural geologic land formation within the Floodplain that is surrounded, but not covered, by floodwater during the regional flood.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

81. Floodplain Management: Policy and procedures to insure wise use of Floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

82. Floodproofing: Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities, structures and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage. Such facilities shall be designed to withstand the flood velocities, forces and other factors associated with the regional flood, and which will assure protection of the property to the flood protection elevation.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

83. Floodway: The Channel of a river or stream and those portions of the Floodplain adjoining the Channel required to carry the regional flood discharge.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

84. 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, or garages.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

86. Freeboard: A factor of safety expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated, and include, but not are limited to, ice jams, debris accumulation, wave action, obstructed bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to Development and aggregation of the river or stream bed.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

87. Frontage: The smallest dimension of a lot abutting a public street measured along the street line.

88. Fur-bearing Animals: Animals that are specifically raised for their pelts, including, but not limited to badger, beaver, bobcat, coyote, fisher, fox, lynx, marten, mink, muskrat, opossum, otter, raccoon, skunk, weasel and wolf.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

89. Garage: Any structure where private vehicles are kept for storage purposes only and wherein such use is accessory to the residential use of the property on which it is stored.

Generally Accepted Forestry Management Practices: Forestry management practices that promote sound management of a forest. Generally Accepted Forestry Management Practices include those practices contained in the most recent version of the Wisconsin Department of Natural Resources' (DNR) publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.

90. Grade, Established: The elevation of the finished street at the centerline or curb as fixed by the engineer or by such authority as shall be designated by law to determine such an elevation.

91. Grading, Minor; including filling and land altering activities: Those land altering activities or projects that do not exceed land disturbance greater than three thousand (3,000) square feet in area and/or fifteen (15) cubic yards in aggregate.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

92. 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.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

93. Green Space: A natural or man-made land area not occupied by any structure or impervious surface.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

94. Guesthouse: A structure used principally for the occasional occupancy of guests of the owners, and shall not be leased or rented for human occupancy.

95. Habitable Structure: Any structure or portion thereof used or designed for human habitation.
(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

96. High Flood Damage Potential: Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure and its contents.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

97. Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(Created by Enrolled Ordinance 169-54, effective 10-08-2014.)

98. Highway: A right-of-way, designated on the "Established Street and Highway Width Ordinance" of Waukesha County or other comprehensive system, for the principal purpose of providing vehicular thoroughfare and not necessarily affording direct across to abutting property.

(Cross reference-Highway widths, § 24-26 et seq.)

99. Historic Structure: Any structure that is either:

A. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register, or

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic District or a District preliminarily determined by the Secretary to qualify as a registered historic District, or

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

100. Home Occupation: Any occupation for monetary gain or financial support conducted entirely within the principal residence.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

101. Horticulture: The culture of growing and cultivating fruits, flowers and related plant material.

102. Hotel: See Motel.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

103. Housekeeping Entity: A housing or lodging unit where all of the amenities of bathing and sanitary facilities, eating, cooking, living, sleeping and storage are provided the person or body of persons occupying and living together as a single entity within the unit. A single-family residence or a dwelling unit in a multiple-family structure are deemed to be a single housekeeping entity.

104. Human Habitation: The use of a Building or structure for overnight living or longer periods of time, and including the aggregate of normal occupancy activities such as lounging, cooking, eating, sleeping, bathing, sanitation, etc.

105. Impervious Surface: An area that releases as runoff all or a majority of the precipitation that falls on it. Impervious Surface includes, but is not limited to, rooftops, sidewalks, driveways, parking lots, Decks, patios, sport courts, swimming pools, retaining walls and hot tubs. If these surfaces are specifically designed, built and maintained to encourage infiltration or storage of runoff, and the County determines they meet the exclusion standards of Section 3(t)9 of this Ordinance, they shall subsequently be excluded from the impervious surface calculations of this Ordinance. Frozen soil, roadways (as defined in s. 340.01(54), Wis. Stats. and sidewalks (as defined in s. 340.01(58,) Wis. Stats.) are excluded from this definition.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

106. Increase in Regional Flood Height or Elevation: A calculated upward rise in the Regional Flood Elevation, greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions, which is directly attributable to Development in the Floodplain, but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

Infiltration (or Infiltrate)**:** The entry of precipitation or runoff into or through the soil.

107. In-Law Unit: A room or suite of rooms used or occupied as a separate housekeeping entity and located in a Single-family Dwelling occupied by persons related by blood or marriage to the family or persons occupying the Single-family Dwelling.

108. Junk: Junk means garbage, waste, refuse, trash, any motor vehicle upon which no current license plate is displayed, any inoperable or abandoned motor vehicle, any used tire or used motor vehicle part, and any scrap material such as metal, lumber, furniture, paper, cans or bottles. Any trailer which is required to be licensed by the State of Wisconsin, but which is unlicensed, or any trailer which is abandoned or inoperable is considered junk under this Ordinance.

(Created by Enrolled Ordinance 161-12, effective 7-13-2006.)

109. Kennel, Commercial: An establishment, structure or premises where dogs are raised, sold, bred, or boarded for any length of time 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.

(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

110. Kennel, Hobby: A private, non-commercial establishment, structure, premises or pursuit accessory to the principal use of the property where three (3) or more dogs of six (6) or more months of age are kept for such private purposes as pets, field trials, shows or hobby. The occasional raising of not more than two (2) litters of dogs per year on a premises and the sale or disposal of said dogs within six (6) months of their birth shall also be considered a private hobby kennel.

(Amended by Enrolled Ordinance 170-71, effective 12-31-15.)

111. 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.

(Created by Enrolled Ordinance 169-65, effective 12-23-2010.)

112. Lake, Navigable: Under Wisconsin law includes all natural inland bodies of water of any size, which are capable of floating any boat, skiff or canoe of the shallowest drift used for recreational purposes.

113. Land Altering Activity: Any man-made change of the land surface, including removing vegetative cover which changes the land surface, cutting of trees which changes the land surface, excavating, soil removal, filling, grading, dredging and channel improvements in excess of those limits set forth in Section 3(d) 5., but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens and harvesting of trees, and tree nurseries.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

114. Livestock: Animals which are typically kept for breeding, production of agricultural products, sale or pleasure, including, but not limited to cattle, bovine, emus, llamas, alpaca, pigs, swine, hogs, sows, horses and other equine animals, sheep, goats, farm raised deer, camelids, ratites, farm-raised fish, farm-raised game birds and bison. For purposes of the FLC and FLP Districts, Livestock is defined as bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.) (Amended by Enrolled Ordinance 170-71, effective 12-31-15.)

115. Lot: A parcel of contiguous land with described boundaries and abutting or having access via an approved easement to a public street or other approved way, and exclusive of any land lying in public rights-of-way, mill tax roads, or below the ordinary high water mark of navigable waters. Where public rights-of-way divide a single described parcel into two (2) or more parts, such severed portions shall be considered separate individual lots if such separate parcels individually meet the use regulations, building location and area regulations of the zoning district in which they are located. Where such separate parcels do not meet those requirements and have been described as a single parcel of record, together such severed portions shall be considered to be a single lot for regulatory purposes under the provisions of this Ordinance, and such severed areas shall not be sold separately. See Section 3(j) to determine how area regulations are applied to a Lot.

116. Lot Area: The area of a lot as defined herein bounded by lot lines exclusive of land provided for public rights-of-way, mill tax roads, and lands below the ordinary high water mark of navigable waters.

117. Lot Depth: The mean horizontal distance measured between the street line and the opposing rear lines of the lot.

118. Lot, Legal Nonconforming: Any lawfully created lot or parcel which existed at the time of passage of this Ordinance or any amendment thereto, which does not meet the current dimensional requirements of the District in which it is located.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

119. Lot Lines: The lines bounding a lot as defined herein.

120. Lot Line, Shore: The abutting ordinary high water mark of navigable waters.

121. Lot Line, Side: A lot line extending from a street line towards the interior of the block and separating adjoining lots.

122. Lot of Record: A platted lot or lot described in a Certified Survey Map, which has been approved by the Town and has been recorded in the office of the Waukesha County Register of Deeds, or a metes and bounds description of a lot which has been recorded in the Waukesha County Register of Deeds Office prior to the adoption of this original Ordinance (June 23, 1970).

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

123. Lot Width, Minimum Average: The average horizontal distance measured between side lot lines at the established Base Setback Line and the rear lot line or ordinary high water mark of a navigable waterway. The Zoning Administrator shall determine where to measure lot width on an irregular shaped lot. A newly created Lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the length of the lot.

124. Lowest Adjacent Grade: The elevation of the lowest ground surface that touches any of the exterior walls of a Building.

(Created by Enrolled Ordinance 169-54, effective 10-08-2014.)

125. Lowest Floor or Level: The lowest floor or level of the enclosed area in a Building, including Basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a Building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of FEMA regulations contained in 44CFR 60.3.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Created by Enrolled Ordinance 169-54, effective 10-08-2014.)

126. Maintenance: The act or process of restoring to original soundness, including redecorating, refinishing (such as painting, decorating, or paneling), non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or equipment.

(Created by Enrolled Ordinance 169-54, effective10-08-2014.)

127. Marina: A tract of land contiguous to a body of water and including any piers, wharves or docks extending into the water and below the ordinary high water mark and/or any structure upon that tract of land where the commercial mooring at docks or buoys (dry or

wet), maintenance, repair, refueling or selling of boats and/or accessories for boats take place. For purposes of this Ordinance, the word commercial describing marina activities occurring at piers, docks or wharves such as mooring, dockage or repair, is the act of receiving remuneration, either in monetary payments or other services or privileges, and where the use of the property or water is purchased by persons other the riparian owner or not more than the unrelated four (4) persons, defined herein by the word "family," who dwell on the parcel.

Mitigation: Balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through Development and human activities.

128. Mobile Home: A structure or vehicle which is used, titled and registered as living quarters, and contains sleeping accommodations, a flush toilet, a tub or shower bath, kitchen facilities, and plumbing and electrical connections for attachment to outside systems; and is designed for transportation after fabrication on streets or highways on wheels and arrives at the site where it is to be occupied complete and ready for occupancy except for minor and incidental unpacking and assembly operations, locations on jacks or other temporary or permanent foundations, connections to utilities, and the like. A mobile home is not considered a recreational vehicle as defined herein.

129. 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.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

130. Model, Corrected Effective: A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

(Created by Enrolled Ordinance 169-54, effective 10-08-2014.)

131. Model, Duplicate Effective: A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

(Created by Enrolled Ordinance 169-54, effective 10-08-2014.)

132. Model, Effective: The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

(Created by Enrolled Ordinance 169-54, effective 10-08-2014.)

133. Model, Existing (pre-project): A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the Floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

(Created by Enrolled Ordinance 169-54, effective 10-08-14.)

134. Model, Revised (post-project): A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

(Created by Enrolled Ordinance 169-54, effective 10-08-2014.)

135. Modular Home (also called manufactured or pre-fabricated/pre-cut home): A principal structure which is partially pre-assembled at a manufacturing plant and placed together or erected on a lot or parcel as a dwelling unit or units (also called "pre-fabricated" or "pre-cut" homes or "double-wide" units) meeting the requirements of all applicable state and local building codes.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

136. Motel (also Hotel): A Building or series of Buildings, with or without the availability of meals being served in a restaurant associated with the facility, in which short term lodging (not a housekeeping entity) and normally not exceeding two (2) weeks in duration, is offered for the traveling public for compensation and which may have more than five (5) individual sleeping rooms, or grouping of rooms (or a suite) or units and toilet and bathing facilities for the purpose of overnight sleeping and which is distinguished from a hotel primarily by reason of providing direct independent access to each room and adjoining parking for each room or unit. Such facilities shall provide longer term housing (normally more than two (2) weeks) to persons or groups of persons as a residence as such uses are considered Apartments with each unit serving as a single housekeeping entity.

137. Motor Vehicle: Motor vehicle means any automobile, truck, trailer, tractor, bus, vehicle or other conveyance that is self-propelled by an internal combustion engine or motor, and for the purposes of this Ordinance shall include but not be limited to boats, recreational vehicles, all-terrain vehicles, motorized farm equipment and mobile machinery, motorcycles and snow mobiles.

(Created by Enrolled Ordinance 161-12, effective 7-13-2006.)

138. Municipality: A County, City, Village, or Town.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

139. NAVD: See North American Vertical Datum.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

140. NGVD: See National Geodetic Vertical Datum.
(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

141. National Geodetic Vertical Datum: Elevations referenced to mean sea level datum, 1929 adjustment. Commonly referred to as NGVD.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

142. Navigable Waters/Waterway: Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under Wis. Stat. § 281.31(2(d) (2013),

notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stat. § 59.692,(2016) and Wis. Admin. Code ch. NR 115 do not apply to lands adjacent to:

A. Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and

B. Artificially constructed drainage ditches, ponds, or stormwater retaining basins that are not hydrologically connected to a natural navigable waterway.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

143. Navigational Structures: Those man-made objects constructed adjacent to or within floodlands and/or shorelands for the purpose of siding navigation.

144. New Floodplain Construction: Structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by Waukesha County and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of floodplain construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

145. Nonconforming Structure, Legal: A Building, structure, or portion thereof, lawfully existing at the time of passage of this Ordinance, but which does not conform in one or more respects to the regulations of this Ordinance.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

146. Nonconforming Use, Legal: The use of a Building or land lawfully carried on-at the time of the passage of this Ordinance or amendments thereto, but which does not conform to the use regulations established by this Ordinance.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

147. Nonfarm Residence: A single-family or multi-family residence other than a Farm Residence.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

148. Nonflood Disaster: Has the meaning of Chapter 87, Wisconsin Statutes, regarding flood control, specifically a fire or an ice storm, tornado, windstorm, mudslide or other destructive act of nature, but excludes a flood.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

149. North American Vertical Datum: Elevations referenced to mean sea level datum, 1988 adjustment. Commonly referred to as NAVD.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

150. 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.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

151. 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.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

152. 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.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

153. Obstruction to Flow: Any Development which blocks the conveyance of floodwaters such that this Development alone or together with any future Development will cause an increase in regional flood elevation.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

154. Offset: The horizontal distance measured from the side or rear lot line, not along a street, to any roofed or enclosed portion of a Building, and not including roof overhang, as defined herein, of twenty-four (24") inches or less.

155. Open Space: Land area used for recreation, agriculture, resource protection, amenities for recreational purposes or buffers.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

156. Open Space, Common: Lands which are open space and owned in common by individuals within a Development or land trusts or other private conservation organizations, if access is available to the public, and as may be agreed to in the approval of the Development by the plan commission of the local community and either the zoning administrator or the zoning agency.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

157. Open Space, Public: Lands that are open space, dedicated and owned by a public entity, such as a town, city, village, county or other public entity, and used for a public purpose.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

158. Ordinary High Water Mark: The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high water mark.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

159. Outdoor/Indoor Recreational Facilities: Land and structures, along with accessory equipment, designed and utilized for leisure time activities of a predominantly "outdoor or indoor" nature and of having a more specific purpose such as tennis courts, swimming pools, basketball or racquetball courts, ice arenas, etc., other than passive park-like open areas, and further classified as follows:

Public: Facilities owned and operated by a governmental agency for limited or general public use.

Private Commercial: Facilities owned and operated by an individual, group, or corporation for profit as a business whether or not opened to general public use.

Private Non-Commercial Group: Facilities owned and operated by a group for the exclusive use of the members of such group and their guests and not for profit as a business.

160. Overhang: That portion of a roof over a structure and designated as an integral part of the structure, which extends from the outer wall of the structure to the eave. Rain gutters are not included or considered part of the overhang.

161. Parent Parcel: The term parent parcel, when used in the Farmland Preservation District or Farmland Conservancy District, shall mean a parcel, as it existed, on January 1, 1997.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

162. Patio: A structure characterized by a flat, open, horizontal surface or platform 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 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.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

163. Permitted Use: A use that is allowed without a conditional use permit, special exception, or other special zoning permission but that may require a zoning permit or other approval as specified in this Ordinance.

(Created by Enrolled Ordinance 170-71, effective 12-31-15.)

164. Person: An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

Pervious Area: An area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests and similar vegetated areas are examples of surfaces that typically are pervious.

165. Pierhead line: A boundary line established along any Section of the shore of any navigable waters by a municipal ordinance approved by the WDNR, pursuant to Section 30.13 of the Wisconsin Statutes. Piers and wharves are only permitted to the landward side of such pierhead lines unless a permit has been obtained pursuant to Section 30.12 of the Wisconsin Statutes.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

166. Plan Commission: The local town plan commission established under village powers pursuant to Chapter 61 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."

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

167. Planned Unit Development (PUD): is a Development strategy, process or procedure whereby a relatively large parcel of land is developed for a specific use in such a way as to provide specific benefits to the community as well as the developer and future citizens who will reside with the Development, and when the normal application of standards and requirements are waived or made more flexible, and which shall contain substantial amounts of common open space for aesthetic, natural preservation or recreational purposes.

168. Planned Unit Development, Mixed: A Planned Unit Development which is a mixture of retail, service uses, industrial uses or residential uses. Buildings associated with open space and recreational uses, either public or private, shall be considered part of the open space use.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

169. Planting Screen: An area landscaped with natural growing plant material sufficiently dense and of adequate height at the time of planting so as to effectively screen off from vision the object it is intended to hide from view.

170. Porch/Stoop: A functional element of the ingress/egress of a principal structure allowing for easy and convenient passage between the exterior and interior of said structure. For the purposes of regulation in this Ordinance a stoop is considered to be twenty (20) square feet or less whereas a porch exceeds twenty (20) square feet in area.

171. Poultry: Poultry means domesticated birds kept for eggs or meat or as pets.

(Created by Enrolled Ordinance 161-12, effective 7-13-2006.)

172. Practical Difficulty: That circumstance where special conditions affect a particular property and make strict compliance with the dimensional standards of the Ordinance regarding area, setbacks, offsets, width, height, Building Footprint, or accessory building footprint unreasonable and prevent a property from being utilized for a permitted purpose in conformance with the use regulations of the zoning district in which the property is located or would render conformity with such restrictions unnecessarily burdensome.

173. Private Club: A Building or grounds used for regular or periodic meetings or gatherings of a group of Persons organized for a nonprofit purpose, but not groups organized to render a service customarily carried on as a business.

174. Private Sewage System: A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than a structure.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

175. Professional Office: The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other similar recognized profession.

176. Public and Semi-public Buildings: Structures principally of an institutional nature and serving a public need such as: hospitals, rest homes, schools, including private academic schools and nursery schools, libraries, museums, post offices, police and fire stations, public and private utilities and other public services; but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

177. Public Utilities: Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

178. Pyramiding: The act of obtaining or providing access to public bodies of water across private lots or lands in a manner that increases the number of families that have access to that water to a degree greater than what would occur with individual riparian owners having individual lots fronting on the water. The effect of pyramiding is to funnel backlot Development from offshore lots or residences via a narrow parcel of land to provide access to the water. Publicly owned access points shall not fall within this definition.

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

(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

180. Reach: A longitudinal segment of a stream generally including those floodlands wherein flood stages are primarily and commonly controlled by the same man-made or natural obstructions to flow.

181. Recreational Vehicle: Motorized vehicles that include a cabin for living accommodations, are commonly used for recreational travel and touring and do not exceed 400 square feet when measured at the largest horizontal projection. Vehicles included in this category come in several forms: travel trailers, tent trailers and camping trailers, all of which must be towed by another vehicle; and truck campers, motor homes and camper vehicle, all of which have a motor within the body of the vehicle and are self-propelled.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

182. Regional Flood: A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the Flood Insurance Rate Map, the regional flood elevation is equivalent to the Base Flood Elevation. A regional flood may also be determined by other studies approved by the WDNR.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

183. Regional Flood Elevation: The elevation of the regional flood. Commonly referred to as RFE.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

184. Refuse Disposal Site: A tract of land operated by a public or private agent, subject to restrictions of use and under supervision and where more than one (1) family may take all types of refuse, including organic and inorganic wastes (but excluding human excreta, sewage, and/or other liquid wastes) for compacting and burial by sanitary land fill methods. Hard or clean fill operations involving materials such as sand, dirt, gravel, concrete or other forms of clean fill material shall not constitute refuse disposal sites for the purposes of this Ordinance.

Residence: See Dwelling(s).

185. Restaurant: Includes any Building, room or place wherein meals or lunches are prepared, served or sold to transients or the general public, and all places used in connection therewith. Meals or lunches shall not include soft drinks, ice cream, milk, milk drinks, ices and confections. The serving in taverns of free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall not constitute such taverns to be restaurants. The term restaurant does not apply to churches, religious, fraternal, youth or patriotic organizations, service clubs and civic organizations which occasionally prepare or serve or sell meals or lunches to transients or the general public, nor shall it include any private individual selling foods from a movable or temporary stand at public farm sales. Section 254.61(5) Wisconsin Statutes.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

186. 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.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

187. Road: A public or private right-of-way usually affording primary access to abutting property.

Road, Local: A public road that is not a county, state or federal highway.

188. Roadside Stand: A farm building used or intended to be used solely by the owner or

tenant of the farm on which such Building is located for the sale of farm products raised on said farm.

Routine Maintenance of Vegetation: Normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

Runoff: Water from rain, snow or ice melt that moves over the land surface via sheet or channelized flow, and is also referred to as Stormwater.

189. SEWRPC: See Southeastern Wisconsin Regional Planning Commission.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

190. Sand or gravel pits: See "Quarrying."

191. 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).

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

192. 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.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

193. 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.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

Setback, Floodplain: The horizontal distance between the closest point of a structure or Building and the Regional Flood boundary, excluding a roof overhang measuring twenty-four inches (24") or less. The floodplain setback only applies if the setback area is located within the two tenths percent (0.2%) floodplain as designated by FEMA.

194. Setback, Road: The horizontal distance between the Base Setback Line and the closest point of a principal or accessory structure, excluding a roof overhang measuring twenty-four inches (24") or less.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

195. Setback, Shore: The horizontal distance between the closest point of a structure or Building and the Ordinary High Water Mark of a Navigable Waterway. Defined as "shoreland setback area" in Wis. Stat. § 59.692(1)(bn), (2016), it also means an area in a shoreland that is within a certain distance of the Ordinary High Water Mark in which the construction or placement of structures has been limited or prohibited under an ordinance

enacted under Wis. Stat. § 59.692 (2016).

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

Setback, Wetland: The horizontal distance between the closest point of a structure or Building and the wetland boundary, excluding a roof overhang measuring twenty-four inches (24") or less.

196. Shorelands: Those lands within the following area: One thousand (1,000) feet from the Ordinary High Water Mark of navigable lakes, ponds or flowages; three hundred (300) feet of the Ordinary High Water Mark of navigable rivers or streams, or to the landward side of the Floodplain (as defined herein), whichever distance is greater.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

197. Shoreland/Wetlands: Those wetland areas that lie within the shoreland and floodland jurisdiction of this Ordinance and that have been designated as such on the Final Wisconsin Wetlands Inventory Maps for Waukesha County prepared by the WDNR as depicted on the WDNR Surface Water Data Viewer (http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland). Also, see definition of Wetland..

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

Shoreland-Wetland Zoning District: A District comprised of shorelands that are designated as wetlands on the Wisconsin Wetland Inventory Maps prepared by the WDNR as depicted on the WDNR Surface Water Data Viewer (http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland).

198. Shorelines: The intersection of the land surfaces abutting lakes, ponds, streams, flowages, and wetlands with the average annual high water elevation.

199. Sign: Any structure or device displaying advertising in the form of lettering, pictures, symbols or other media.

200. 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 and such features include, but are not limited to, the location, size, area, species, density, habitat value, slope, connectivity, whether the trees are native and indigenous, and the unique characteristics of all trees in good health.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

201. Southeastern Wisconsin Regional Planning Commission: The official area-wide planning agency for the southeastern region of Wisconsin. Commonly referred to as SEWRPC.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

202. Special Exception: Special Exception means a request for a minor adjustment to the requirements of this Ordinance only where specifically authorized by this Ordinance,

owing to special conditions of the property. The special exception must be necessary and desirable and must not adversely affect adjacent property owners. A special exception differs from a variance in that a special exception does not necessarily require the demonstration of an unnecessary hardship or practical difficulty. In the granting of a special exception, the approving body must still consider whether the proposed special exception 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 restrictions or conditions they deem necessary for the protection of adjacent properties and the public interest and welfare.

(Amended by Enrolled Ordinance 161-12, effective 7-13-2006.)

203. Specified Anatomical Areas:

A. Less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or

B. Human male genitals in a discernibly turgid state, even if opaquely covered.

204. Specified Sexual Activities: Includes any of the following, simulated or actual:

A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

B. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus.

C. Showing of human genitals in a state of sexual stimulation or arousal.

D. Excretory functions during a live performance, display or dance of any type.

205. Stable, Boarding: A tract of land or structure where horses or other livestock are kept for hire, boarding, sale or used for commercial recreational purposes.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

206. Stable, Private: A tract of land or structure where horses or other livestock are kept for personal use by the property owner or occupant of the principal residential structure on the property.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

207. Start of Construction: This definition only applies to those structures located in the Floodplain. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a Basement, footings, piers or foundations or the erection of temporary forms, nor does

it include the installation on the property of Accessory Buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a Building, whether or not that alteration affects the external dimensions of the Building.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

Stormwater: Same meaning as the term Runoff.

Stormwater BMP: A structural best management practice that is designed to collect or manage the quantity or quality of Stormwater for an indefinite time period, following adopted County or State technical standards. Some examples include, but are not limited to: pervious pavement, rain garden, infiltration trench or basin, green roof, bio-swale, filter strip, constructed wetland, bio-retention basin, wet detention basin, or any combination of these or other permanent stormwater management practices approved by the County.

208. 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 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.

(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

209. Streambank and Shoreline Stabilization Structures (SSSS) (formerly known as seawalls): Mechanical erosion and sediment control structures or devices which afford protection measures to stream banks and lake shorelines from the adverse effect of wind, waves, and water and which abate the depletion of the soil and land area adjacent to the water (i.e., rock riprap).

210. Street: Same as "Road."

211. Street, Arterial: Arterial Street means a road providing for efficient, safe and direct connection to or separation of developed areas for circulation to destinations outside the developed area and deemed as such on the "Established Street and Highway Width Map for Waukesha County" or other official map adopted by the municipality.

(Created by Enrolled Ordinance 161-12, effective 7-13-2006.)

212. Street, Collector: Collector Street means a road providing for circulation to serve local traffic moving between minor streets and arterial streets as designated on the "Established Street and Highway Width Map for Waukesha County" or other official map adopted by the municipality.

(Created by Enrolled Ordinance 161-12, effective 7-13-2006.)

213. Street, Frontage: A street contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property.

214. Street, Minor: Minor Street means any other road not deemed as a collector or arterial street on the "Established Street and Highway Width Map for Waukesha County" or other official map adopted by the municipality.

(Created by Enrolled Ordinance 161-12, effective 7-13-2006.)

215. Street Line: A dividing line between a lot, tract or parcel of land and a contiguous street.

216. Structural Alterations: Any change in the supporting members of a Building or any substantial change in the roof structure or in the exterior walls.

217. 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, Principal and Accessory Buildings (including garages, sheds, Boathouses, porches and gazebos), signs, swimming pools, hot tubs, patios, Decks, sidewalks, walkways, firepits, 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 eighteen (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.

(Amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

218. 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.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

219. Subdivision: Has the meaning given in Section 236, Wisconsin Statutes.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

220. Substantial Damage: Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

221. Substantial Improvement: Any repair, reconstruction, rehabilitation, addition or improvement of a Building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered Substantial Improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a Building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(Created by Enrolled Ordinance 169-54, effective 10-08-14.)

222. Sustained Yield Forestry or Silviculture: The management of forested lands, including planting, thinning, and harvesting, to provide annual or periodic crops of forest products.

(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

223. Swimming Pool: A structure, above or at ground level, designed to hold water more than thirty (30) inches deep for the purpose of swimming.

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

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

225. Trailer: See "Mobile Home."

226. Trailer Camp: See "Mobile Home Park."

(Amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

227. Tourist Home: A Building in which lodging, with or without meals, is offered to transient guests for compensation, and having no more than five (5) sleeping rooms for this purpose with no cooking facilities in any such individual room or Apartment.

228. Traffic Artery: Same as "highway."

229. Unnecessary Hardship: Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this Ordinance.

(Amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

230. Use, Accessory: A use subordinate to and customarily incident to the permitted principal use of the property or Buildings and located upon the same lot as the principal use.

231. Use, Principal: The main or primary use of property or Buildings as specified and permitted by the regulations of the District in which it is located.

232. Variance: Variance means an authorization granted by the Board of Adjustment to construct or alter a Building, land use or structure in a manner that deviates from this Ordinance.

(Amended by Enrolled Ordinance 161-12, effective 7-13-2006)

233. Vision Setback: An unoccupied triangular space, at the street corner lot, as established by Section 3(h).

(Ord. of 11-5-84, §§ I, II: Ord. No. 141-44, §§ III-XVIII, 7-22-1986)

234. WDNR: See Wisconsin Department of Natural Resources.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

235. Water Surface Profile: A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating Floodplain areas.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

236. Watershed: The entire region contributing runoff or surface water to a watercourse or body of water.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

237. Well: Excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

Wetlands: Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

238. Wisconsin Department of Natural Resources: The State agency commonly referred to as WDNR.

(Created by Enrolled Ordinance 163-55, effective 11-13-2008.)

239. Youth-facility: means any facility where minors gather for education or recreational activities including but not limited to playgrounds, swimming pools, libraries, licensed child-care facilities or youth clubs.

240. Zoning Administrator: Defined in Section 41(b).

(Created by Enrolled Ordinance 169-54, effective 10-08-2014.)

241. 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.

(Created by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 2(a), formerly Section 2.01, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

SECTION 3 GENERAL PROVISIONS

(a) Jurisdiction and Mapping

1. The jurisdiction of this Ordinance shall apply to all structures, land, and water including those lands within the unincorporated Floodland and Shoreland areas, which are those lands within one thousand (1,000) feet from the Ordinary High Water Mark of navigable lakes, ponds or flowages; three hundred (300) feet of the Ordinary High Water Mark of navigable rivers or streams, or to the landward side of the Floodplain (as defined herein), whichever distance is greater , and located within the boundaries of Waukesha County, Wisconsin. Statutory exemptions apply as specified in Section 3(b)4 of this Ordinance. Determinations of navigability and Ordinary High Water Mark location shall initially be made by the Zoning

Administrator or WDNR. When questions arise, the Zoning Administrator shall contact the appropriate office of the WDNR for a final determination of navigability or Ordinary High Water Mark. The County may work with surveyors with regard to s. 59.692(1h), Wis. Stats. (2016).

Originally, the Waukesha County Board of Supervisors on June 23, 1970 adopted one (1) inch equals one thousand (1,000) feet individual township Shoreland and Floodland zoning maps as part of this Ordinance. These areas of jurisdiction were redrawn and indicated on four (4) square mile aerial photographs at a scale of one (1) inch equals four hundred (400) feet and were made a part of this Ordinance. As a result of ongoing large scale topographic mapping and survey projects conducted under Section 87.31, Wisconsin Statutes and pursuant to county needs, additional topography maps at a scale of one (1) inch equals two hundred (200) feet with contour intervals of two (2) feet were also made a part of this Ordinance where said maps contained greater detail and information relative to information pertinent to said Shoreland and Floodland areas. Together with the one (1) inch equals four hundred (400) feet aerial photographs referenced above, these maps amended and replaced the original one (1) inch equals one thousand (1,000) feet township zoning maps previously adopted and referred to above for the specific land areas covered within the area for which the Shoreland and Floodland jurisdiction has been shown thereon.

The county has converted the previously referenced maps into a digital format using the Geographic Information System (GIS) to allow for greater access to the mapping information. Paper copies are on record in the Waukesha County Department of Parks and Land Use-Planning and Zoning Division office. The maps are converted by town area and the Shoreland and Floodland areas are mapped using up-to-date Floodplain, navigability, elevation, Wetland, and parcel information, as well as historical information contained on the aforementioned one (1) inch equals four hundred (400) feet aerial photographs. The scale of the map differs by town, but in general are one (1) inch equals one thousand (1000) feet. These new maps supersede the aforementioned aerial and contour maps as they are completed and approved by the Plan Commission and the County Board.

The boundaries of the Floodplains and Wetlands shall be those areas designated as such on the above-referenced maps and as described in Section 6(b) of this Ordinance. For Floodplain Management purposes, the regulated Floodplain boundary shall be that as set forth in the FEMA Flood Insurance Rate Maps or as depicted as the C-1 or EFD, Districts on the official zoning map, whichever boundary designates a greater Floodplain area. Where a stream is subsequently identified or determined to be navigable, and was not previously subject to Shoreland and Floodland Ordinance jurisdiction, said navigable stream and the lands bordering it, which meet the conservancy zoning district standards for mapping, shall immediately be subject to the jurisdiction of this Ordinance, including those requirements such as floodplain and wetland setback requirements and other water quality related issues. Subsequently, upon processing and approval of an amendment to include the entire area along said stream or water course within the Shoreland jurisdiction and the holding of requisite hearings pursuant to the provisions of this Ordinance, all Shoreland areas and provisions attendant thereto shall fall under the jurisdiction of this Ordinance.

2. Where Lots are partially within the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance and partially within the jurisdiction of a town zoning ordinance, the Waukesha County Shoreland and Floodland Protection Ordinance shall regulate as follows:

A. Structures. For any Structure that is located partially or fully within the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance, Waukesha County shall regulate the portion of the Structure that is within the County's jurisdiction, which must comply with all structure location regulations of this Ordinance, with the measurements to be made based upon the full dimensions of the Lot. The height of Structures shall be measured from within the County's jurisdiction. Minimum square footage shall be measured based upon the entire square footage of the Structure that is partially or fully within the Countys jurisdiction. Maximum Building Footprint shall be measured based upon the entire Building Footprint of the Structure(s), and as applied to total square footage of the Lot and shall include the square footage of all Structures on the Lot.

B. Uses. Any use that is conducted partially or fully within the Waukesha County Shoreland and Floodland Protection Ordinance jurisdiction must comply with the use regulations of this Ordinance.

C. Lots. Any Lot that is located partially or fully within the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance must comply with the lot area regulations of the Waukesha County Shoreland and Floodland Subdivision Control Ordinance which are cross-referenced within this Ordinance.

D. Other. In order to ensure that the intent of this Code can be preserved within the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance, in situations not specified above, the regulations of this Code shall apply as follows: Where this Ordinance regulates issues based upon the entire dimensions of the Lot, and the owner seeks to make a change on a portion of a Lot that is in the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance, the County shall regulate the matter arising within the Waukesha County Shoreland and Floodland Protection Ordinance jurisdiction based upon the entire dimensions of the Lot and the Structures and uses thereon. Where this Ordinance regulates issues that are not based on the entire dimensions of the Lot, Waukesha County shall regulate solely the activities conducted within the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance. Activities conducted solely outside of the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance are not regulated by this Ordinance.

(b) **Compliance**

1. No Structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered and no land or water areas shall be hereafter used or altered within the floodland and shoreland areas of Waukesha County without either a zoning or conditional use permit where changes are being proposed and without full compliance with the provisions of this Ordinance and other local, county, state, and federal regulations. Sections 59.692(1k)(a)2, 4, and (b), Wis. Stats. (2016) prohibit counties from requiring any approval, imposing any fee, or requiring Mitigation for the activities specified in Section 3(o)A.i. of this Ordinance. An expansion of a Structure beyond the Building Footprint may be allowed if necessary to comply with applicable state or federal requirements. Other permits or approvals and associated fees may be imposed to enforce all other provisions of this Ordinance and ordinances adopted pursuant to other

statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater management.

2. Proposed Development sites shall be reasonably safe from Flooding, meaning that any subsurface waters related to the Base Flood will not damage existing or proposed structures and Base Flood waters will not inundate the land or damage structures that are removed from the Floodplain in compliance with the standards of Section 8-Existing Floodplain Overlay Development District. If a proposed Development site is in a flood-prone area, all new Floodplain construction (as defined by this Ordinance) and Substantial Improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages; and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

   Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals, including mobile home parks, shall include Regional Flood Elevation and Floodway data and all Floodplain submittal requirements of Section 3(c)2. Adequate drainage shall be provided to reduce exposure to Flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate Flood damages.

3. No local permit for construction or Development shall be issued within unincorporated Shoreland and Floodland areas of Waukesha County until the county zoning permit has been issued.

4. Statutory exemption for farm drainage ditches and artificial waterways: Under Sections 87.30(1m) and 281.31(2m) of the Wisconsin Statutes, this Ordinance does not apply to non-structural uses of lands (i.e., pasture, cultivation) adjacent to farm drainage ditches or artificially constructed drainage ditches, ponds, or Stormwater retention basins if the following situations exist:

   A. Such lands are not located within the Floodplain or adjacent to a natural stream or river.

   B. Those parts of the drainage ditches adjacent to these lands were non-navigable streams before ditching and are maintained in nonstructural agricultural use.

   C. The artificially constructed drainage ditches, ponds or Stormwater retention basins are not hydrologically connected to a natural navigable waterway.

   Should a question arise as to the applicability of this Section, an interpretation shall be sought as provided for under Section 42(b) of this Ordinance or by the WDNR. The submission of plans and supporting documentation shall be required to enable the staff or the WDNR to make a finding to support the claim of exemption. Where farm drainage ditches exist and the Agricultural Uses are terminated, and the lands are changed to urban uses, this exception expires and the subject stream and shoreland and floodland areas shall fall under all provisions and the jurisdiction of this Ordinance.

   However, regardless of the Agricultural Use of the land, any Building and Structure is subject to the provision of this Ordinance relative to size, location or other matters relating to Buildings and Structures.

(c) **Zoning, Occupancy and Use Permits**

1. Zoning, occupancy and use permits: No Structure, land or water or part thereof located in the unincorporated Shoreland or Floodland areas of Waukesha County shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered until: first, a county sanitary permit has been issued, where applicable, by the County health department unless municipal sewer is available in which case no sanitary permit is required; and second, a county zoning permit has been issued by the county zoning administrator, certifying that such activity complies with the provisions of this Ordinance; and third, a conditional use permit, where applicable, has been issued by the County Zoning Agency certifying that such activity complied with the provisions of this Ordinance. Such permits shall be obtained before any change is made in the type of use or before any Nonconforming Use is resumed, changed, extended or granted Conditional Use status pursuant to Section 3(o) of this Ordinance. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Ordinance and obtain all necessary permits. State agencies are required to comply unless exempted by Section 13.48(13), Wisconsin Statutes. However, where the substantive terms and objectives of this Ordinance have been addressed and fulfilled by the WDNR where concurrent (WDNR and county) jurisdiction with this Ordinance exists, so as to avoid duplication of effort, the terms of this Ordinance shall not be imposed, unless development activities are proposed within the Floodplain. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when Section 30.2022, Wisconsin Statutes, applies, however, the State must comply with the National Flood Insurance Program regulations.

2. Application: 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 and the location and elevation of existing and future access roads.

      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.

x. All existing and proposed Impervious Surfaces on riparian lots and non-riparian lots located entirely within three hundred (300) feet of the Ordinary High Water Mark of a Navigable Waterway.

xi. All existing native trees within three hundred (300) feet of the Ordinary High Water Mark of a Navigable Waterway that are identified in Table 3(d)9.B as a priority tree and that are at least twelve (12”) inches in Diameter at Breast Height.

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 Floodproofing measures, and the Flood zone as shown on the FIRM.

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 hydraulic and hydrologic study completed under the direct supervision of a professional engineer registered in the State of Wisconsin. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the WDNR. The study shall comply with the standards of Section 3(c)7.

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. 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 of the 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, but not

limited to those required by the U.S. ACOE 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.

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 Dwelling, 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, 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 Stormwater 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.

L. *Accommodations for persons with disabilities*: The Zoning Administrator may issue a permit to modify the standards of this Ordinance in order to provide reasonable accommodations as required by provisions of federal and state law. Such modification shall be the minimum necessary to be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer used by the disabled person(s). A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the modification requested is the minimum necessary to provide reasonable use of the facility. The reasonable accommodations shall be evidenced by an instrument that is reviewed and approved by the Zoning Administrator and recorded in the Office of the Register of Deeds.

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.

4. Expiration: All permits issued for Development in the Floodplain shall expire no more than one hundred eighty (180) days after issuance. The permit may be extended for a maximum of one hundred eighty (180) days for good and sufficient cause. Unless specifically conditioned otherwise, the following expiration provisions apply to all other permits: 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. 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 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.

5. Temporary occupancy and use permit: Pending the issuance of a regular permit, a temporary permit may be issued for a period not exceeding six (6) months during the completion of alterations or during partial occupancy of a Building pending its permanent occupation. Such

temporary permit shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants. A temporary permit shall be voided if the Building fails to conform to the provisions of this Ordinance to such a degree as to render it unsafe for the occupancy proposed. A minimum requirement shall be the installation of sanitary facilities which have been approved by the county health department.

6. 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 Stormwater 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.

7. Hydraulic and hydrologic study requirements to analyze Development in the Floodplain:

A. *Zone A Floodplains*:

i. Hydrology: The appropriate method shall be based on the standards in Wis. Admin. Code § NR 116.07(3), *Hydrologic Analysis: Determination of Regional Flood Discharge.*

ii. Hydraulic modeling: The Regional Flood Elevation shall be based on the standards in Wis. Admin. Code § NR 116.07(4), *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

a. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, and culvert) to determine adequate starting Water Surface Elevation (WSEL) for the study.

b. Channel sections must be surveyed.

c. Minimum four-foot contour data in the overbanks shall be used for the Development of cross section overbank and Floodplain mapping.

d. A maximum distance of five hundred (500) feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the Channel at each location.

e. The most current version of Hydrologic Engineering Centers River Analysis System (HEC-RAS) shall be used.

f. A survey of bridge and culvert openings and the top of road is required at each structure.

g. Additional cross sections are required at the downstream and upstream limits of the proposed Development and any necessary intermediate locations based on the length of the reach if greater than five hundred (500) feet.

h. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past Flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.

i. The model must extend past the upstream limit of the difference in the existing and proposed Flood Profiles in order to provide a tie-in to existing studies. The height difference between the proposed Flood Profile and the existing study profiles shall be no more than 0.00 feet.

iii. Mapping: A work map of the reach studied shall be provided, showing all cross section locations, Floodway/Floodplain limits based on best available topographic data, geographic limits of the proposed Development and whether the proposed Development is located in the Floodway.

a. If the proposed Development is located outside of the Floodway, then it is determined to have no impact on the Regional Flood Elevation.

b. If any part of the proposed Development is in the Floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

B. *Zone AE Floodplains*

i. Hydrology: If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Wis. Admin. Code § NR 116.07(3), *Hydrologic Analysis: Determination of Regional Flood Discharge.*

ii. Hydraulic model: The Regional Flood Elevation shall be based on the standards in Wis. Admin. Code § NR 116.07(4) , *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

a. Duplicate Effective Model: The Effective Model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

b. Corrected Effective Model: The Corrected Effective Model shall not include any man-made physical changes since the effective

model date, but shall import the model into the most current version of HEC-RAS for WDNR review.

c. Existing (Pre-Project Conditions) Model: The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.

d. Revised (Post-Project Conditions) Model: The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed Development. This model shall reflect proposed conditions.

e. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

f. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the Effective Model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

iii. Mapping: Maps and associated engineering data shall be submitted to the WDNR for review which meet the following conditions:

a. Consistency between the revised hydraulic models, the revised Floodplain and Floodway delineations, the revised Flood Profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

b. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

c. Annotated FIRM panel showing the revised 1% and 0.2% annual chance Floodplains and Floodway boundaries.

d. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.

e. The revised Floodplain boundaries shall tie into the effective Floodplain boundaries.

f. All cross sections from the Effective Model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.

g. Both the current and proposed Floodways shall be shown on the map.

h. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(d) **Site Regulations**

1. 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 a particular 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. An Accessory Building is considered attached to and part of a Principal Building only if the attachment consists of a Breezeway that is at least a minimum of eight (8) feet in width and a maximum of twenty (20) feet in length and is enclosed on all sides. For Floodplain purposes only, any Structure attached to a principal structure is considered part of the principal structure. No Accessory Building shall be constructed until the Principal Building is under construction or completed, and no Accessory Building shall remain on a Lot 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 Lot 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 Lot 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 rescission 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 parcel 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.

2. Buildings or Creation of Lots on a Private Street or Way: The intent of this provision is to discourage the creation of lots and placement of structures which do not have adequate access for emergency vehicles and equipment and to provide a right-of-way width which could accommodate a public right-of-way, if necessitated in the future. Subject to the approval of the Plan Commission and the County Zoning Agency, a parcel may be created

and a Building may be permitted on a tract of land which does not abut or have direct frontage on a public street or officially approved way (frontage on a controlled access highway or a freeway where vehicular access is prohibited does not constitute access or frontage for the purposes of this provision) provided such tract of land is at least three (3) acres in area and has a minimum average width of two hundred (200) feet, has access by a permanent easement at least thirty-three (33) feet in width to a public street or way, will have a paved or gravel driveway width of at least twelve (12) feet, unless a local ordinance is in effect which requires a greater width, and does not conflict with the plans for the future Development of streets in the area.

Typical or normal lots with lot lines radiating from the terminus or center of a public cul de sac street are not affected by this provision that requires minimum road frontage on a public street. In a situation where more than one (1) principal residence or parcel is proposed, the easement for access shall be at least sixty-six (66) feet in width and the paved or gravel drive shall be sixteen (16) feet in width, unless required to be greater pursuant to a local ordinance. Where such a lot has a narrow strip of land as part of the lot (not as an approved easement) extending to the public road from the main part of the lot where the Building could lawfully be placed (flag lot), such narrow portion shall not constitute frontage or part of the three (3) acre lot size requirement unless that narrow portion of the lot is as wide as the required minimum average width for the District in which it is located. Not more than two (2) such parcels or Buildings shall be permitted unless necessitated by exceptional circumstances.

3. <u>Junk and Undesirable Buildings or Structures</u>

A. Junk, as defined by this Ordinance, shall at all times be stored in an enclosed Building thereby securing it from the view of the public and adjacent property owners.

i. This subsection is not intended to regulate or place limitations on any property properly zoned junk yard, salvage dealer, or other junk, waste disposal or storage activity for which a valid license from the State or Wisconsin or other necessary municipal issuing authority is required and proper permits have been issued and all such licenses and permits are in full force and effect and the operation is in full compliance therewith.

ii. This subsection is not intended to regulate or place limitations on the storage of idle, but operable farm equipment on farms greater than thirty-five (35) contiguous acres or the storage of inoperative or abandoned farm equipment on farms greater than thirty-five (35) contiguous acres if such inoperative or abandoned farm equipment is screened from the view of the public and adjacent property owners by a natural or man-made visual barrier.

iii. This subsection is not intended to regulate or place limitations on the storage of idle but operative snow removal vehicles or equipment, or lawn mowing equipment.

iv. This subsection is not intended to regulate or place limitations on the orderly storage of firewood for fuel.

v. This subsection is not intended to regulate the temporary storage of construction materials which are for use on the site for the project

authorized by an active zoning permit and which are stacked, stored and secured on the site in an orderly method.

B. No Building or Structure shall be erected, structurally altered or relocated in a manner which shall be of such character as to adversely affect the nearby properties or general desirability of the neighborhood. The determination by the Plan Commission shall be stated in writing, including the reason for denying a permit or conditions of approval for a permit, and may be based upon considerations that the design or appearance is of such an unorthodox or abnormal character as to have an adverse effect on the nearby properties or general desirability of the neighborhood.

4. Street grade: Every Building hereafter erected, structurally altered, or relocated shall be at a grade approved by the deputy zoning administrator as being in satisfactory relationship with the established street grades, or with the existing street grade where one is established, with particular consideration for proper drainage, safe vehicular access, and flood hazards.

5. Preservation of Topography: In order to protect property owners from possible damage due to changes in the existing grade of adjoining lands, minimize erosion, sedimentation, and the impairment of fish and wildlife habitat, and to aid in preserving and protecting the natural scenic beauty and character of the landscape, the following regulations, unless exempted by Wisconsin Statutes or other Sections of this Ordinance shall apply:

A. *Within Floodlands*:

i. Permits required:

a. Onsite sewage disposal facilities are prohibited and not permitted unless authorized specifically by another provision of this Ordinance or other County ordinance.

b. Dredging and pond construction are 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.

c. Any Structure or Building, which is to be erected, constructed, reconstructed, structurally altered or moved into the Floodplain and where the Floodplain has been authorized to be filled, must comply with all provisions of the applicable zoning district in Section 7 or 8 of this Ordinance.

d. With the exception of the following activities, the placement of fill, excavation, or other land altering activities require a Conditional Use Permit per Section 4(g)14 of this Ordinance and a rezone per Section 39 of this Ordinance. Necessary amendments shall be made to the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Section 39 of this Ordinance. The exceptions are as follows:

1. The proposed use is permitted in Section 7, C-1 Conservancy District or Section 8 Existing Floodplain

Development Overlay District.

2. The fill, excavation, or other land altering activities do not exceed 15 cubic yards of material or three thousand (3,000) square feet of area and the fill, excavation, or other land altering activities are not located in a wetland. In such case, a Minor Grading Permit is required.

ii. Standards for Development: The following standards must be met for any fill, excavation, or other land altering activities within the Floodplain, unless the provisions of Section 39 are met:

a. Floodplain Development must not impede drainage.

b. Floodplain Development must not reduce the Flood water storage capacity of the Floodplain.

c. Floodplain Development must not result in an increased Regional Flood Elevation of 0.00 ft. due to Floodplain Storage area lost.

d. Floodplain Development must not obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development.

e. Compensatory storage is required for all areas of authorized fill on a minimum of a one-to-one basis, which equals one hundred percent (100%) replacement of any lost Floodplain Storage Capacity. Excavation below the groundwater table is not considered to provide an equal volume of storage. Compensation must be provided in a manner that is not deleterious to other property or the quality of any Wetlands. The area of compensatory Floodplain storage shall be provided in the immediate area of the fill activity and shall not result in an increase in Floodplain elevations on upstream or downstream properties.

f. If compensatory storage cannot be provided and the area is identified on the WDNR Flood Storage maps, Section 39(f)2.F shall be complied with in addition to the other rezone criteria specified in Section 39.

B. *Within Shorelands*--grading, Clean Fill Disposal Sites, topsoil removal, filling, alteration or enlargement of waterways, removal or placement of stream or lake bed materials, excavation, channel cleaning and clearing, ditching, drain tile laying, dredging, lagooning and soil and water conservation structures are Conditional Uses and must be approved in accordance with Section 4(g)14 of this Ordinance except as may otherwise be permitted in Sections 3(d)5.C and D or 7(c)1. In addition, such uses may require a permit from the state agency having jurisdiction pursuant to Chapter 30 of the Wisconsin Statutes and, where applicable, a federal permit from the U.S. Army Corps of Engineers. All such uses and activities shall be consistent with the uses permitted in the C-1 Conservancy District and EFD Existing Floodplain Development Overlay District, if they occur within said District. If the proposed activity requires a rezoning of the lands, Section 39 of this Ordinance must

be complied with.

Any alteration or relocation of a watercourse in a mapped Floodplain shall not be approved until the Zoning Administrator has notified in writing all adjacent municipalities, the WDNR and FEMA regional offices and required the Applicant to secure all necessary state and federal permits. The standards of Section 3(d)5.A.ii. must be met and the Flood carrying capacity of any altered or relocated watercourse shall be maintained consistent with preexisting conditions prior to any alterations taking place. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Section 39, the community or Applicant shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the WDNR through the LOMC process.

C. 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.

D. Streambank and Shoreline Stabilization: Streambank and shoreline stabilization structures and minor grading, filling and land altering activities associated with the stabilization structures may be permitted administratively in shoreland areas and without a conditional use permit and in conformance with best management practices promulgated by the Department of Parks and Land Use, Land Resources Division when located outside of conservancy/wetland areas, and within the regional flood and where the site is above the Ordinary High Water Mark, subject to the following:

i. Said project may be authorized administratively through the granting of a minor grading permit (zoning permit) when the following standards are satisfied:

a. Submittal of a complete and accurate set of plans which include a contour map at a scale of not less than 1" = 200' at a contour interval of at least two (2) foot increments, a vegetation plan and schedule, the period of construction activity, the methods used during and after construction to provide protection from the forces of erosion and sedimentation upon adjacent land and waterbody, and how the project will relate to adjoining property.

b. An administrative determination that the project has no public impact on or will not adversely affect adjacent or surrounding properties and that the activity will serve to prevent erosion and sedimentation of the surrounding area on the adjacent waterbody.

c. The review and written approval, if necessary, of the WDNR, ACOE and FEMA.

d. Entering into a stipulated agreement with the County concerning the scope of work, type of material used, method of construction, final grades, re-establishment of vegetative cover, date of completion and any other items deemed appropriate.

e. The performance of such land altering activity must not impede drainage, reduce the floodwater storage capacity of the floodland, obstruct flows, or increase the regional flood elevation. If the proposed activity does not meet these standards, the project may be

allowed subject to approval pursuant to Section 4(g)14 and rezoning in accordance with Section 39. If the project would result in an increase in flood elevations, compensating flood storage capacity shall be provided on a one-to-one basis, which equals 100% replacement of any lost floodplain storage capacity.

f. The project must not be located in a wetland.

6. (Reserved)

7. Agricultural Uses: Sod farming, tillage, grazing, livestock watering and feeding and application of fertilizers shall be prohibited unless conducted in accordance with good soil and water conservation practices promulgated by the U.S.D.A. Soil Conservation Service in its technical guide. Crop production on lands with an erosion factor of three (3) or more on the U.S.D.A. Soils Map is prohibited and such lands shall be planted to permanent vegetation. Where Agricultural Uses, including grazing, occurs next to navigable water, in accordance with sound land management practices, a buffer strip of permanent vegetation not less than one (1) rod (16 1/2 feet) wide, should be maintained where possible, to protect the bank of the waters from erosion and the effects of weathering and the water from the effects of sedimentation and pollution.

8. Surface Water Withdrawal: Diversion, or discharge for irrigation, processing, cooling, or other purposes are Conditional Uses requiring review and approval by the zoning agency in accordance with Section 4(g) of this Ordinance. The zoning agency shall then advise the state agency having jurisdiction under Chapters 30 and 281 of the Wisconsin Statutes of its findings prior to the issuance of the required state permits and federal permits as may be required by the U.S. Army Corps of Engineers.

When the substantive terms of this provision are met through the application of the Wisconsin Statutes, Department of Natural Resources Administrative Code or the requirements of the U.S. Army Corps of Engineers, a separate action of the zoning agency pursuant to Section 3(c)1 of this Ordinance is unnecessary.

9. Vegetation Removal: Vegetation removal in Shoreland areas is regulated to promote the preservation and restoration of native vegetation and protect natural scenic beauty, fish and wildlife habitat and water quality. The following standards, together with the standards of Section 3(d)5 and the Waukesha County Stormwater and Erosion Control Ordinance, ensure sound forestry and soil conservation practices and are intended to address the effects of vegetation removal on water quality, including soil erosion and the flow of effluents, sediments and nutrients.

A. *Vegetation Removal within thirty-five (35) feet of the Ordinary High Water Mark*: 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 of a Navigable Waterway is considered a vegetation buffer zone and the removal of vegetation is prohibited, except as follows provided a permit is obtained in accordance with subsection D:

i. Routine Maintenance of Vegetation is permitted, as defined in this Ordinance, without a permit.

ii. Removal of trees and shrubs within the vegetative buffer zone is allowed in

order to create an Access and Viewing Corridor. The Access and Viewing Corridor shall not exceed thirty-five percent (35%) of the Shoreland frontage of the property and shall include all improvements, such as Boathouses, boat hoists, and walkways. A property is limited to one (1) Access and Viewing Corridor unless the Zoning Administrator determines that two (2) Access and Viewing Corridors are reasonable due to site conditions such as slope, existing improvements, lake access limitations, or shape of the property.

iii. Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard may be permitted, provided that any vegetation removed shall be replaced by replanting in the same area as soon as practicable.

iv. Removal of trees and shrubs in the vegetative buffer zone on a parcel with ten (10) or more acres of forested land consistent with "Generally Accepted Forestry Management Practices" as defined in s. NR 1.25 (2) (b), Wis. Adm. Code, and described in Department publication "Wisconsin Forest Management Guidelines" (publication FR-226), provided that vegetation removal shall be consistent with these practices.

v. Additional vegetation management activities may be permitted within the vegetative buffer zone to enhance natural plant communities. The permit shall require that all vegetation management activities comply with detailed plans approved by the County. Plans shall be designed and implemented to control erosion and limit sedimentation into the waterbody. Plant communities shall be improved by replanting in the same area that removal occurs. Newly restored areas shall be monitored and maintained over time. An enforceable deed restriction shall be prepared and reviewed and approved by the Zoning Administrator and recorded in the Office of Register of Deeds to ensure preservation of the newly restored area.

B. *Protection of Priority Trees within three hundred (300) feet of the Ordinary High Water Mark*: Healthy native trees that are identified in the Priority Tree Species List contained within Table 3(d)9.B that are twelve inches (12") or more in Diameter at Breast Height and that are located within three hundred (300) feet of the Ordinary High Water Mark of a Navigable Waterway shall be preserved, with the following exceptions:

i. Trees that are dead, diseased, dying, or that create an imminent safety hazard.

ii. Trees that are located within a designated Access and Viewing Corridor, as provided in subsection A above.

iii. Trees that conflict with the placement of permissible Structures, driveways, utilities, or septic systems, including trees located within thirty (30) feet of any of the above planned improvements. The Zoning Administrator may allow for additional tree removal beyond thirty (30) feet of planned improvements to accommodate reasonable grading. Any tree removed as

part of this subsection must be replaced with a tree of at least two inches (2") or more Diameter at Breast Height elsewhere on the Lot, within three hundred (300) feet of the Ordinary High Water Mark.

iv. Priority trees, regardless of size, that are located within an area designated as C-1 Conservancy District or C-1 Conservancy Overlay District or E-C Environmental Corridor District or E-C Environmental Corridor Overlay District are subject to the standards of Sections 7 and 9, respectively.

C. *Vegetation Removal within an area designated as C-1 Conservancy District, C-1 Conservancy Overlay District, E-C Environmental Corridor District or E-C Environmental Corridor Overlay District*: Vegetation removal must comply with the standards specified in the respective Zoning District. Routine Maintenance of Vegetation beyond thirty-five (35) feet from the Ordinary High Water Mark of a Navigable Waterway to the lakeside of a residence is permitted.

D. *Permitting Requirements*: The following permitting requirements apply to vegetation removal permitted within this Section:

i. A Shoreland Cutting Zoning Permit is required for any vegetation removal permitted within this Section, except for routine maintenance allowed under subsection A.i., to ensure compliance with the above provisions.

ii. Tree replacement, as required in subsections A and B above, must be completed at a one-to-one (1:1) ratio. If a tree that is removed is healthy, it shall be replaced with a native tree with a minimum size of two inches (2") Diameter at Breast Height. If a tree that is removed is dead, diseased, dying, invasive or causes an imminent safety hazard, it shall be replaced with a native tree with a minimum size of one inch (1") Diameter at Breast Height.

iii. Shrubbery and groundcover removal outside of an Access and Viewing Corridor, including invasive species removal, shall be replaced with native shrubbery and groundcover densities specified in the Wisconsin BiologyTechnical Note 1: Shoreland Habitat. Please see following link: http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCSBioTechNote.pdf or a hard copy may be viewed at the Waukesha County Planning and Zoning Division office.

iv. Vegetation replacement standards of subsections ii. and iii. above may be modified if the Zoning Administrator approves a report prepared by a qualified professional and/or if the Zoning Administrator determines that the replacement is not practical due to soil conditions, crowding, or other site specific conditions. A modified replacement plan, prepared by a qualified professional, may be required in order to ensure compliance with the purpose and intent of this Section.

v. A Shoreland Cutting Plan shall be prepared when three (3) or more trees or more than three hundred (300) square feet of groundcover or shrubbery are proposed to be removed <u>or</u> when any native tree or shrubbery is proposed to be removed without replacement, including tree removal within the Access and Viewing Corridor. The following information shall be identified on the

Shoreland Cutting Plan:

a. A scaled survey of the property, including all existing and proposed improvements, Wetlands, Floodplain, Environmental Corridors and topography of the land.

b. Location of Access and Viewing Corridor, if applicable.

c. An inventory of existing vegetation within the project area, including location, type, and size of trees and location, type and density of shrubs and groundcover.

d. Identification of proposed vegetation removal and reason for removal. The Zoning Administrator has the authority to request that a certified arborist verify that a tree is diseased, dying, dead or causes harm due to overcrowding.

e. Location, type, and size or density of vegetation replacement, including a three (3)-year performance plan.

f. Timetable for completion and method of erosion control.

vi. *Implementation and Long-Term Maintenance*: In order to ensure that the above standards are implemented and maintained over time, the following standards apply:

a. The Zoning Administrator shall establish a deadline for the replacement of vegetation based on the individual request and site limitations.

b. If a Shoreland Cutting Plan is required for the replacement of vegetation, a financial guarantee may be required for the amount required to have a professional contractor implement the plan to ensure that the plan is properly implemented.

c. The enforceable obligations, including the location of the established Access and Viewing Corridor (if applicable) and long-term maintenance requirements, shall be evidenced by a deed restriction reviewed and approved by the Zoning Administrator and recorded in the Office of the Register of Deeds.

10. <u>Adequate drainage required</u>:

A. 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, or relocated, and no below grade Structures shall be expanded on

newly created or existing Lots that are not in compliance with the site drainage standards contained in the Waukesha County Stormwater 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. 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.

B. In the event the Applicant disputes the necessity for or the adequacy of the site drainage standards 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 Stormwater 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 Stormwater Management and Erosion Control Ordinance.

11. Site Protection*:* Any property disturbed with land altering activities as may be authorized through the issuance of a zoning permit or a conditional use permit, shall be required to protect the disturbed land surface of the lot or building site that is susceptible to erosion while under construction and which is not occupied with Buildings, dedicated parking areas or other hard surfaced areas with suitable stabilization measures. Said disturbed areas shall be permanently stabilized and continuously maintained with suitable vegetative cover or other approved landscape material and shall be required to conform with the provisions of the Waukesha County Stormwater Management and Erosion Control Ordinance and the Uniform Dwelling Code for one and two family dwellings, when applicable. A Letter of Credit or other forms of financial guarantee to ensure performance may be required by the building inspector, plan commission, the zoning administrator, zoning agency or the Waukesha County Department of Parks and Land Use, Land Resources Division.

(e) **Use Regulations**

1. Uses Restricted: In any District, no Building or land shall be used and no Building shall be hereafter erected, structurally altered or relocated except in conformance with the regulations hereinafter established for the District in which the property is located, or as otherwise provided in this Ordinance. Where a change in use, change of ownership or operator or a new use of a Building or premises is proposed in any Business, Industrial District or Public and Institutional District, a Site Plan and Plan of Operation shall be prepared for review and approval pursuant to Section 3(c)6 of this Ordinance. Where a change in ownership or

operator of a Building or premises is proposed in any Business, Industrial District or Public and Institutional District or at the site of a legal non-conforming use or a Conditional Use, a Plan of Operation shall be prepared for review and approval pursuant to Section 3(c)6 of this Ordinance.

2. Accessory Uses: In any District, Accessory Buildings and uses customarily incident to the permitted uses in that District shall be permitted subject to such requirements as may be hereinafter designated for that District in which they are located. No pyramiding as defined herein shall be permitted on any lands fronting on a lake except as may be specifically permitted accessory to a marina or resort and which may be allowed under the terms of a conditional use permit for a Planned Unit Development.

3. Unclassified Uses: Any use not specifically listed as a permitted use or Conditional Use shall be considered to be prohibited except as hereinafter provided. Where deemed appropriate the Plan Commission and Zoning Agency shall have the authority to authorize uses not specifically enumerated or authorized under other procedures or zoning districts under the terms of Section 4(g)28 of this Ordinance and shall state in writing the justification for allowing or denying said application for Conditional Use.

4. 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 after recommendation by the Plan Commission or Zoning Administrator may be removed pursuant to the procedures outlined by the Wisconsin Statutes.

5. Any residence whose design includes provisions or is intended to be used, for more than one single housekeeping entity as defined herein, shall be considered a Multiple Dwelling as defined herein and are allowed only as Conditional Uses as provided for in Section 4 of this Ordinance.

(f) **Sanitary Regulations**

1. No Building, Structure, area or premise shall be constructed, structurally altered, located or maintained for human occupancy, use or assembly without adequate facilities for the sanitary and safe disposal of all human excreta together with all liquid and solid wastes that could be hazardous to the public health and safety or create objectionable nuisance conditions. Such facilities must fully comply with the provisions of the Waukesha County Community Health Code. (Cross reference-Community Health Code, App. E.)

2. No County zoning permit shall be issued until a safe and adequate water supply and sewage disposal system is assured and until after the county sanitary permit has been issued. No occupancy and use permits shall be issued for a Building used for residential purposes unless provisions have been made in accordance with the requirements of the Waukesha County Community Health Code. (Cross reference-Community Health code, App. E.)

3. Outhouses prohibited: No outhouse or privy shall be hereafter erected.

(g) **Water Performance Standards**

1. Compliance: This Ordinance permits specific uses in specific Districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or District. All structures, lands and waters shall hereafter, in addition to their use, site, sanitary, floodland and shoreland regulations, comply with the following performance standards.

2. Water quality protection: No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash-into surface or subsurface waters so as to contaminate, pollute, or harm such waters; or cause nuisances such as objectionable shore deposits, floating, or submerged debris, oil, or scum, color, odor, taste, or unsightliness; or be harmful to human, animal, plant, or aquatic life.

3. In addition, no activity shall withdraw water or discharge any liquid, gaseous, or solid materials so as to exceed the minimum standards and the application of those standards set forth in chapters NR 102, 103 and 104 of the Wisconsin Administrative Code, and applicable standards of any federal agency for all interstate and intrastate surface waters of Waukesha County.

4. In addition, the following water quality standards, as set forth in chapter NR102 of the Wisconsin Administrative Code, shall be maintained:

   A. Minimum standards.

   B. Recreational standards-full body contact recreational uses.

   C. Fish and aquatic life.

(h) **Building Location**

1. Road Setback

   A. Base Setback Lines, from which building setback shall be measured, are hereby established for all streets and highways in the county as follows, unless otherwise specified by action of the County Zoning Agency.

      i. On all streets or highways for which the ultimate width has been established by the Highway Width Ordinance of Waukesha County, the Base Setback Line shall be located at a distance from the centerline equal to one-half such established width as designated on the "Established Street and Highway Width Map of Waukesha County."

      ii. On all other streets, which shall be designated as "local streets" the Base Setback Line shall be at least thirty-three (33) feet from the centerline of such street or sixty (60) feet from the center point of a cul-de-sac unless specifically designated otherwise by action of the County Zoning Agency.

iii. When a lot abuts a frontage road, the Base Setback Line shall be located at a distance from the centerline equal to one-half the right-of-way width of said frontage road.

iv. Such setback lines shall be parallel to and measured at right angles to the centerline of the street or highway.

v. 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.

B. Vision setback lines at the intersections of public streets or highways and of a street or highway with a railroad, where the grade is not separated, are hereby established as follows:

i. Across each sector between the intersection of a street or highway with a railroad, a vision setback line shall be established by a straight line, connecting points on the Base Setback Line and the railroad right-of-way line, which points are located one hundred twenty (120) feet from the intersection of the Base Setback Line and the railroad right-of-way line.

ii. Across each sector between intersecting streets or highways, one (1) or more of which has an established width of one hundred (100) feet or more, a vision setback line shall be established by a straight line connecting two (2) points on the intersecting Base Setback Lines, which points are located sixty (60) feet distant from the intersection of said Base Setback Lines.

iii. Across each sector between any other intersecting streets a vision setback line shall be established by a straight line connecting two (2) points on the intersecting Base Setback Lines, which points are located thirty (30) feet distant from the intersection of said Base Setback Lines.

C. No Principal or Accessory Building shall be hereafter erected, altered, horizontally added to, relocated or placed closer to the Base Setback Line than the Road Setback distance specified by the regulations for the District in which such Building is located except as specified here-in-after:

i. Building within Road Setback on one side only: If there is a Building which has less than the required Road Setback, with a similar use as the proposed Building, the average of the Road Setback of that Building and the required minimum Road Setback shall apply, provided that the existing Building is on an adjacent Lot, is located within two hundred fifty (250) feet of the proposed Building and is located on the same side of the road.

ii. Buildings within Road Setback on both sides. If there are two (2) Buildings

which have less than the required Road Setback, with similar uses as the proposed Building, the average of the Road Setbacks of those Buildings shall apply, provided that the existing Buildings are on adjacent Lots, are located within two hundred (250) feet of the proposed Building and are located on the same side of the Road.

iii. Addition to an existing Building within Road Setback. In the case of a proposed addition to an existing Building which has less than the required Road Setback, the Road Setback of such existing Building may be used to determine the required Road Setback for the proposed addition, as set forth below:

a. If there are no existing Buildings with a similar use as the Building with the proposed addition on either of the adjacent Lots on the same side of the Road, the average of the Road Setback of the existing Building and the required Road Setback shall apply to the addition.

b. If there is only one existing Building with a similar use as the Building with the proposed addition on an adjacent Lot on the same side of the Road, the average of the Road Setback of the existing Building and the existing Building on the adjacent Lot shall apply to the addition.

c. If there are existing Buildings with similar uses as the Building with the proposed addition on both adjacent Lots, but one of the adjacent Buildings is located further from the Road than the existing Building with the proposed addition, the average of the Road Setback of the existing Building and the Building on the adjacent Lot located closest to the Road shall apply to the addition.

iv. Road access to lake – Road Setback relief. The required Road Setback shall be modified to the required Offset of the District in which the Lot is located if the only purpose of the road is to provide access to the lake.

v. If the above exceptions do not apply and an improvement or an addition is proposed to an existing nonconforming structure, the provisions of Section 3(o) apply.

D. No other Structures of any kind, except necessary highway and traffic signs, Retaining Walls, open stairs extending six (6) feet or less from the enclosed portion of the structure, open stairs in combination with stoops and/or porches which are unenclosed and provide no more than twenty (20) square feet in area and extend no more than six (6) feet from the enclosed portion of the structure, public utility lines, rural mailboxes, and those signs permitted in a residential or agricultural district shall be hereafter erected, altered or placed within such base setback area. Monuments and Entrance Gates are structures which require a zoning permit and shall be located at least ten (10) feet from the Base Setback Line and shall not restrict safe access and visibility of the intersecting drive and the road and shall be subject to review and approval by the plan commission and the zoning administrator and the applicable municipality having jurisdiction over the road or highway.

E. In the vision setback area no structure of any kind shall be permitted which exceeds a height of two (2) feet above the elevation of the center of the intersection, except for necessary highway and traffic signs, public utility lines, and open fences through which there is clear vision, nor shall any plant material be permitted which obscures safe vision of the approaches to the intersection.

F. Additions to and replacements of existing structures may be made within the established road right-of-way as set forth by Section 3(h)1.A of this Ordinance, subject to approval of the Town Board and the Waukesha County Board of Adjustment, provided the owner will file, with the Waukesha County Register of Deeds, an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this Ordinance at his expense, when said right-of-way is necessary for the improvement of the highway.

G. In all cases where any of the highways for which setback lines are established by this Ordinance are located on municipal boundaries, such establishment shall apply only within the unincorporated area.

H. On corner Lots of Record, as of the date of adoption of this Ordinance, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than thirty (30) feet. Where such reduction would result in an area narrower than thirty (30) feet after applying the offset reduction, the Zoning Administrator shall have the authority to modify the setback or offset provision to the extent necessary to minimize the encroachment on both the offset and setback standard while maintaining the thirty (30) feet area required herein.

2. Shore, Floodplain, and Wetland Setback: Every Structure shall have a setback of at least seventy-five (75) feet from the Ordinary High Water Mark of a Navigable Waterway and Wetland. Every Structure shall have a setback of at least thirty-five (35) feet from the regional floodplain if the setback area is located within the two tenths percent (0.2%) floodplain as designated by FEMA. If the two tenths percent (0.2%) floodplain boundary does not extend thirty-five (35) feet from the regional floodplain, the setback shall be the two tenths percent (0.2%) floodplain boundary. The following exceptions apply: (see also Section 37, Delafield Shoreland Overlay District, for more restrictive shore setback provisions adjacent to Pewaukee Lake):

A. Boathouses may be permitted in accordance with Section 3(s) of this Ordinance.

B. Boat hoists and piers may be erected on the bed of Navigable Waters pursuant to Chapter 30 of the Wisconsin Statutes and Section 3(d)5.C of this Ordinance.

C. Under the authority of Section 59.692(1v), Wisconsin Statutes, the Zoning Administrator may grant a special zoning permit for a Structure that extends closer than seventy-five (75) feet to the Ordinary High Water Mark of a navigable body of water if all of the following requirements are met, but in no case is a Structure exempt from the Floodplain or Wetland Setback requirements:

i. The part of the Structure that is nearest to the water is located at least thirty-five (35) feet landward from the Ordinary High Water Mark.

ii. The total Floor Area of all structures in the shore setback area of the property shall not exceed two hundred (200) square feet. In calculating the square footage, Boathouses shall be excluded.

iii. The structure that is subject to the request for special zoning permission has no sides or has open or screened sides.

iv. The Zoning Administrator shall review a plan submitted by the Applicant which shall be subject to the Zoning Administrator's approval and which will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least seventy (70) percent of half of the shore setback area that is nearest to the water. The Zoning Administrator is authorized to require implementation of the vegetative buffer plan prior to the issuance of the zoning permit for the Structure.

D. 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 Floodplain and Wetlands. 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 Floodplain and Wetlands. A Retaining Wall is not a Structure that can be used in the setback averaging provisions below to reduce the shore or wetland setback requirements for any other Building or Structure, including Retaining Walls themselves.

E. A single stairway, rail system or walkway, determined by the Zoning Administrator, due to steep topography or severe soil limitations, to be necessary for access to a Navigable Waterway, shall be exempt from the shore, floodplain and wetland setback requirements provided the width of the stairway, rail system or walkway does not exceed five (5) feet, subject to the issuance of a Zoning Permit. If the walkway is proposed in an area designated as Wetland, the walkway shall be constructed on pilings. If the walkway is proposed in an area designated as Floodplain, it shall comply with the standards for Floodplain Development in Section 7(c)2 of this Ordinance.

F. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are two (2) meters or less in diameter.

G. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. SPS 383, Wis. Admin. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control Stormwater runoff from the Structure.

H. Devices or systems used to treat runoff from Impervious Surfaces.

I. *Shore Setback Averaging*: Where there is a development pattern with principal Structures having Shore Setbacks less than seventy-five (75) feet from the Ordinary High Water Mark of a Navigable Waterway, , the setback requirements for new principal Structures or additions to principal Structures shall be allowed to be

reduced in accordance with the following setback averaging formulas, however, if more restrictive, the setback averaging provisions of the Delafield Shoreland Overlay District shall apply to properties zoned as such, in accordance with Section 37 of this Ordinance:

i. Where there are existing principal Structures in both directions, the Shore Setback shall equal the average of the distances that the two existing principal Structures are set back from the Ordinary High Water Mark provided all of the following are met:

a. Both of the existing principal Structures are located on an adjacent Lot to the proposed principal Structure.

b. Both of the existing principal Structures are located within two hundred fifty (250) feet of the proposed principal Structure and are the closest principal Structures.

c. Both of the existing principal Structures are located less than seventy-five (75) feet from the Ordinary High Water Mark.

d. The average setback shall not be reduced to less than thirty-five (35) feet from the Ordinary High Water Mark of any Navigable Waterway.

ii. Where there is an existing principal Structure in only one direction, the setback shall equal the distance that the existing principal Structure is set back from the Ordinary High Water Mark and the required setback of seventy-five (75) feet from the Ordinary High Water Mark provided all of the following are met:

a. The existing principal Structure is located on an adjacent Lot to the proposed principal Structure.

b. The existing principal Structure is located within two hundred fifty (250) feet of the proposed principal Structure and is the closest Structure.

c. The existing principal Structure is less than seventy-five (75) feet from the Ordinary High Water Mark.

d. The average setback shall not be reduced to less than thirty-five (35) feet from the Ordinary High Water Mark of any Navigable Waterway.

iii. 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, patios, Retaining Walls, swimming pools or sports courts.

iv. 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 and sports courts.

J. *Wetland Setback Averaging*: Where there is a Development pattern with principal Structures having setbacks less than seventy-five (75) feet from the Wetland, the setback requirements for new principal Structures or additions to principal Structures shall be allowed to be reduced in accordance with the following setback averaging formulas but in no case shall the setback be reduced to less than thirty-five (35) feet:

i. Building within Wetland Setback on one side only: If there is a Principal Building that is located less than seventy-five (75) feet from the Wetland with a similar use as the proposed Building and located on an adjacent Lot on one side of the proposed Building and within two hundred fifty (250) feet of the proposed Building, the average of the Wetland Setback of that Building of similar use and the required minimum Wetland Setback shall apply.

ii. Buildings within Wetland Setback on both sides: If there are two Principal Buildings which are located less than seventy-five (75) feet from the wetland with similar uses as the proposed Building and located on adjacent Lots on each side of said Building and within two hundred fifty (250) feet of the proposed Building, the average of the Wetland Setbacks of those Buildings of similar use shall apply.

iii. Addition to an existing Building within Wetland Setback: In the case of a proposed addition to an existing Principal Building which has less than the required Wetland Setback, the Wetland Setback of such existing Building may be used to determine the required Wetland Setback for the proposed addition, as set forth below.

a. If there are no existing Buildings with a similar use as the Building with the proposed addition on either of the adjacent Lots, the average of the Wetland Setback of the existing Building and the required Wetland Setback shall apply to the addition.

b. If there is only one existing Building with a similar use as the Building with the proposed addition on an adjacent Lot, the average of the Wetland Setback of the existing Building and the existing Building on the adjacent Lot shall apply to the addition.

c. If there are existing Buildings with similar uses as the Building with the proposed addition on both adjacent Lots, but one of the adjacent Buildings is located further from the Wetland than the existing

Building with the proposed addition, the average of the Wetland Setback of the existing Building and the Building on the adjacent Lot located closest to the Wetland shall apply to the addition.

iv. In applying these wetland setback averaging formulas to a proposed Principal Building or addition to a Principal Building, the wetland 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, swimming pools or sports courts.

v. In applying these wetland setback averaging formulas to a proposed Structure, such as a Deck or patio, which is immediately adjacent to the Principal Building, the wetland setback measurements may be taken from other Principal Buildings or immediately adjacent Structures, such as Decks or patios, but not from retaining walls, swimming pools and sports courts.

K. The effect of the Shore, Floodplain, or Wetland 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, Floodplain, or Wetland Setback and Road setback averaging formulas, the Zoning Administrator shall have the authority to modify the Road Setback and Floodplain and Wetland Setback provisions to the extent necessary to minimize the encroachment on the Road Setback and Floodplain and Wetland Setback standards while maintaining the thirty (30) foot depth. The Shore Setback shall not be reduced as part of this provision.

L. A Structure, of which any part has been authorized to be located within the Shore Setback area by a Variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the Building Footprint of the authorized Structure. Additionally, the Structure may be vertically expanded, provided the Structure does not exceed 35 feet in overall height. An expansion of the Building Footprint may be allowed provided the expansion is necessary to comply with applicable state or federal requirements. This provision only applies if all other Ordinance requirements are met. No permit, fee, or Mitigation is required for compliance with this provision per Wisconsin Statute sections 59.692(1k)(a)2. and (a)4 (2015). A permit and fee will be processed for compliance with all other provisions of this Ordinance.

M. One (1) accessory Structure with a maximum size of two hundred (200) square feet may be located as close as thirty-five (35) feet from the Wetland Setback provided the Structure complies with the Shore Setback and there is no other conforming location available and no other accessory Structures located on the Lot.

N. If the above exceptions do not apply and an improvement or addition is proposed to an existing Legal, Nonconforming Structure, the provisions of Section 3(o) apply.

3. <u>Offsets</u>

A. No Structure, excluding a roof overhang measuring twenty-four inches (24”) or less,

shall be located closer to any Lot Line than the offset distance specified by the regulations for the District in which such Structure is located, with the following exceptions:

i. (Reserved)

ii. In the case of a Lot of Record, which has a minimum average width less than one hundred twenty (120) feet, the required Offset for a Structure from a side lot line may be reduced as follows, unless the District requirement is less restrictive, in which case, the less restrictive requirement applies:

Lot Width (ft.)	**Required Offset (ft.)**
35 ft. or less	5 ft.
Greater than 35 ft. to 50 ft.	7 ft.
Greater than 50 ft. to less than 84 ft.	10 ft.
84 ft. to less than 120 ft.	14 ft.

iii. Offsets for Buildings housing livestock, fur bearing animals, pigeons, swine, goats and poultry, shall be not less than fifty (50) feet from an adjacent property line. This does not include doghouses.

iv. When a detached accessory Structure lies on an adjacent Lot and closer than five (5) feet of the common Lot Line, a new detached accessory Structure may be located the same distance from the common boundary as the existing detached Structure on the adjacent Lot, as long as they are within ten (10) feet of each other. In such a case, the new detached accessory Structure shall contain a firewall sufficient to meet the one-hour fire rating contained in the building code. However, unless a common wall with a one-hour fire rating is constructed with agreement of both property owners, building sidewalls may be no closer than three (3) feet in order to accomplish proper maintenance. A deed restriction shall be recorded prior to issuance of the zoning permit prohibiting the construction of fences between said Buildings and permitting Maintenance of said Buildings from adjacent properties.

v. 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.

vi. Offsets on Decks and Patios, directly adjacent to a principal Structure, may be reduced to fifty percent (50%) of the distance between the principal Structure and the Lot Line, otherwise required for the principal Structure, but shall in no case be located closer than five (5) feet of a Lot Line..

vii. Stairways or walkways, five (5) feet in width or less and not attached to a Deck or Patio, shall be located a minimum of five (5) feet from a Lot Line. Stairways or walkways that exceed five (5) feet in width, shall comply with subsection vi. above. Existing stairways or walkways may be replaced in-kind within five (5) feet of a Lot Line.

viii. Retaining Walls do not need to meet the offset requirements of the individual zoning districts if they comply with the provisions of Section 3(d)5.

ix. If the above exceptions do not apply and an improvement or an addition is proposed to an existing Legal Nonconforming Structure, the provisions of Section 3(o) apply.

B. Where a Lot abuts a District boundary line, the Offset from such line in the District of less restrictive use shall be not less than that required for the District of more restrictive use.

C. In the case of multiple family or commercial use Structures the Offsets may be modified as follows:

i. Two (2) or more Buildings on adjoining Lots may be erected with common or directly adjoining walls provided the requirements of the state industrial code relative to such construction are complied with, and provided that at both ends of such "row" type buildings the applicable offset requirements shall be complied with.

ii. The required Offset may be reduced on one (1) side of a Structure provided the Offset on the other side is increased by an equivalent amount, and provided the owners of any property adjoining the area of reduced Offset shall file with the town board a copy of a recorded deed restriction stipulating that no Building shall be erected on said property so as to reduce the combined Offset in such case to a distance less than that resulting from the normal application of the minimum offset requirements to both properties, except as permitted under subsection 3.A above.

4. 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.

5. Accessory Building Location: No detached Accessory Building shall be erected, structurally altered or placed on a lot closer than ten (10) feet to the Principal Building on said Lot, as measured from the outside edge of the Overhang of each Building.

(i) **Height Regulations**

1. Maximum Height - Principal Structures: The following height provisions apply to principal Structures in all Districts except for the P-I, Q-1, M-1 and M-2 Districts, where height regulations are specified in each respective District section:

A. Overall maximum height (lowest exposure to highest peak), thirty-five (35) feet, for Structures within seventy-five (75) feet of the Ordinary High Water Mark of a navigable waterway or on a Lot with an average width less than sixty-five (65) feet.

B. Overall maximum height (lowest exposure to highest peak), forty-two (42) feet, for Structures located seventy-five (75) feet or more from the Ordinary High Water Mark of a Navigable Waterway and on Lots with an average width of at least sixty-

five (65) feet. A Structure with a flat roof is limited to an overall maximum height of thirty-five (35) feet and subsection D below does not apply.

C. The maximum height specified in subsection B above may be increased by one (1) foot for every ten (10) additional feet the proposed Structure is setback from the required Shore Setback, including the Delafield Shoreland Overlay, provided the overall maximum height does not exceed a total of forty-four (44) feet and provided three (3) native trees are planted at least two (2) inches in Diameter at Breast Height between the Structure and the Ordinary High Water Mark.

D. Maximum height from lowest exposure to highest eave, thirty-two (32) feet, for Structures located seventy-five (75) feet or more from the Ordinary High Water Mark of a Navigable Waterway and on Lots with an average width of at least sixty-five (65) feet.

E. On waterfront Lots, no Structure shall contain more than three (3) stories when viewed from the waterfront.

2. Maximum Height – Accessory Structures: The following height provisions apply to accessory Structures in all Districts except for the FLC, FLP, A-T, A-B, H-G, P-I, Q-1, M-1 and M-2 Districts, where height regulations are specified in each respective District section:

A. Within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway, the following provisions apply:

i. The Structure is limited to one-story.

ii. The exterior wall height shall not exceed twelve (12) feet provided the roof is flat, or ten (10) feet provided the roof pitch does not exceed eight to twelve (8:12) rise to run, unless the slope at the location of the Structure exceeds three to one (3:1) or thirty-three percent (33%), in which case the exterior wall height may increase to fifteen (15) feet, provided the roof is flat.

B. If an accessory Structure is located seventy-five (75) feet or more from the Ordinary High Water Mark of a Navigable Waterway, the height is limited to the following:

i. Maximum overall height is limited to eighteen (18) feet, or

ii. The maximum overall height is limited to sixty (60) feet if the Structure is used for farm or agricultural purposes in the AD-10, RRD-5, A-5, A-1, and P-I Districts and the R-1 District if designated in the Farmland Preservation County Development Plan category.

3. Provided a Structure or Building is located seventy-five (75) feet or more from the Ordinary High Water Mark of a navigable waterway and the subject property is at least sixty-five (65) feet in average width, the height may be increased by one (1) foot for each foot the Structure exceeds the Offsets and setbacks, except for Decks and patios, but not by more than ten (10) additional feet. The above provided height increase does not apply to properties zoned R-1, R-2, R-3, or E-C.

4. Exceptions: The following shall be exempt from the height regulations of all Districts:

A. Chimneys and flues.

B. 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 if located a minimum of seventy-five (75) feet from the Ordinary High Water Mark of a Navigable Waterway.

(j) **Area and Building Footprint Regulations**

1. Minimum Floor Area:

A. Any Building intended in whole or part for single-family residential purposes shall provide a minimum overall Floor Area of eleven hundred (1,100) square feet, with at least eight hundred fifty (850) square feet of Floor Area on the first floor. Minimum Floor Area shall be measured at each level from the outside edge of wall to outside edge of wall. Basements, exterior balconies, unenclosed porches, and garages shall not be included in the minimum Floor Area calculation.

B. Any Building intended in whole or part for multi-family residential purposes shall provide a minimum overall Floor Area (per unit) as follows:

i. Two-family Buildings (duplexes): Eight hundred fifty (850) square feet per unit.

ii. Multi-family Buildings that exceed two (2) units:

a. Six hundred (600) square feet per one-bedroom unit.

b. Seven hundred (700) square feet per two-bedroom unit.

c. Eight hundred (800) square feet per three-bedroom unit.

d. An additional one hundred (100) square feet for each additional bedroom.

C. The board of adjustment may grant a Special Exception to permit a Building of less than the required minimum Floor Area where such grant would not be contrary to the spirit or intent of the Ordinance, and provided the proposed Building would not be of such character or quality as to depreciate the property values of the surrounding area.

2. Lot Size

A. In order to protect against danger to health, safety and welfare, and protection against pollution of the adjacent body of water, no Lot shall contain less than the following requirements:

i. No Lot shall hereafter be created and no Building shall be erected on a Lot of less land area or minimum average width than hereinafter specified by the

lot size standards of the Waukesha County Shoreland and Floodland Subdivision Control Ordinance, which are cross-referenced in each zoning district section of this Ordinance and as specified inSection NR 115.05, Wis. Admin. Code except as may be provided in Section 3(j)2.E, and Sections 4(g)20 and 22 of this Ordinance.

ii. No Lot may be created which has less than one hundred (100) feet of frontage on a navigable river or lake, or sixty-five (65) feet of frontage if served by public sewer.

B. For the purpose of this Ordinance, the Lot Area shall be measured from the Base Setback Line.

C. A Lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the length of the Lot.

D. No Lot Area shall be reduced by any means so as to create a Lot of less than the required size specified in the Waukesha County Shoreland and Floodland Subdivision Control Ordinance or so that the existing Offsets, Setbacks, Open Space, or Lot Area would be reduced below that required by the regulations for the District.

E. Where a Lot has less area than required for the District in which it is located and was of record at the time of the passage of this Ordinance (July 30, 1970), such Lot shall be used for any purpose permitted in any such District, and the maximum Building Footprint regulations shall comply with the R-3 Residential District except where otherwise specified in other sections of this Ordinance.

F. Lots split by a road (public or private): If a single Lot or multiple Lots are in the same ownership but are split by a separately described public or private road, the following regulations apply:

i. For a single Lot of Record (as defined in this Ordinance), the acreage on both sides of the road right-of-way may be used for purposes of calculating minimum Lot Area, maximum accessory Building Footprint, maximum overall Building Footprint, and allowable Impervious Surface, if applicable.

ii. For multiple Lots of Record (as defined in this Ordinance), the acreage on one side of the road right-of-way shall not be used to benefit the Lot on the other side of the road right-of-way for purposes of calculating minimum Lot Area, maximum accessory Building Footprint, maximum overall Building Footprint, and allowable Impervious Surface, if applicable.

iii. For multiple Lots of Record in common ownership, an accessory Structure may be constructed on one side of the road right-of-way without the benefit of a principal Structure on the same side of the road right-of-way provided the following are met:

a. The Lots in common ownership are directly opposite each other for at least one half of the road frontage of one of the Lots.

b. A principal Structure must exist on the Lot owned in common on

the opposite side of the road right-of-way.

c. A certified survey map shall be prepared and approved by all reviewing entities restricting the Lots from being sold separately, unless the accessory Structure is removed.

3. Substandard Lots:

A. A legally created Lot that met minimum area and minimum average width requirements when created, but is not at least twenty thousand (20,000) square feet in size and one hundred (100) feet in average width, unsewered, or ten thousand (10,000) square feet in size and sixty-five (65) feet in average width, sewered, may be used as a building site if all of the following apply:

i. The substandard Lot was never reconfigured or combined with another Lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel, as described with a single legal description.

ii. The substandard Lot has never been developed with one or more of its Structures placed partly upon an adjacent Lot or parcel.

iii. The substandard Lot is developed to comply with all other Ordinance requirements.

B. A substandard Lot that does not comply with subsection A above, may only be developed if a Variance is granted by the Board of Adjustment.

4. Accessory Buildings:

A. The total Building Footprint of all accessory Buildings on a Lot in any zoning district may not exceed the accessory Building Footprint specified in the following table, with the exceptions listed below the table:

i. Accessory Building Footprint Table:

Lot Area	**Maximum Footprint**
<14,000 sq. ft.	600 sq. ft.
14,000 sq. ft. or greater	750 sq. ft. or 2% of lot area, whichever is greater

ii. On parcels of fifteen (15) acres or more in area, the accessory building footprint may be greater than the two percent (2%) limit when the accessory buildings are 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 maximum overall Building Footprint requirements of this Ordinance.

iii. Farm consolidation exception. Maximum accessory building footprint limitations shall be established by the Plan Commission and County Zoning

Agency for Lots that are designated in the Farmland Preservation County Development Plan category that have been rezoned to the R-1 Residential District pursuant to Section 11(i).

B. Temporary Structures and attached garages shall not be included in calculating allowable accessory Building Footprint.

C. A Lot is limited to two (2) Accessory Buildings unless the Plan Commission has rendered a finding to allow more than two (2) Accessory Buildings in light of the provisions of Section 3(d)3.B. More than two (2) Accessory Buildings may also be permitted under the following circumstances:

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 maximum overall Building Footprint 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 maximum overall Building Footprint 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 maximum overall Building Footprint requirements of this Ordinance.

D. 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 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 Accessory Buildings on parcels more than thirty-five (35) acres and that are used in an Agricultural or Farm Use.

E. In no case shall an Accessory Building be used for purposes not allowed in the underlying zoning district or as a use that would require a conditional use permit unless said conditional use permit is obtained.

5. <u>Building Footprint (as defined in this Ordinance)</u>:

A. Minimum Building Footprint: The Zoning Administrator may administratively approve a Building Footprint not to exceed eleven hundred (1,100) square feet when application of Offsets and Setbacks does not otherwise provide an eleven hundred (1,100) square foot Building Footprint. The Zoning Administrator is limited to providing Road Setback and Floodplain and Wetland Setback relief only. The administratively approved Building Footprint shall not extend into the established road right-of-way or within the Floodplain or Wetland.

B. Maximum Building Footprint: The maximum Building Footprint shall not exceed the Building Footprint standards specified by the regulations for the District in which such Building is located, unless the provisions of Section 3(j)2.E. are met.

(k) **Off-Street Parking**

1. Spaces required: Any Building hereafter erected or structurally altered shall be provided with an off-street parking space not greater than five hundred (500) feet from the principal use. A parking space shall be considered to be nine (9) feet in width by not less than twenty (20) feet in depth for angled sixty-degree parking and not less than twenty-seven (27) feet in depth for ninety-degree parking, and there shall be at least sixteen (16) feet of width between opposite facing parking stalls for ingress and egress. The following schedule shall be utilized to determine the number of parking spaces for various uses allowed by this Ordinance:

A. Two (2) spaces per dwelling unit (such dimensions as enumerated above, however, are not required for single-family detached housing).

B. *Auditoriums, churches, theaters, community centers and other places of public assembly*: One (1) space for four (4) seats.

C. *Retail business establishments, restaurants, taverns, clubs, etc*: Seven (7) spaces per one thousand (1,000) square feet of primary floor area devoted to the principal use of the property. This requirement does not apply to the area of the Building utilized for storage purposes: no additional space will be required for such storage space.

D. *Wholesale and other general business establishments*: One (1) space for each two (2) employees during any twelve-hour period.

E. *Office buildings*: One (1) space for each three hundred (300) square feet of floor area.

F. *Medical and dental clinics*: Three (3) spaces for each doctor and one (1) space for each employee.

G. *Industrial buildings and warehouse buildings*: One (1) space for each two (2) employees during any twelve-hour period.

H. *Sanitariums, institutions, rest homes, nursing homes*: One (1) space for each five (5) beds plus one (1) space for every three (3) employees.

I. *Hospitals*: One (1) space for each two (2) beds plus one (1) space for every three (3) employees.

J. *Hotels and motels*: One (1) space for each guestroom plus one (1) space for every three (3) employees.

K. *Colleges, vocational and night schools, secondary and elementary schools*: One (1) space for each two (2) employees plus one (1) space for every two (2) students except that the requirement for parking at elementary schools may not include student parking. At secondary schools the number of stalls for student parking shall be determined by the administration of that school and appropriate provisions made

consistent with the intent of this provision.

2. Residential Parking: Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests. Vans or pick-up trucks used for private and recreational use or a motor home (recreational vehicle) or one (1) van or pickup truck used in a business or trade or used for transportation to and from a place of employment of the occupant may be parked on a residential property as long as such use does not become a nuisance to the neighborhood. A recreational vehicle must not be parked in the C-1 Conservancy District. A recreational vehicle, which is parked in an EFD Existing Floodplain Development Overlay District, must be fully licensed, operable and ready for highway use. A recreational vehicle is ready for highway uses if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

3. 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), except as allowed in subsection 2 above, shall be parked or stored on any lot in any zoning district except 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, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of his or her farm, and similar related equipment) parked in an agricultural district and used in an active farm operation as defined in this Ordinance.

   B. As outlined in subsection 2 above, one (1) 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. The board of adjustment may, upon demonstration of unique and special circumstances that meet the variance tests and which justify approval of a variance, permit more than one (1) such vehicle if the 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 or EC Environmental Corridor. In the B-3, Q-1, M-1, M-2 and P-I Districts where such vehicles are accessory to an otherwise permitted business, industrial, public and institutional, or 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.

4. Surfacing: Any off-street parking area, other than that provided for a residence, having a capacity for more than four (4) vehicles shall be surfaced and maintained in a dustless condition.

5. Screening: Any off-street parking area other than that provided for a residence, which abuts or faces a residence district shall provide a permanent planting screen, landscaped fence, or wall, at least four (4) feet in height, initially, along the side abutting or fronting on a residence district.

6. Offset: In any off-street parking area, no vehicle shall be allowed to park closer than ten (10) feet to the abutting Lot Line, except where more restrictive requirements apply.

7. Setback: No vehicle shall be parked closer than ten (10) feet to the Base Setback Line.

8. Lighting: Lights provided in any parking area shall be hooded or beamed so as not to create undesirable glare or illumination of adjacent residential property.

(l) **Off-street Loading and Unloading**

1. Required: In any local business, general business, limited industrial or general industrial district an off-street loading space shall be provided, in addition to the defined off-street parking area, for every ten thousand (10,000) square feet or fraction thereof in excess of three thousand (3,000) square feet of building area, exclusive of storage area, used for commercial purposes.

2. Areas: Each such loading space shall have an area at least ten (10) feet wide by forty-five (45) feet long and with a minimum of fourteen (14) feet height clearance.

(m) **Mobile Homes, Recreational Vehicles and Trailers**

1. Human habitation prohibited: Except within an approved mobile home park or camp, no recreational vehicle, trailer or mobile home, shall be used for the purpose of human habitation, human habitation being defined as entering the mobile home for any purpose other than maintenance.

2. A permit for one (1) continuous six (6) month period allowing the human habitation of a mobile home or recreational vehicle on lands other than an approved mobile home park may be granted by the town board provided:

   A. The habitation is accessory to the current construction of a principal Structure owned by the same person who is Applicant for the permit.

   B. The waste disposal facilities and water supply facilities are approved by the Waukesha County Department of Parks and Land Use, Environmental Health Division.

   C. This use shall not be allowed in a Floodway or Wetland.

   D. If located in a Floodplain, the mobile home, trailer, or recreational vehicle shall have the lowest floor elevation to the flood protection elevation, shall be anchored so that it does not float, collapse or move laterally during a flood.

   E. If located in a Floodplain, the mobile home, trailer, or recreational vehicle shall provide continuous Dryland Access as required in Section 8(b)2A.v.

3. Storage prohibited: No Mobile Home in excess of twenty-five (25) feet in length shall be

located or stored on any property except in an approved Mobile Home Park, unless completely enclosed in a structure.

4. Mobile Home Parks: Such uses shall not be permitted except in accordance with Section 4(g)18.

(n) **Signs**

1. Use restricted: In any District no signs shall be permitted except as hereinafter specified by the regulations for that District.

2. Setbacks and Offsets: In any District no sign other than those permitted in a residence or agricultural district shall be permitted closer than twenty (20) feet to the Base Setback Line or to any other Lot Line, and any sign not directly related to the use of the premises on which it is located shall conform to the setback and offset requirements as would apply to a Building in that District.

3. Hazards or nuisances prohibited: No sign, billboard, or other advertising media which creates a hazard or dangerous distraction to vehicular traffic, or a nuisance to adjoining residential property shall be permitted in any District.

4. Heights: No free standing sign shall exceed twenty (20) feet in height from the ground and no sign shall in any case exceed the maximum height limit for the District in which it is located.

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

(o) **Legal Nonconformity**

1. Existing use permitted: The existing lawful use of a Building or premises at the time of the enactment of this Ordinance or any amendment thereto may be continued although such use does not conform with the provisions of this Ordinance for the District in which it is located, subject to conditions hereinafter stated and subject to conformance with Sections 59.69(10) and (10m), Wisconsin Statutes.

2. Existing use and/or Structure located in the Floodplain: Legal Nonconforming Uses or a Legal Nonconforming Structure in a Floodplain are governed by the regulations of Section 8-Existing Floodplain Development Overlay District.

3. Legal Nonconforming structures, classification and regulation: If a Structure is nonconforming to one (1) or more of the Ordinance requirements as listed in subsections A through H below, the requirements of all applicable subsections must be complied with.

A. *Nonconforming to Shore Setback:*

i. An existing principal or accessory Structure may be replaced, restored, rebuilt, remodeled, maintained and repaired provided the existing footprint of the nonconforming structure is not expanded, unless the expansion is necessary to comply with applicable state and federal requirements. The Structure, unless it is a structure listed under Wisconsin Statutes § 59.692(1n)(d), may be vertically expanded provided the vertical expansion does not exceed thirty-five (35) feet in height and provided the requirements

of Section 3(i)2 for accessory Structures are met. Improvements to Structures listed under Wisconsin Statute § 59.692(1n)(d) are limited to the area within the three (3)-dimensional building envelope of the existing structure. No permit, fee or Mitigation is required for compliance with this provision per Wisconsin Statute 59.692(1k)(a)2., 4. and (b). A permit and fee will be processed for compliance with all other provisions of this Ordinance.

ii. In addition to the above, an existing principal Structure may be expanded laterally within the Shore Setback, provided all of the following requirements are met:

a. The use of the Structure has not been discontinued for a period of twelve (12) months or more if a nonconforming use.

b. The existing principal Structure is at least thirty-five (35) feet from the Ordinary High Water Mark.

c. Lateral expansions are limited to a maximum of two hundred (200) square. feet over the lifetime of the Structure.

d. No portion of the expansion may be any closer to the Ordinary High Water Mark than the closest point of the existing principal Structure.

e. A permit shall not be issued until such time the mitigation requirements of Section 3(u) are complied with.

f. All other provisions of the Ordinance shall be met.

iii. In addition to subsection A.i above, an existing principal Structure may be expanded laterally beyond the Shore Setback provided the expansion complies with the Shore Setback and all other provisions of the Ordinance.

iv. An existing principal Structure may be relocated within the Shore Setback, provided all of the following requirements are met:

a. The use of the Structure has not been discontinued for a period of twelve (12) months or more if a nonconforming use.

b. The existing principal Structure is at least thirty-five (35) feet from the Ordinary High Water Mark.

c. No portion of the relocated Structure is located any closer to the Ordinary High Water Mark than the closest point of the existing principal Structure.

d. The Zoning Administrator determines that no other location is available on the property to build a principal Structure of a comparable size (same footprint) as the existing Structure proposed for relocation that will result in compliance with the Shore Setback.

e. A permit shall not be issued until such time the mitigation requirements of Section 3(u) are complied with.

f. All other provisions of the Ordinance shall be met.

B. *Nonconforming to Floodplain and/or Wetland Setback*:

i. *Structures within thirty-five (35) feet of a Floodplain and/or Wetland*. Such structures are limited to interior and exterior remodeling and repair, with exterior remodeling and repair limited to less than fifty percent (50%) of the exterior structural members over the lifetime of the Structure. Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or replacement of foundations, rafters, trusses, exterior walls, or similar structural members.

ii. *Structures thirty-five* (*35) feet or greater from the Wetland.*

a. The portion of the Structure that existed prior to October 1, 2016 is limited to interior and exterior remodeling and repair, with exterior remodeling and repair limited to less than fifty percent (50%) of the exterior structural members over the lifetime of the Structure. Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or replacement of foundations, rafters, trusses, exterior walls, or similar structural members.

b. A Structure may be replaced or relocated provided the footprint of the Structure is not increased, unless permitted in subsection d below, there is no other conforming location available to rebuild a Structure of the same footprint, as determined by the Zoning Administrator, and provided no portion of a relocated Structure is located any closer to the Wetland than the closest point of the existing Structure.

c. A Structure, including a replaced or relocated Structure, may be expanded vertically, provided the height requirements of the Ordinance are met.

d. A principal Structure may be expanded laterally, provided the lateral expansion does not exceed two hundred (200) square feet over the life of the Structure and provided no portion of the lateral expansion is located no closer to the Wetland than the closest point of the existing Structure.

e. Lateral expansions within the Wetland Setback require compliance with the mitigation requirements of Section 3(u) of this Ordinance.

f. All other provisions of the Ordinance shall be met.

C. *Nonconforming to Road Setback*:

i. *Structures within twenty (20) feet of a Base Setback Line* (as established in Section 3(h)1.A). Such Structures are limited to interior and exterior remodeling and repair, with exterior remodeling and repair limited to less than fifty percent (50%) of the exterior structural members over the lifetime of the Structure. Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or replacement of foundations, rafters, trusses, exterior walls, or similar structural members.

ii. *Structures twenty (20) feet to within thirty-five (35) feet of a Base Setback Line* (as established in Section 3(h)1.A).

a. The portion of the Structure that existed prior to October 1, 2016 is limited to interior and exterior remodeling and repair, with exterior remodeling and repair limited to less than fifty percent (50%) of the exterior structural members over the lifetime of the Structure. Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or replacement of foundations, rafters, trusses, exterior walls, or similar structural members.

b. A Structure may be replaced or relocated provided the footprint of the Structure is not increased, unless permitted below, there is no other conforming location available to rebuild a Structure of the same footprint, as determined by the Zoning Administrator, and provided no portion of a relocated Structure is located any closer to the Base Setback Line than the closest point of the existing Structure.

c. A Structure, including a replaced or relocated Structure, may be expanded vertically, provided the height requirements of the Ordinance are met.

d. A principal Structure may be expanded laterally, provided the lateral expansion does not exceed two hundred (200) square feet over the lifetime of the Structure and provided no portion of the lateral expansion is located any closer to the Base Setback Line than the closest point of the existing Structure.

e. All other provisions of the Ordinance shall be met.

iii. *Structures thirty-five (35) feet or greater from a Base Setback Line* (as established in Section 3(h)1.A). All standards of subsection ii above shall be complied with, except that lateral expansions of Principal Structures are not limited to two hundred (200) square feet in size over the lifetime of the Structure.

D. *Nonconforming to Offset*:

i. *Structures within five (5) feet of a side or rear Lot Line*. Such Structures are limited to interior and exterior remodeling and repair, with exterior remodeling and repair limited to less than fifty percent (50%) of the exterior structural members over the lifetime of the Structure. Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or replacement of foundations, rafters, trusses, exterior walls, or similar structural members.

ii. *Structures five (5) feet to ten (10) feet of a side or rear Lot Line*.

a. The portion of the Structure that existed prior to October 1, 2016 is limited to interior and exterior remodeling and repair, with exterior remodeling and repair limited to less than fifty percent (50%) of the exterior structural members over the lifetime of the Structure. Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or replacement of foundations, rafters, trusses, exterior walls, or similar structural members.

b. Lateral expansions that do not exceed 50% of the footprint of the existing Structure, over the lifetime of the Structure and vertical expansions require a Special Exception from the Board of Adjustment. Lateral and vertical expansions shall not extend closer to a side or rear Lot Line than the closest point of the existing Structure.

c. All other provisions of the Ordinance shall be met.

iii. *Structures greater than ten (10) feet from a side or rear Lot Line*.

a. The portion of the Structure that existed prior to October 1, 2016 is limited to interior and exterior remodeling and repair, with exterior remodeling and repair limited to less than fifty percent (50%) of the exterior structural members over the lifetime of the Structure. Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or replacement of foundations, rafters, trusses, exterior walls, or similar structural members.

b. Lateral expansions that do not exceed fifty percent (50%) of the Building Footprint of the existing Structure, over the lifetime of the Structure and vertical expansions are permitted by right. Lateral and vertical expansions shall not extend closer to a side or rear Lot Line than the closest point of the existing Structure.

c. Lateral expansions that exceed fifty percent (50%) of the Building Footprint of the existing Structure, over the lifetime of the Structure

require a Special Exception from the Board of Adjustment. Lateral and vertical expansions shall not extend closer to a side or rear Lot Line than the closest point of the existing Structure.

d. All other provisions of the Ordinance shall be met.

E. *Nonconforming to Boathouse Standards*: A nonconforming Boathouse may be replaced, restored, rebuilt, remodeled, maintained, and repaired within the three (3) dimensional building envelope of the existing Structure. If a Boathouse is partially or wholly located below the Ordinary High Water Mark of a Navigable Waterway, no permit may be granted until a Chapter 30 DNR Permit has been obtained.

F. *Nonconforming to Building Footprint*:

i. If an existing Structure or Structures occupy a greater Building Footprint than allowable by this Ordinance, the portion of the Structure(s) that existed prior to October 1, 2016 is limited to interior and exterior remodeling and repair, with exterior remodeling and repair limited to less than fifty percent (50%) of the exterior structural members over the lifetime of the Structure(s). Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or replacement of foundations, rafters, trusses, exterior walls, or similar structural members.

ii. If the Structure, or a combination of Structures, exceeds the maximum allowable Building Footprint, no lateral expansions are permitted.

iii. If the Structure, or a combination of Structures, exceeds the maximum allowable Building Footprint, vertical expansions are limited to the area of allowable Building Footprint for the Structure(s).

For example, if a Structure has a Building Footprint of three thousand (3,000) square feet, whereas a Building Footprint of two thousand (2,000) square feet is the maximum allowed, the vertical expansion, cumulatively, shall not exceed two thousand (2,000) square feet

iv. If the Structure is intended for residential purposes and does not meet the minimum required Building Footprint square footage for a principal Structure, the Structure shall not be reduced in size.

v. All other provisions of the Ordinance shall be met.

G. *Nonconforming to Height*:

i. The portion of the Structure that existed prior to October 1, 2016 is limited to interior and exterior remodeling and repair, with exterior remodeling and repair limited to less than fifty percent (50%) of the exterior structural members over the lifetime of the Structure. Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or

replacement of foundations, rafters, trusses, exterior walls, or similar structural members.

ii. Any vertical expansion to a Structure nonconforming to height shall comply with the height requirements of the Ordinance.

H. *Building Footprint flexibility*: The Zoning Administrator has the authority to administratively approve a Building Footprint not to exceed eleven hundred (1,100) square feet when application of Offsets and setbacks do not otherwise provide a minimum eleven hundred (1,100) square foot Building Footprint. The Zoning Administrator is limited to providing Road, Floodplain and Wetland Setback relief only. The Building Footprint shall not extend into the established road right-of-way or within the Floodplain or Wetland.

4. Record Keeping: The Zoning Administrator shall keep a record, which lists all known Legal Nonconforming Structures located in the Floodplain and all Structures housing Legal Nonconforming Uses, regardless of their location, 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.

5 Regulation of Legal Nonconforming Use of Structures and lands:

A. No such use shall be expanded or enlarged.

B. When any such Legal Nonconforming Use of a Structure or lands is discontinued for twelve (12) consecutive months, any future use of the land or Structure shall conform to the use regulations of the applicable District.

C. Total structural repairs or alterations to a Structure housing a Legal Nonconforming Use shall not equal or exceed fifty percent (50%) of the equalized assessed value of the Structure obtained from the County Real Property Tax Listing over the lifetime of the Structure. At such time as cumulative structural repairs or alterations to such a structure equal or exceed fifty percent (50%) of the equalized assessed value of the Structure, the use of the Structure shall be converted to conform with the applicable district regulations or the Structure shall be torn down.

6. Regulation of Nonconforming Lots: The size and shape of such Lots shall not be altered in any way which would increase the degree of such nonconformity to the applicable district regulations.

7. Conditional Use status: Subject to the provisions of Section 4, conditional use status may be granted to existing Legal Nonconforming Uses upon petition of the owner where such use is determined to be not adverse to the public health, safety, or welfare, would not conflict with the spirit or intent of the Ordinance or would not be otherwise detrimental to the community and particularly the surrounding neighborhood. Such conditional use status shall be granted only with the approval of the plan commission and County Zoning Agency following a joint public hearing in the manner provided in Section 40(b).

(p) **Prior permit**

1. Construction permitted: Nothing herein contained shall require any change in the plans, construction, size or designated use of any Building or part thereof for which a building permit has been issued before the effective date of this Ordinance and the construction of which shall have been substantially started within six (6) months from the date of such permit.

2. Subsequently Nonconforming: Any such use which does not conform to the use regulations of the District in which it is located shall, however, subsequently be considered a Legal Nonconforming Use.

(q) **Swimming Pool (as defined in Section 2(b))**

1. Use permitted: Above and below ground Swimming Pools are permitted in any District other than the C-1 District, subject to the following:

   A. The pool must be intended to be used solely by the occupants of the principal use of the property on which the pool is intended to be located and their guests.

   B. Any pool, together with its surrounding walks, patios, diving platforms, bathhouses, and accessory structures shall be so located that the parts of said complex are in conformity with the setback and offset requirements of the applicable District.

   C. Walls or fences of at least four (4) feet in height shall be provided around the immediate area of the pool to act as a deterrent for unsupervised children gaining access to the pool. Where the pool is an above ground pool, no additional fence or wall shall be required if the walls of the pool are at least four (4) feet above the grade of the land completely surrounding it and extending at least five (5) feet from the walls of the pool. If an access ladder is provided, it shall be so designed so that it can be locked, tipped or otherwise placed to prohibit access to the pool by children.

2. Permit required: No Swimming Pool shall be constructed unless a zoning permit has been issued pursuant to Section 3(c) of this Ordinance.

(r) **Guesthouses**

1. Uses permitted: Guesthouses, as defined by this Ordinance, are permitted in any District in which a Single-family Dwelling is permitted.

2. Permanent habitation prohibited: A Guesthouse must be used only for occasional occupancy by guests of the owner and shall not be leased or rented for human occupancy.

3. Accessory to a Single-family Dwelling: No Guesthouse is permitted unless a Single-family Dwelling is already present on the Lot. Only one Guesthouse per Lot is allowed.

4. Area Requirements: No Guesthouse is allowed unless the Lot upon which the Guesthouse is to be located is at least double the minimum area and lot width requirements of the District. This requirement is intended to prevent the creation of a nonconforming lot in the event that the Guesthouse is sold.

5. Building location: A Guesthouse must be able to meet the minimum Setback, Offset and Building Footprint requirements of the District in which it is located. This requirement is

intended to prevent the creation of a nonconforming structure in the event that the Guesthouse is sold.

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 to the district regulations in which it is located.

7. Access provisions: In the event that a Guesthouse is sold as a parcel separate from the Single-family Dwelling, there must be direct access to a public road. If this is impossible, the Plan Commission and County Zoning Agency may approve a private easement to a public road if the following requirements are met:

   A. The private easement is at least 33 feet for one (1) family and sixty-six 66 feet for two (2) families.

   B. The creation of a private drive would not adversely affect existing or future Development of the area.

   C. The private drive would insure safe and continuous access for public service vehicles, and those properties served by such easement.

(s) **Boathouses**

1. Use permitted: Boathouses, as defined by this Ordinance and in Section 30.01(1d) of the Wisconsin Statutes, are permitted in any District abutting a public or private body of water, except within a Floodplain or Wetland and are subject to the terms and the conditions set forth herein and Section 30.121 of the Wisconsin Statutes. Said Boathouse may be used for the storage of watercraft and associated materials used by the occupants of the Lot. Said Boathouse shall be placed on a permanent foundation extending below the frost line or a concrete slab and contain a garage type door.

2. Habitation prohibited: A Boathouse shall not be used for human occupancy or habitation. A Boathouse shall not contain plumbing.

3. Accessory to a principal Structure: No Boathouse is permitted unless a principal Structure is already present on the Lot. Only one (l) Boathouse per Lot is allowed.

4. Building location: A Boathouse shall comply with all of the following locational requirements:

   A. A Boathouse shall not be located closer than five (5) feet to the Ordinary High Water Mark.

   B. A Boathouse shall not be located further than thirty-five (35) feet from the Ordinary High Water Mark.

   C. A Boathouse shall be located within the Access and Viewing Corridor as specified in Section 3(d)(9). The location of the Access and Viewing Corridor shall be evidenced by a deed restriction recorded in the Office of the Register of Deeds.

   D. A Boathouse shall not be located within the Floodplain and/or Wetland.

E. A Boathouse shall comply with the Offset requirements set forth in Section 3(h)3 of this Ordinance.

5. Flat roofed surfaces of Boathouses may contain a Deck but shall not be permanently enclosed. Railings and access stairs shall be considered ordinary appurtenances.

6. The Maintenance and repair of nonconforming Boathouses that extend beyond the Ordinary High Water Mark of any Navigable Waterway shall be required to comply with Section 30.121 of the Wisconsin Statutes.

7. Height: A Boathouse may not contain more than one Story According to the provisions below:

A. The exterior wall height shall not exceed ten (10) feet and the roof pitch shall not exceed eight to twelve (8:12) rise to run.

B. The exterior wall height shall not exceed twelve (12) feet provided the roof is flat and where the slope at the location at the Boathouse does not exceed three to one (3:1).

C. If the slope at the location of the Boathouse exceeds three to one (3:1) or thirty-three percent (33%), the exterior wall height may increase to fifteen (15) feet provided the roof is flat.

8. Size limitations: The following size limitations apply to all Boathouses:

A. A Boathouse shall contain a minimum of two hundred (200) square feet.

B. A Boathouse shall contain a maximum of four hundred fifty (450) square feet.

C. A Boathouse shall not exceed fifteen (15) feet in width, measured parallel to the shore.

D. A Boathouse is limited to twenty-four inch (24”) roof Overhangs and said Overhangs are not included in the above measurements.

(t) **Impervious Surface Standards**

1. Purpose and Intent: Impervious surface standards are intended to protect water quality, fish and wildlife habitat and protect against pollution of navigable waters.

2. Applicability: Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any Impervious Surface that is or will be located within three hundred (300) feet of the Ordinary High Water Mark of any Navigable Waterway on any of the following:

A. A riparian lot or parcel, or

B. Any non-riparian lot or parcel that is located entirely within three hundred (300) feet of the Ordinary High Water Mark of any Navigable Waterway.

3. Calculation of Percentage of Impervious Surface: The percentage of Impervious Surface shall be calculated by dividing the surface area of the existing and proposed Impervious Surfaces on the Lot or parcel by the total surface area of that Lot or parcel, and multiplying by one hundred (100). The following exceptions apply:

   A. Treated Impervious Surfaces that comply with subsection 9 are excluded from the calculation.

   B. The following minor surfaces are excluded from the calculation: utility boxes; footings for structures such as flag poles, mailboxes, birdhouses and birdbaths, fences, and basketball hoops; turf stone surfaces that contain a majority of its surface area as a vegetated surface; and other incidental natural or manmade surfaces as determined by the Zoning Administrator.

   C. If an outlot lies between the Ordinary High Water Mark and the developable lot or parcel described in subsection 2 and both are in common ownership, the Lot or parcel and the outlot shall be considered one Lot or parcel for the purposes of calculating the percentage of Impervious Surface.

4. Permitting Requirements: A Zoning Permit shall be obtained from the Zoning Administrator for the construction, reconstruction, expansion, replacement or relocation of any Impervious Surface if the Impervious Surface is subject to the applicability requirements of subsection 2 above.

5. General Standard: A maximum of fifteen (15%) Impervious Surface is permitted on the portion of a Lot that is within 300 feet of the Ordinary High Water Mark of a Navigable Waterway in accordance with the calculation requirements of subsection 3 above, with the following exceptions:

   A. A maximum of thirty percent (30%) Impervious Surface is permitted provided the mitigation requirements of Section 3(u) are met.

   B. The Lot is classified as a highly developed shoreline in accordance with subsection 6 below.

   C. Existing Impervious Surfaces may be maintained, replaced, modified and/or relocated in accordance with subsection 8 below.

6. Standards for Highly Developed Shoreline: The following standards apply to highly developed shorelines designated in accordance with subsection 7 below. A maximum of thirty percent (30%) Impervious Surface for residential uses or a maximum of forty percent (40%) Impervious Surface for commercial, industrial or business uses is permitted on the portion of a Lot within three hundred (300) feet of the Ordinary High Water Mark of a Navigable Waterway in accordance with the calculation requirements of subsection 3 above, with the following exceptions:

   A. A maximum of forty percent (40%) Impervious Surface is permitted for a Lot used for residential purposes provided the mitigation requirements of Section 3(u) are met.

   B. A maximum of sixty percent (60%) Impervious Surface is permitted for a Lot used for commercial, industrial, or business land purposes provided the mitigation

requirements of Section 3(u) are met.

C. Existing Impervious Surfaces may be maintained, replaced, modified and/or relocated in accordance with subsection 8 below.

7. Designation and Mapping of Highly Developed Shoreline: Chapter NR 115 of the Wisconsin Administrative Code contains criteria for lands that may be designated as highly developed shorelines. All lands that have been designated as highly developed shorelines are mapped as such on the highly developed shoreline zoning layer as depicted on the Waukesha County Geographic Information System (GIS) and have been approved by WDNR. The highly developed shoreline designation criteria are as follows:

A. All areas identified as an Urbanized Area or Urban Cluster in the 2010 US Census.

B. A Shoreline that has a commercial, industrial, or business land use as of January 31, 2013.

C. Areas that include at least five hundred (500) feet of Shoreline, meet at least one of the following criteria and are subject to County and WDNR approval:

i. A majority of the Lots are developed with more than thirty percent (30%) of Impervious Surface area,

ii. The Lots are located on a lake and served by a sewerage system as defined in s. 281.01 (14), Wis. Stats. or

iii. A majority of the Lots contain less than twenty thousand (20,000) square feet in area.

D. Additional lands may be designated as highly developed shorelines in accordance with subsection C provided a public hearing is held and approval is granted by the Waukesha County Zoning Agency and WDNR.

8. Existing Impervious Surface: The following improvements can be made to existing Impervious Surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standards of this Section, provided all other ordinance requirements are met and that there is no increase in the percentage of Impervious Surface that existed on October 1, 2016:

A. Maintain and repair all Impervious Surfaces.

B. Replace existing Impervious Surfaces with similar surfaces within the existing Building Footprint.

C. Relocate or modify existing Impervious Surface with similar or different Impervious Surfaces.

9. Treated Impervious Surface:

A. Exclusion Standards: Impervious Surfaces that meet either of the following standards shall be excluded from the Impervious Surface calculations under subsection 3 above, provided the treated impervious surface performance standard of

subsection B below is met:

i. The first one-half inch of Runoff from the Impervious Surface is treated by a Stormwater BMP, as defined in this Ordinance, or

ii. The first one-half inch of Runoff from the Impervious Surface discharges to an internally drained Pervious Area that retains the Runoff on or off the parcel and allows Infiltration into the soil.

B. Performance Standard: The first one-half inch of Runoff from the area of Impervious Surface to be excluded from the calculation must either Infiltrate or be treated according to the exclusion standards contained in subsection A above. The stormwater infiltration or treatment system shall comply with an adopted County or State post-construction stormwater management technical standard or guidance document. The calculation of the runoff volume to be treated is the area of the Impervious Surface to be excluded multiplied by the runoff depth (1/2 inch or 0.04 feet).

For example: 1,000 square feet x 0.04 feet = 40 cubic feet.

C. Permitting Requirements: A Stormwater Permit must be obtained from the Waukesha County Land Resources Division for an Impervious Surface to be considered a treated Impervious Surface which is excluded from the impervious surface calculation. The following requirements apply:

i. The exclusion and performance standards of subsections A and B above shall be met.

ii. All technical standards of the Waukesha County Stormwater Management and Erosion Control Ordinance shall be met. Depending on the type of Stormwater BMP proposed, a qualified professional may be required to prepare any necessary plans.

iii. A financial guarantee in accordance with the requirements of the Waukesha County Stormwater Management and Erosion Control Ordinance must be submitted to ensure that the Stormwater BMP is installed correctly.

iv. The obligations and long-term maintenance requirements of the current and future property owners shall be evidenced by an instrument that is reviewed and approved by the Waukesha County Land Resources Division and recorded in the Office of the Register of Deeds.

(u) **Mitigation**

1. Applicability: Mitigation is required for the following activities:

A. Placement of Impervious Surfaces that exceed specified thresholds as detailed in Section 3(t).

B. Lateral expansion of a Structure nonconforming to Shore Setback as detailed in Section 3(o)3.A.ii.

C. Lateral expansion of a Structure nonconforming to Wetland Setback as detailed in Section 3(o)3.B.ii.

D. Relocation of a Structure nonconforming to Shore Setback as detailed in Section 3(o)3.A.iv.

2. Standards and Permitting Requirements:

A. Prior to the issuance of a Zoning Permit for an improvement that requires Mitigation in accordance with Section 3(u)1, a mitigation plan shall be provided by the property owner and be reviewed/approved by the County. An implementation deadline shall be established by the Zoning Administrator as part of permit issuance.

B. A mitigation plan shall include enforceable obligations of the property owner to establish or maintain measures that the County determines are adequate to offset the impacts of the permitted activity on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.

C. The mitigation measures shall be proportionate to the amount and impacts of the Structure or Impervious Surfaces being permitted.

D. The obligations and long-term maintenance requirements of the current and future property owners shall be evidenced by a deed restriction instrument that is reviewed and approved by the Waukesha County Planning and Zoning Division and recorded in the office of the Register of Deeds. A permit for the project will not be issued until the deed restriction instrument is recorded.

i. An inspection completed by the Applicant or agent (if necessary) must be completed and submitted to Waukesha County for review one year after installation, three (3) years after installation and every five (5) years thereafter.

ii. After each required inspection, an inspection report must be submitted by the Applicant, including pictures and a detailed assessment of the mitigation area conditions, along with a description of planned remedial activities to ensure that the mitigation practice will conform substantially to the approved plan requirements.

iii. If the mitigation practice includes verification of native plantings, a landscape architect or other qualified professional shall complete the inspection and prepare the report.

iv. If the mitigation practice includes a stormwater facility or treated Impervious Surface, a qualified professional may be required to complete the inspection (Inspection qualifications will be specified at the time of permit issuance).

v. Staff will make periodic random inspections after year three (3) to ensure success of self-certification system.

3. Required Mitigation Practices – The Point System:

A. Property owners must achieve a certain number of mitigation points in order to construct improvements that require Mitigation in accordance with Section 3(u)1. above. Property owners are able to choose a range of practices, with each practice worth a pre-determined number of points, to achieve the total number of points required for the proposed project.

B. Mitigation Point Requirements.

i. If Impervious Surface limits exceed the limits specified in Section 3(t).

General Standard Shorelines	Highly Developed Shorelines (Residential)	Highly Developed Shorelines (Commercial)	Number of Points Required
>15%-20% IS	>30%-35% IS	>40%-45% IS	**3**
>20%-25% IS	>35%-40% IS	>45%-50% IS	**5**
>25%-30% IS	NA	>50-55% IS	**7**
NA	NA	>55-60% IS	**10**

ii. If a lateral expansion (maximum of two hundred (200) square feet) to a nonconforming principal Structure is proposed within the Shore or Wetland Setback or a nonconforming Principal Structure is proposed to be relocated within the Shore Setback, the following table applies.

Proposed Modification to Nonconforming Structure	Number of Points Required
Relocation within Shore Setback	**5**
Lateral expansion within Wetland Setback	**5**
Lateral expansion within \Shore Setback	**7**

C. Options for Mitigation.

i. Maintain Existing or Establish Native Vegetative Buffer within seventy-five (75) feet of Navigable Waterway.

a. Points: One (1) point per seven (7) feet of buffer depth, measured landward from the Ordinary High Water Mark, if groundcover, shrubs, and trees are provided, or one (1) point per fifteen (15) feet of buffer depth if groundcover and shrubs are provided.

b. Required Standards: Development of a Shore Buffer Plan including the following:

1. Vegetation Plan of existing/proposed native vegetation (type, size, seeding mixtures and location). The plan must be prepared in accordance with Wisconsin Biology

Technical Note 1: Shoreland Habitat: Please see following link: http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCSBioTechNote.pdf or a hard copy may be viewed at the Waukesha County Planning and Zoning Division office. If an existing vegetative buffer exists, additional native trees, shrubs, and/or groundcover may be required in order to meet these standards.

2. Management Plan for the control of invasive species.

3. Erosion Control Plan for during and after construction until the site is seventy percent (70%) stabilized.

c. Access and Viewing Corridor from the developed portion of the site to the water's edge can be maintained or established.

ii. Maintain Existing or Establish Native Vegetative Buffer within seventy-five (75) feet of Wetland.

a. Points: One (1) point per seven (7) feet of buffer depth, measured from the wetland boundary.

b. Required Standards: Development of a Wetland Buffer Plan including the following:

1. Vegetation Plan of existing/proposed native vegetation (type, size, seeding mixtures and location). The plan must be prepared in accordance with Wisconsin Biology Technical Note 1: Shoreland Habitat: Please see following link: http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCSBioTechNote.pdf or a hard copy may be viewed at the Waukesha County Planning and Zoning Division office. If an existing vegetative buffer exists, additional vegetation may be required in order to meet these standards.

2. Management Plan for the control of invasive species.

3. Erosion Control Plan for during and after construction until the site is seventy percent (70%) stabilized.

iii. Decrease Width of Access and Viewing Corridor below thirty-five (35%) within thirty-five (35) feet of Navigable Waterway.

a. Points:

1. One (1) point = Thirty percent (30%) Access and Viewing Corridor

2. Two (2) points = Twenty-five percent (25%) Access and Viewing Corridor

3. Three (3) points = Twenty percent (20%) Access and Viewing Corridor

4. A maximum of three (3) points may be provided.

b. Required Standards: Development of a Shore Buffer Plan including the following:

1. Vegetation Plan of existing/proposed native vegetation (type, size, seeding mixtures and location). The plan must be prepared in accordance with Wisconsin Biology Technical Note 1: Shoreland Habitat: Please see following link: http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCSBioTechNote.pdf or a hard copy may be viewed at the Waukesha County Planning and Zoning Division office. If an existing vegetative buffer exists, additional native trees, shrubs, and/or groundcover may be required in order to meet these standards.

2. Management Plan for the control of invasive species.

3. Erosion Control Plan for during and after construction until the site is seventy percent (70%) stabilized.

c. The remaining Access and Viewing Corridor from the developed portion of the site to the water's edge can be maintained or established.

iv. Maintain Existing or Establish New Native Vegetated Side-Yard Buffer (Between greater thanthirty-five (35) feet and seventy-five (75) feet of Navigable Waterway or Wetland).

a. Points:

1. Shore Mitigation: One (1) point per seven (7) feet of buffer, as measured from the Side Lot Line, if groundcover, shrubs, and trees are provided, or one-half (0.5) point per seven (7) feet of buffer if groundcover and shrubs are provided.

2. Wetland Mitigation: One (1) point per seven (7) feet of buffer, as measured from the Side Lot Line, if groundcover is provided.

3. A maximum of four () points may be provided.

b. Required Standards: Development of a Side-yard Buffer Plan including the following:

1. Vegetation Plan of existing/proposed native vegetation (type, size, seeding mixtures and location). The plan must

be prepared in accordance with Wisconsin Biology Technical Note 1: Shoreland Habitat: Please see following link: http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCSBioTechNote.pdf or a hard copy may be viewed at the Waukesha County Planning and Zoning Division office.

2. Management Plan for the control of invasive species.

3. Erosion Control Plan for during and after construction until the site is seventy percent (70%) stabilized.

v. Maintain Existing or Establish New Native Vegetated Buffer Adjacent to a Neighboring Property with Naturalized Buffer Protected by E-C Zoning Regulations or by Deed Restriction.

a. Points: One (1) point if mitigation types in subsections C.i.ii. or iv. are employed, provided that the shore buffer to be established is a minimum of thirty-five (35) feet deep or the side yard buffer to be established is at least twenty (20) feet wide.

b. Required Standards: Compliance with standards of mitigation type i., ii., or iv. and evidence that the adjacent property has a naturalized vegetative buffer protected by E-C Zoning Regulations or by deed restriction recorded in the Office of the Register of Deeds.

vi. Screen Existing Retaining Walls within seventy-five (75) feet of a Navigable Waterway with Vegetation.

a. Points: One-half (0.5) point per fifty (50) lineal feet of retaining wall screened. A maximum of two (2) points may be provided. Credit is not provided if removal is required as part of another accredited mitigation type or by ordinance.

b. Required Standards: Development of a Screening Plan that includes vegetation that will cover at least seventy percent (70%) of the wall as viewed from the lake with vegetation within three (3) years of implementation. If seventy percent (70%) wall coverage is not established within three (3) years, additional plantings will be required.

vii. Remove Existing Retaining Walls within seventy-five (75) feet of Navigable Waterway and Replace with Native Vegetation.

a. Points: One (1) point per twenty-five (25) lineal feet of retaining wall removed. Credit is not provided if removal is required as part of another accredited mitigation type or by ordinance.

b. Required Standards: Development of a Restoration Plan including the following:

1. Existing and Proposed Grading Plan prepared by a licensed professional.

2. Vegetation Plan (including type, size, seeding mixtures, and location).

3. Erosion Control Plan for during and after construction until the site is seventy percent (70%) stabilized.

viii. Increased Setback of Structures beyond Required Shore Setback.

a. Points: One (1) point per five (5) feet of increased Shore Setback beyond minimum required. A maximum of five (5) points may be provided.

b. Required Standards: Survey verification that the setback has been adequately increased.

ix. Removal of Improvements within seventy-five (75) feet of the Navigable Waterway or Wetland (beaches, Boathouse approaches, fire pits, fountains, Impervious Surfaces).

a. Points: One (1) point per one hundred (100) square feet of improvement that is removed and replaced with vegetation. Credit is not provided if removal is required as part of another accredited mitigation type or by ordinance.

b. Required Standards: Removal of the area of improvement within seventy-five (75) feet of the water resource and the Development of a Restoration Plan, including the following:

1. Existing and Proposed Grading Plan prepared by a licensed professional (if necessary).

2. Vegetation Plan (including type, size, seeding mixtures, and location).

3. Erosion Control Plan for during and after construction until the site is 70% stabilized

x. Removal of Seawall/Riprap and Replacement with Natural, Non-structural Stabilization Materials.

a. Points: Five (5) points for entire Shoreline, or five (5) points per one hundred (100) lineal feet of Shoreline.

b. Required Standards: Provide a Plan and a copy of the WDNR Permit for the removal of the seawall/riprap structure and replacement with natural, non-structural stabilization materials.

xi. Use of Earth-Tone Materials or Colors.

a. Points: One (1) point is provided.

b. Required Standards: Use of earth-tone materials or colors for all existing and proposed Structures on the property as viewed from the shore. Practices must include the use of exterior building materials or treatments that are inconspicuous and blend with the natural setting of the site.

xii. Removal of a Nonconforming Structure; Second Story of a Boathouse; or a Reduction in the Area of a Boathouse to four hundred fifty (450) square feet (minimum of one hundred (100) square feet size reduction required).

a. Points:

1. Three (3) points for accessory structures less than two hundred (200) square feet in size.

2. Five (5) points for accessory structures greater than two hundred (200) square feet in size, removal of the second story of a Boathouse, or a reduction in the area of a Boathouse to four hundred fifty (450) square feet (minimum of one hundred (100) square feet size reduction required.)

3. Seven (7) points for principal structures that are not otherwise required to be removed by ordinance.

b. Required Standards: The Legal Nonconforming Structure must be removed prior to the issuance of a Zoning Permit for the proposed Development.

xiii. Removal of a Conforming Boathouse or Restriction Prohibiting Future Development of a Boathouse.

a. Points: Seven (7) points are provided

b. Required Standards: A deed restriction must be recorded against the property that restricts the construction of a future Boathouse on the property. If a Boathouse already exists on the property, the Boathouse must be removed prior to the issuance of a Zoning Permit for the proposed Development.

xiv. Treated Impervious Surface (TIS).

a. Points: Three (3) points are provided for mitigation purposes only if the TIS is not also proposed as an exclusion to the Impervious Surface calculations per Section 3(t)9 of the Ordinance.

b. Required Standards: The TIS standards of Section 3(t) of the Waukesha County Shoreland and Floodland Protection Ordinance shall be met.

c. Examples of TIS include, but are not limited to, rain gardens, infiltration trenches, chambers, or dry wells, internally drained areas, pervious pavement, and grass swales.

xv. Maintenance or Restoration of Property to Natural State (such as native woodlands and prairies).

a. Points:

1. Greater than twenty percent (20%) to forty percent (40%) natural area = one (1) point

2. Greater than forty percent (40%) to sixty percent (60%) natural area = two (2) points

3. Greater than sixty percent (60%) natural area = three (3) points

4. Credit is not provided for existing Wetlands.

b. Required Standards: Development of a Natural Area Plan including the following:

1. Vegetation Plan of existing/proposed native vegetation (type, size, seeding mixtures and location). The plan must be prepared in accordance with Wisconsin Biology Technical Note 1: Shoreland Habitat: Please see following link: http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCSBioTechNote.pdf or a hard copy may be viewed at the Waukesha County Planning and Zoning Division office.

2. Management Plan for the control of invasive species.

3. Erosion Control Plan for during and after construction until the site is seventy percent (70%) stabilized.

xvi. Maintain Existing or Establish New Shoreline Habitat (fallen trees or fish sticks).

a. Points: Two (2) points per tree cluster as specified in the DNR/WI Lakes Partnership Fact Sheet for Fish Sticks. See following link: http://dnr.wi.gov/topic/fishing/documents/outreach/FishSticksBestPractices.pdf

b. Required Standards:

1. Obtain a Chapter 30 DNR Permit.

2. Development of a Shoreline Habitat Plan in compliance with the standards set forth per the DNR Best Practices

Manual for Fish Sticks. See below link:
http://dnr.wi.gov/topic/fishing/documents/outreach/
FishSticksBestPractices.pdf

xvii. Alternative Method Approved by Waukesha County Planning & Zoning Division.

a. Points: Points based on proposal.

b. Required Standards: Applicant must demonstrate a connection between the proposed Mitigation and the intent/purpose of the mitigation requirements of the Waukesha County Shoreland and Floodland Protection Ordinance and this Handbook. For example, an Applicant could provide engineering information showing that the proposal could accomplish the same outcome as one of the mitigation strategies outlined. Points would be awarded in line with the comparable mitigation points.

xviii. If Mitigation is required because of a lateral expansion within the Wetland Setback, ONLY mitigation types ii., iv., v., ix., xii., xiv., xv., and xvii. apply.

Note: A Mitigation Handbook is obtainable and describes available mitigation practices and sets forth requirements for specific practices that require Mitigation in accordance with subsection 1 above.

(v) **First Amendment Protected Adult-Oriented Establishments**

1. Findings of Fact

A. The Board finds that Adult-Oriented Establishments, as defined in this Ordinance, require special zoning in order to protect and preserve the health, safety, and welfare of the County.

B. Based on its review of studies conducted in Phoenix, AZ, Garden Grove, CA, Los Angeles, CA, Whittier, CA, Indianapolis, IN, Minneapolis, MN, St. Paul, MN, Cleveland, OH, Oklahoma City, OK, Amarillo, TX, Austin, TX, Beaumont, TX, Houston, TX, Seattle, WA and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Colman A. Young v. American Mini-Theaters, Inc., 427 U.S. 50 (1976), the Board finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.

C. The Board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.

D. It is not the intent of the Board to suppress any speech activities protected by the

First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.

E. In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the County, it is the intent of the Board to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.

F. Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Board finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises is warranted.

2. Location of first amendment protected Adult-Oriented Establishments:

A. The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined by this Ordinance, are entitled to certain protections, including the opportunity to locate in shorelands and floodlands governed by this Ordinance. Therefore, an Adult-Oriented Establishment shall be an allowed use in the A-B, B-4 and Q-1 zoning districts and shall be a prohibited use in any other zoning district. The Adult-Oriented Establishment may locate in the specified Districts only if an Adult-Oriented Establishment License has been granted by a town or municipality within the County which is subject to this Ordinance, and all the requirements of this section and the applicable zoning district's regulations are met.

B. Adult-Oriented Establishments shall be located at least 1,000 feet from:

i. any residential district line, playground lot line, or public park lot line;

ii. any structure used as a residence, place of religious worship, public or private school, or "Youth Facility" as defined in the County's Zoning Ordinance;

iii. any other structure housing an Adult-Oriented Establishment;

iv. any structure housing an establishment which holds an alcohol beverage license.

C. Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the residential district boundary lines, to the lot line of any lot used for a park, playground, or any structure listed in 2.B. (ii. – iv.) above.

D. The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.

E. For Adult-Oriented Establishments located in conjunction with other Buildings such as in a shopping center, and clearly separate from other establishments, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.

F. For any Adult-Oriented Establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the Adult-Oriented Establishment (excluding emergency exits).

G. A licensed Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the subsequent location of any of the establishments described in (B), above, within 1,000 feet of the licensed premises after the grant or renewal of its license. This provision applies only to renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

(Ord. No. 141-44, § XIX, 7-22-1986)
(Ord. No. 141-44 § XXI-XXVIII, 7-22-1986)
(Ord. No. 141-44, § XX, 7-22-1986)
(Ord. No. 14144, §§ XXXVI-XXXVIII, 7-22-1986)
(Ord. No. 141-44, §§ XXXIX, XL, 7-22-1986)

(Section 3(a) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(a) was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 3(a) was amended by Enrolled Ordinance 170-71, effective 12-31-15.)

(Section 3(b) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(b)2 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 3(b) 3, formerly Section 3.02(3), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 3(c) 1, formerly Section 3.03(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(c) 1 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(c) 2 was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 3(c) 2 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(c) 2 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(c) 2.B.ii was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 3(c) 2.D.ii was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 3(c) 2.E was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 3(c) 3 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(c) 4, formerly Section 3.03(4), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(c) 4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(c) 4 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 3(c) 6, formerly Section 3.03(6), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(c) 6 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(c) 7 was created by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 3(d) 1, formerly Section 3.04(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(d) 1 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(d) 3 was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 3(d) 5 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(d) 5.A.i.b was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(d) 5.A.i.d.1 was amended by Enrolled Ordinance 1170-71, effective 12-31-2015.)
(Section 3(d) 5.A.ii was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 3(d) 5.B, formerly Section 3.04(5)(B), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(d)5 B was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 3(d)5 B was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 3(d) 5.C, formerly Section 3.04(5)(C), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(d) 5.C was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 3(d) 5.D, formerly Section 3.04(5)(D), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(d) 6 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(d) 6.A.i.g, formerly Section 3.04(6)(A)1(g), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(d) 8, formerly Section 3.04(8), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(d) 9, formerly Section 3.04(9), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(d) 9 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(d) 10 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(d) 11, formerly Section 3.04(11), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 3(e) 1, formerly Section 3.04a(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(e) 3 was amended by Enrolled Ordinance 161-12, effective 7-13-2006.)
(Section 3(e) 4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 3(h) 1.A.i, formerly Section 3.08(1)(A)1, was amended by Enrolled Ordinance 159-70, effective 12-12-04.)
(Section 3(h) 1.A.v was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(h) 1.D, formerly Section 3.08(1)(D), was amended by Enrolled Ordinance 159-70, effective 12-12-04.)
(Section 3(h) 1.I was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(h) 1.I.iv was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(h) 1.I.v was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(h) 1.I.vi was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(h) 1.I.vii was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3 (h) 1.I was amended by Enrolled Ordinance 169-26, effective 07-10-2014.)
(Section 3(h) 1.L, formerly Section 3.08(1)(L), was created by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Former Section 3.08(1)(J) was repealed by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Former Section 3.08(K) was repealed by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(h) 2.A, formerly Section 3.08(2)(A), was created by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(h) 2.A.iv was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 3(h) 2.A.vi was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(h) 2.A.x was created by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(h) 2.D was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(h) 2.E was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 3(i) was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 3(i) 1 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(i) 2.B was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 3(j) 1.C was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(j) 2.E, formerly Section 3.10(2)(E), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(j) 2.E was amended by Enrolled Ordinance 160-02, effective 05-13-2005.)
(Section 3(j) 4 was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 3(j) 4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 3(k) 2 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(k) 3 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(k) 3.C was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 3(k) 3 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 3(m) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(m) 2.B was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)

(Section 3(n) 5 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 3(o) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(o) 2 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(o)2 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 3(q)1 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

(Section 3(r) 6 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(r) 6 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

(Section 3(s) 1, formerly Section 3.19(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(s) 1 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 3(s) 2 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 3(s) 4 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 3(s) was amended by Enrolled Ordinance 169-26, effective 07-10-2014.)
(Section 3.19(7) was created by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 3(s) 8 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 4 CONDITIONAL USES

(a) **Approval required**

Certain uses and situations which are of a special nature, or are so dependent upon actual contemporary circumstances as to make impractical the predetermination of permissibility or the detailing in this Ordinance of the specific standards, regulations, or conditions which would permit such determination in each individual situation, may be permitted as Conditional Uses.

(b) **Application**

Application for conditional use permits may be made by an individual property owner or group of owners or by a municipality, lake management district, sanitary district or similar agency on behalf of a larger property area where said proposal may benefit a larger group or entire community. Application shall be made in triplicate to the county zoning administrator and shall include:

1. A map (preferably a topographic map) in triplicate, drawn to a scale of not less than two hundred (200) feet to one (1) inch, showing: the land in question; its legal description and location; location and use of existing Buildings, sanitary systems and private water supplies on such land; the high water elevation of any navigable waters within one hundred (100) feet of the boundaries of the land in question; the proposed location and use of any Buildings; sanitary systems and private water supplies on such land and within one hundred (100) feet of the land in question.

2. 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. When the project is to include a larger area and number of property owners and the Applicant is the municipality or other governmental agency representing a large number of properties, the necessity of including names and addresses for the owners of land within three hundred (300) feet of the project area is not required although there must be a listing of all properties directly included by the project. Notice of hearing will only be required to be sent to the community, WDNR and other agencies of government as set forth elsewhere in this Ordinance as well as the class 2 type notice to be published in the paper.

3. Additional information as may be required by the County Zoning Agency, the county health department or the town plan commission.

4. A fee, as may be established and periodically modified under Section 41(b)5 shall accompany each application, except those submitted by a governmental body or agency. Such fee shall be paid by cash, check or money order to the Waukesha County Park and Planning Commission to defray the cost of official notification and posting of the public hearing. Costs incurred by the County Zoning Agency in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of conditional use applications and preparation of conditions to be imposed on such uses shall be charged to the Applicant, and if required by the County Zoning Agency, a fee covering such costs shall accompany the application.

5. Where necessary, to comply with certain regulations established by the Wisconsin Statutes and the federal government, applications will be required to be submitted to the WDNR and the U. S. Army Corps of Engineers.

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.

(c) **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) 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 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 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 forty-five (45) days referred to above, such time may be extended with the consent of the Applicant. 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.

(d) **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 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.

(e) **Application for change of conditional use permits**

If any holder of a conditional use permit wishes to extend or alter the terms of said permit, he must apply for such extension or alteration through the procedure of application for conditional use permits as detailed herein.

(f) Expiration, Modification or Termination of conditional use status: Conditional use status will terminate upon:

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. 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.

(g) **Conditional Uses permitted**

Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted as Conditional Uses in the districts specified, provided further that a public hearing shall be held and the location, building and site plans and plan of operation shall be submitted to and approved by the town plan commission and the County Zoning Agency:

1. Airports, Landing Fields and Take Off Strips: In all Agricultural, AD-10, RRD-5 and non-wetland C-1 Conservancy Districts, the HG High Groundwater District, except that in the FLP Farmland Preservation District and the FLC Farmland Conservancy District, the aviation use must be agriculturally or municipally related and shall comply with all

provisions of Section 11. Such uses shall be subject to the approval of:

A. Building and site plans and a plan of operation for the conduct of the use shall be approved by the Plan Commission and County Zoning Agency.

B. Review and approval by the Federal Aviation Administration and/or the State of Wisconsin Bureau of Aeronautics or a letter waiving their approval or indicating such approval is unnecessary.

2. Animal Hospitals, Veterinarian Clinics, Commercial Kennels*:* In any District, except C-1, and EC Environmental Corridor Districts. However, animal hospitals and veterinarian clinics shall be permitted uses by right in the A-B Agricultural Business Districts and business and industrial districts as long as such facilities do not include the operation of a commercial kennel. In the FLP and FLC Districts, such uses shall comply with all requirements of Section 11. No structures are allowed in the FLC or HG District. The following requirements shall be met:

A. The location, building and site plans, and a plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.

B. Animal hospitals and clinics not involved in the operation of a commercial kennel may be permitted on lots of not less than one (1) acre and shall be in conformance with building location, height regulations and area regulations of the District in which such facilities are located. A commercial kennel operation shall not be permitted on parcels of less than three (3) acres and three hundred (300) feet of minimum average width.

C. 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 an Agricultural or Residential Zoning District. Where the Buildings are to be used to board or house dogs in a commercial kennel, including outdoor kennel runs, such structures and fenced runs shall not be closer than one hundred (100) feet to an adjoining lot line.

3. Antique Shops, Gift Shops, Arts and Craft Studios and Similar Uses: Such uses are permitted uses by right in Business Districts and may be allowed as Conditional Uses in all other Districts except FLP Farmland Preservation, FLC Farmland Conservancy, HG High Groundwater District and C-1 Conservancy Districts subject to the following:

A. The location, site, and building plans and plan of operation have been approved by the Plan Commission and County Zoning Agency.

B. The Plan Commission and County Zoning Agency shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.

4. Automobile, Gasoline, and Service Station and Convenience Stores associated with gasoline sales: In B-2, and B-3 Business Districts and any Industrial District, subject to the following:

A. No gasoline pumps and accessory equipment shall be closer than fifteen (15) feet to the Base Setback Line and fifty (50) feet offset to the side and rear yards.

Underground or aboveground storage tanks shall conform to state standards.

B. No lighting installation shall be permitted which creates a hazard to traffic or a nuisance to surrounding property and all lights shall be shielded, baffled or shaded to avoid such hazard or nuisance.

5. Bed and Breakfast Facility*:* In all Districts, except the HG High Groundwater District, C-1 Conservancy, FLP Farmland Preservation and FLC Farmland Conservancy Districts. The intent is to provide travelers/guests with temporary accommodations and breakfast, for a fee, on a daily or weekly room rental basis, as an accessory use in any existing structure designed for and occupied as a single-family residence in any District permitting single-family residences subject to the following:

A. The location, building and site plan and a plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.

B. Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located. For Building with significant architectural or historical value, the architectural integrity and arrangement of existing interior spaces must be maintained and the number of guest rooms shall not be increased except as may be required to meet health, safety, and sanitation requirements.

C. Off-street parking shall be provided at the rate of one (1) parking space for each room rented and two (2) spaces for the owner/occupant. The front yard shall not be for off-street parking for temporary guests unless the parking area is screened from view with natural plant material, and found to be compatible with the neighborhood.

D. The number of rooms shall be limited to five (5) sleep-in rooms or less, excluding those used by the occupants of the facility, and no room may contain more than two (2) beds. There must be at least five hundred (500) square feet of gross interior floor area for each sleeping room. These facilities providing service to a greater number of guests are not considered "license exempt" under state law and must comply with state hotel/motel restaurant licensing procedures administered by the County or State Health Department. The issuance of such licenses shall not be considered as conferring non-conforming commercial status to the use which would either allow alteration of the facility or otherwise compel rezoning of the property for commercial use beyond the scope of this Section.

E. One (1) on-premise sign may be allowed provided that such sign is compatible with the residential use of the site and its surrounding areas and is not more than fifteen (15) square feet in size with letter sizes not less than five (5) inches in height.

F. All necessary state and county permits, certifications, or requirements shall be obtained as a condition of approval of a bed and breakfast service.

G. Room rentals to families or individuals shall not exceed fourteen (14) consecutive days during any thirty-day (30) period.

H. The Bed and Breakfast Facility must be accessory to and contained within the Single-family Dwelling occupied by the owner (e.g., not a manager) of said

premises.

I. The only meal to be provided to travelers/guests shall be breakfast and it shall only be served to guests taking lodging in the facility.

J. The Waukesha County Department of Parks and Land Use, Environmental Health Division shall examine both the water system and the sewage disposal system, and shall conduct a general health and safety inspection of the proposed facility. The Department of Parks and Land Use may impose any conditions required to ensure that all necessary health and safety standards have been met. The Applicant shall not: initiate any construction activity and other improvements related to the Bed and Breakfast Facility; or begin operation of the facility until a determination, in writing, by the Department of Parks and Land Use that the necessary inspections have been completed and any deficiencies have been corrected. The proprietor shall have a water quality evaluation conducted by a recognized water testing laboratory on an annual basis following the certification of adequacy by the Department of Parks and Land Use. The results of that test shall be submitted to the Department of Parks and Land Use with a copy to the Zoning Administrator. All requirements must be incorporated into the terms of the conditional use permit.

6. Business Park and Shopping Center Uses: In the B-P and B-4 zoning districts certain uses may be allowed as a Conditional Use, as those uses or situations are of such a special nature of are so dependent upon the actual circumstances that it is impractical to allow them as a permitted use by right. In evaluating the proposed use, the Town and County Plan Commissions shall base their action on whether or not the proposed use will violate the spirit or intent of the Ordinance, be contrary to the public health, safety or general welfare, be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor, traffic congestion, incompatibility of uses, or other similar factors or for any other reason causes substantial adverse effect on the property values and general desirability of the neighborhood or the center. The following considerations shall be utilized in the determination of the appropriateness of the contemplated uses by the Town and County:

A. The Town and County Plan Commissions must review and approve all existing and proposed uses and the Plan of Operation.

B. The economic practicality of the proposed use.

C. The proposed use shall be served by adequate off-street parking, loading and service facilities.

D. The proposed use shall not create an adverse effect upon the general traffic patterns, circulation or adjoining property.

E. The architecture, landscape, lighting and general site Development shall be compatible with the surrounding neighborhood and uses.

F. The use may be granted with any reasonable conditions deemed necessary by the Town and County Plan Commissions.

G. The proposed Development shall have adequate drainage and stormwater retention facilities, sewage and water facilities. Restrictions may be placed on uses without public sewer.

H. The intended use complies with the locally adopted Land Use Plan.

7. Cemeteries and Mausoleums for the Burial of Human Remains Only: In any District, except in C-1, FLC or EC Environmental Corridor Districts subject to the approval of the Town Board following recommendations of the Plan Commission. In the FLP District, cemeteries and mausoleums that are governmental, institutional, religious, or nonprofit are permissible if they comply with the terms of Section 11.

8. Churches, Synagogues and Other Buildings for Religious Assembly: In any District, except in C-1, HG, FLC and EC Environmental Corridor Districts subject to the following requirements:

A. A Building Footprint of no more than fifty percent (50%) be allowed.

B. Off-street parking be provided for one (1) automobile for each four (4) seats provided in the main assembly of the Building.

C. Such use shall conform to the setback, height, and double the offset requirements of the District in which it is located.

D. 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 in that District. The aforesaid height regulation shall not apply to the spire or belfry of a church except where airport safety zone regulations specifically limit the maximum height.

9. Commercial Fish or Bait Ponds or Hatcheries: Such uses are considered Permitted Uses by right within the FLP and FLC Districts. In other Districts, such uses are permitted conditionally, subject to the following:

A. No such use shall be permitted on a lot less than five (5) acres in area and no such use shall be permitted in a Floodplain and/or Wetland unless the applicable requirements of Section 7 of this Ordinance are met and all State and Federal permits are obtained.

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.

10. Commercial Truck Parking: Such uses are uses permitted by right in the B-3, M-1, M-2, P-I, and Quarrying Districts. In all Residential, Agricultural, FLP, FLC, HG, B-1 and B-2 Business Districts, except the EC Environmental Corridor District and the C-1 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.

11. Contractor's Yard: In A-1 Agricultural Districts, A-5 Mini-Farm District, B-3 General Business District, Q-1 Quarry District, or Industrial Districts subject to the following:

A. The minimum lot area shall be at least five (5) acres.

B. All Buildings used in the conduct of the business shall be located at least one hundred (100) feet from the lot line of an adjoining lot in a residential district or at least fifty (50) feet from a lot line of an adjoining lot in any other District.

C. No such use shall be allowed on any parcel, except as may front directly upon and have access to an arterial or major collector street, as defined in the Waukesha County Shoreland and Floodland Subdivision Control Ordinance or within an established industrial park, where the roads can accommodate the heavy equipment.

D. A planting screen at least ten (10) feet high in initial height shall be provided between any abutting property line and the proposed use. The plan commission or the zoning agency may increase or decrease the planting screen requirements as may be deemed appropriate.

E. In determining whether or not the proposed Conditional Use should be approved, the plan commission and zoning agency shall make a determination that the proposed Conditional Use is compatible with adjacent land uses. If it is determined that the proposed Conditional Use would in any way be incompatible with the adjacent land uses or represent an adverse effect or nuisance to adjacent land uses, the proposed Conditional Use shall not be approved.

F. A Site Plan and Plan of Operation shall be submitted to the plan commission and zoning agency for review and approval and must include the type and quantity of equipment and vehicles owned or leased by the property owner, the storage of materials, and hours of operation.

12. Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations, Poultry and/or Egg Production: In A-1, A-B, A-5, AD-10, FLP, FLC, RRD-5 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-5, AD-10, FLP, FLC, RRD-5 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. The animal waste 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.

D. No such consideration or approval for this use will be granted on a lot of less than five (5) acres in size.

13. In-Law Unit: In any Residential, Agricultural, B-1 or B-2 zoning districts, except the FLC District, subject to the following. Such uses in the FLP District shall comply with all density provisions of Section 11 in addition to the below requirements:

A. The location, building plan, site plan and plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.

B. The Waukesha County Department of Parks and Land Use, Environmental Health Division shall certify that the septic system will accommodate the proposed use and in accordance with SPS 383, county and State Sanitary Codes.

C. Maximum living area of the in-law unit shall not exceed eight hundred (800) square feet and shall contain no more than two (2) bedrooms. There shall be an additional parking space for the in-law unit. There shall be no more than one (1) in-law unit per single-family lot.

D. Architecture of the residence shall be compatible with the adjacent residential neighborhood and shall appear to be a single-family residence. All other appropriate zoning district requirements for the principal living unit shall be complied with. A common entrance to the residence and in-law unit should be designed into the structure so that a separate front entrance off of the common entrance is available and the structure does not appear to be a duplex.

E. The Plan Commission and the County Zoning Administrator shall determine if it is appropriate to have an interior door between the in-law unit and the principal residence.

F. A Deed Restriction shall be filed in the Waukesha County Register of Deeds Office and a copy of the recorded document presented to the Building Inspector prior to issuance of the Building Permit. This Deed Restriction shall state that the in-law unit is to be occupied by persons related by blood or marriage to the family occupying the principal unit and that the Conditional Use is not transferable without formal approval of the Plan Commission and the County Zoning Agency without necessity of a public hearing and that the unit will be used as intended.

14. Land Altering Activities: Land Altering activities in excess of those limits set forth in Section 3(d)5 of this Ordinance may be permitted as a Conditional Use in any District, except the C-1 Conservancy District unless rezoned, in accordance with Section 39 of this Ordinance, to allow such activity.

A. Highway construction which may be exempted by Wisconsin statutes by a written Memorandum of Understanding between the WDNR and Department of Transportation for a specific highway project, home construction and the attendant limited grading and fill necessary to achieve positive drainage away from the foundation and dredging as may be allowed in Section 3(d)5 of this Ordinance and minor grading as defined in the Ordinance, shall be excluded from regulation under this provision, but may be regulated elsewhere under this 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 Stormwater 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. The use shall be designed to minimize impairment of fish and wildlife habitat and natural scenic beauty.

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 Stormwater 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.

15. Legal non-conforming uses: In any District as provided by Section 3(o).

16. 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 FLC Districts. Within the FLP District, such uses must comply with the terms of Section 11.

    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 as defined in this Ordinance and is prohibited from manufacturing or assembling products. The sale of products on the premises that 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.

17. Marinas and Boat Liveries: In any residential or business district subject to the following:

A. Such use shall be located at least five hundred (500) feet from the nearest public bathing beach or park.

B. Such use is designed and constructed so as to not interfere with adjacent riparian owners' uses of the water for swimming, fishing, or boating; nor interfere or obstruct the public's free navigation.

C. The minimum lot area shall be one (1) acre with a minimum width of lot not less than one hundred fifty (150) feet.

D. The sewage disposal field shall be located not closer than one hundred (100) feet from the Ordinary High Water Mark.

E. Fuel pumps shall be located two (2) feet above the regional flood elevation and be located outside of the floodway. Fuel storage tanks shall be located not closer than fifty (50) feet from the Ordinary High Water Mark, shall be located above ground and shall be adequately screened and fireproofed. The offset requirements for fuel pumps shall be at least twenty (20) feet from the side lot line and storage tanks shall be located no closer than fifty (50) feet from any side lot line. All other location requirements shall conform to the requirements of the District in which the use is located.

F. No lighting installation shall be permitted which creates a hazard to traffic or nuisance to surrounding properties.

G. No Arcade as defined herein shall be permitted unless specifically authorized by the conditional use permit.

H. No pier may be permitted to extend beyond the pierhead line if established. The total length of all piers, and T's or L's extending from the pier may not exceed the total length of the lake frontage of the property and in no case greater than one hundred fifty (150) feet from shore.

I. Any other condition of operation such as long term boat storage, launching, or other associated commercial activity on the site may be considered for inclusion in the terms of the permit in order to make the facility compatible with the neighborhood and the lake and to meet the spirit and intent of the Ordinance.

18. Mobile Home Parks and Trailer Camps: In any District other than the agricultural districts, Conservancy, Farmland Preservation District, Farmland Conservancy District, 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 manufactured homes shall meet the residential development standards provided in Section 8-Existing Floodplain Development Overlay District.

19. Motels and Hotels: In the B-1 Restricted Business District and B-2 Local Business District only, subject to the following:

A. No such use shall be permitted on a lot less than three (3) acres in area.

B. Off-street parking shall be required in accordance with Section 3(k)1.J of this Ordinance.

C. No Building shall be closer than fifty (50) feet to the lot line of an adjoining lot in a District permitting residential use.

D. All provisions of the motel ordinance of the town shall be complied with.

E. All provisions of the County Community Health Code shall be met.

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 4(g)22 of this Ordinance, subject to the following:

A. A duplex (2-family residential use) is the only type of multi-family use that may be allowed in the AD-10 Agricultural Density District and the RRD-5 Rural Density District.

B. A duplex (2-family residential use) may be allowed in a A-5 Mini Farm District, 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 sewer, the density requirements can be increased to a minimum of nine thousand (9,000) square feet per dwelling unit. 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 comply with Section 3(j) of this Ordinance.

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, setbacks and height shall not exceed the standards of the R-3 Residential District.

21. Outdoor theater: In local and general business districts subject to the following:

A. No portion of the theater area shall be closer than two hundred (200) feet to the Base Setback Line or closer than two hundred (200) feet to the lot line in a District permitting residential use.

B. A planting screen at least forty (40) feet in width and at least six (6) feet high shall be provided along any lot line abutting a District permitting residential use.

C. Additional highway width sufficient to provide for the safe control of traffic at the theater entrance shall be dedicated and the necessary highway improvements constructed to provide for a divided roadway, with adequate reservoir area in the center strip to shelter cars entering the theater.

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 that 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 FLP Farmland Preservation, FLC Farmland Conservancy, A-B Agricultural Business, 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 or HG Districts, subject to the following:

A. Lot size, Lot Width, height, Offset, Road Setback, Wetland Setback, Building Footprint, minimum Floor Area, 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 County and town comprehensive plans, 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. For riparian Planned Unit Developments (Developments with frontage on a Navigable Waterway), Lot Area and Lot Width of proposed non-riparian parcels can be reduced below the minimum Lot Area and Lot Width requirements of Chapter NR 115 of the Wisconsin Administrative Code, subject to the approval of the County Zoning Agency, provided the project meets the following criteria:

a. The Planned Unit Development area is a minimum of two (2) acres.

b. The project boundary contains at least two hundred (200) feet of shore frontage on a Navigable Waterway.

c. The County Zoning Agency, upon recommendation of the Plan Commission, shall require appropriate shore buffer widths and increased setback dimensions for riparian lots that are proportional to offset the impacts of the reduced lot sizes on habitat, water quality and natural scenic beauty.

iv. Wetland Setbacks can only be reduced if wetland mitigation is provided that offsets the impacts of the reduced setback. Wetland mitigation requirements shall be established by the County Zoning Agency.

v. 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 PUD, except that areas which are upland or Secondary Environmental Corridors are also subject to (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 *
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 (ii) below.

** The density may be increased by forty percent (40%) to nine thousand (9,000) square feet per dwelling unit if municipal sewer is 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 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 PUD Public open space or common open space shall be a minimum of forty percent (40%) of the entire Development, while no more than twenty percent (20%) of

the entire acreage of the Development included in the required forty percent (40%) Open Space can be Conservancy zoned land. In any Development, no more than five percent (5%) 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 two percent (2%) 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 ninety percent (90%) Green Space. Such public open space or common open space shall not be part of individual residential building lots and all but five percent (5%) 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 PUD*: The use of a Commercial PUD 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 PUD 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 PUD shall be served by adequate off-street parking, loading and service facilities.

ii. The PUD 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 PUD*: A mixed PUD 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 PUD 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. *Urban Form PUD*: An Urban Form PUD shall allow a mixture of commercial, office, residential, institutional or park and open space uses and may also allow for single use projects that contain certain specified urban design elements. Such projects are envisioned to accommodate compact, higher intensity development or redevelopment in settings where urban services are available and urban development is appropriate and will contribute to the vitality of the community. The Urban Form PUD shall require a heightened level of site design and individual Buildings shall be arranged in a unified fashion so as to be complementary to each other and to be compatible with the surrounding neighborhood. Urban/high density residential development is encouraged (less than 6,000 square feet per dwelling unit) and can be authorized within this Conditional Use category.

This PUD option provides opportunity for design flexibility and sets forth basic requirements for urban form development projects in order to accommodate unique, integrated development projects. The availability of this design option recognizes that the community and County realize economic, aesthetic and quality of life benefits from projects with interesting design and higher intensity mixed uses or projects with urban form. Development projects or new neighborhoods with vertical scale architecture, mixed uses, pedestrian facilities and public gathering spaces create more dynamic places that are attractive for people to live, work and play within. Required urban amenities will benefit both the developer and the community while also allowing for orderly and efficient land use. For a project to be eligible for consideration and approval as an Urban Form PUD, the following project design elements shall be provided:

i. Urban Form PUDs will only be considered in existing central business district/downtown settings or in close proximity to major transportation facilities such as interstate highway interchanges, county trunk highways, major arterials or mass transit stops.

ii. Eligible sites must be served by municipal sewer and municipal water.

iii. Architecture, landscaping and building siting must be designed to create an attractive and cohesive environment that contributes positively to the existing setting. Landscape treatments shall be provided to enhance architectural features, improve appearance, screen parking areas and structures, provide shade and enhance the streetscape.

iv. Urban scale architecture (minimum two story Buildings or two story facades) is required. Maximum permissible Building Height and massing must be complimentary to the neighborhood and is subject to the approval of the County Zoning Agency.

v. Building designs shall utilize a variety of aesthetically compatible exterior building materials and building styles and articulations shall be varied. Long, monotonous façades or roof designs shall not be permitted. HVAC units and other rooftop mechanicals/utilities are required to be screened from view.

vi. Meaningful communal gathering and green spaces provided in accessible settings must be an integral part of any proposed Development.

vii. Pedestrian facilities must connect buildings and uses within the proposed Development and must connect the Development to the surrounding neighborhood in order to provide safe and convenient access for patrons, residents, and pedestrians. Bicycle accommodations should be considered in the project design.

viii. Proposed Development projects must be complimentary to the surrounding neighborhood.

ix. Buildings shall be predominantly oriented to streets with minimal street setbacks or maximum build-to lines to be specified by the County Zoning Agency.

x. Large surface parking lots shall be minimized with specific consideration given to avoidance of parking lots between Buildings and the street edge. Structured, underground or on-street parking must be provided to the greatest extent practicable. Surface parking lots should be located to the side and rear of Buildings as much as possible. Parking areas should be landscaped to incorporate planting islands large enough so they may also serve as Stormwater areas or snow storage areas.

xi. Retail and mixed retail/office buildings shall provide large store front windows that provide visibility and transparency at the pedestrian level.

xii. Urban/High Density residential development is permissible with the form and massing of buildings to be authorized by the County Zoning Agency. Any County-imposed minimum residential dwelling unit size restrictions shall be in accordance with SEWRPC's Regional Housing Plan for Southeastern Wisconsin: 2035 (or as amended in the future) recommendations for unit size affordability (i.e. 800 square feet or less for a two-bedroom unit). Specified maximum Building Height, setbacks, build-to lines, offsets, and on-site parking requirements are to be established by the County Zoning Agency, which will determine available housing densities.

xiii. Internal streets must be designed to adequately serve the users of the proposed Development and contain traffic calming measures (landscape bump outs, parallel or angle on-street parking, visually conspicuous crosswalks, narrow streets, etc.) while allowing for safe and efficient traffic circulation.

xiv. Developers of mixed use projects or structures with more than one tenant shall submit a comprehensive description of a uniform signage system so that individual business or tenant signs will be harmonious and compatible with the overall design of the structures and site. Individual tenant signage must be predominantly wall mounted.

xv. Streets and pedestrian facilities shall contain appropriate streetscape amenities (street trees, street furniture such as benches, planters, trash receptacles, information kiosks, bike racks, bus shelters, appropriate scale lighting and way finding signage) and the County Zoning Agency shall set forth the required streetscape elements with consideration given to similar Town imposed requirements, if applicable. Terraces to separate pedestrians from vehicles shall be provided, where feasible. ADA compliant access and facilities shall be provided throughout the Development. Sidewalks that will traverse predominantly retail or restaurant use areas shall be wide to accommodate space for passing pedestrians and certain designated sidewalks within retail areas should be widened to allow for sidewalk café dining or outdoor retail display while still providing for pedestrian passage.

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	- 10 acres
	90 acres
Less ten (10) acres zoned for B-2 Business use.	- 10 acres
	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 District
(3,484,800 divided by 39,000) = 89 units

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

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 and all service facilities) are not permitted within the C-1, HG or FLC Districts. Such uses may only be allowed in the FLP or FLC Districts if incidental to and compatible with the continued long term Agricultural Use of the lands and in conformance with Section 11. Such uses shall be 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.

24. Public and Semi-public Buildings and uses: In any District except the C-1 Conservancy District. Such uses within the FLP and FLC Districts shall comply with all terms of Section 11. No structures are permitted within the HG or FLC Districts. Such uses shall be subject to the following:

A. Such uses shall conform to the setback, height, and double the offset requirements of the District in which 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.

25. Quarrying as defined in this Ordinance: In any District, except 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, P-I, B-1, B-2, B-3, B-4, BP, or M-1. Existing quarries may continue to operate in the C-1, HG, FLC and EFD Districts, subject to compliance with the development standards of 7(c)2. New quarries are prohibited in the C-1, HG, FLC and EFD Districts. Quarries within the FLP or FLC Districts shall comply with all terms of Section 11. All quarries are subject to the following:

A. *Procedure for application*:

i. Permit: No quarrying operation shall take place in any District until a conditional use permit has been received and approved by 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 Department of Parks and Land Use and shall be accompanied by a fee as may be established and periodically modified under Section 41(b)5 of this Ordinance. Such fee shall be paid by cash, check or money order to the Waukesha County 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 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 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 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.

iii. Action by the Town Board: The Town Board shall, within 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 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*:

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 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 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 any residential district.

ii. No quarrying operation shall be permitted except in a quarrying 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*: 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*: 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) feet to any property line except with the written consent of the owner of adjoining property, or except where said line is abutting a quarrying 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*:

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, lintel, 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 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 requirements*:

i. In order to insure that the area of the quarrying operation shall be reclaimed to a condition of practical usefulness and reasonable physical attractiveness, the owner and operator shall, prior to the issuance of a permit, submit to the Town or the Waukesha County Department of Parks and Land Use – Land

Resources Division, as applicable, a plan for such reclamation in 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.

ii. 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.

H. *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 Plan Commission 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. Where the quarrying operation will involve the commercial disposal of the material removed from a quarrying operation, the approval of the Plan Commission 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 Plan Commission 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 Sections 4(g)25.D and 4(g)25.E.

I. *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 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 reclamation: There shall be required within one (1) year after adoption of this Ordinance, the submission of a plan for reclamation of the site of any existing quarrying operation as provided by Section 4(g)25.G. The plan for 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.

26. Restaurants, Supper Clubs, Lake Resorts, Taverns and Similar Uses: In B-2 and B-3 Business districts such uses shall be considered permitted uses by right. In all other districts, except the A-B, A-T, FLP, FLC, A-5, C-1, HG, P-1 and EC Environmental Corridor districts, the above uses shall be considered Conditional Uses, subject to the following:

A. The minimum lot area shall be at least three (3) acres and at least two hundred (200) feet in minimum in average width.

B. Off-street parking shall be provided within two hundred (200) feet of the Building in which such use is occurring, but offset twenty (20) feet from any lot line of an adjacent property zoned agricultural and any residential zoning district. The amount of space required shall be in accordance with the requirements contained in 3(k)1.C.

C. A planting screen of at least six (6) feet in initial height shall be provided between any abutting Residential District and the proposed Conditional Use. Additional screening may be required by the Plan Commission or the County Zoning Agency.

D. The proposed Building shall be offset at least fifty (50) feet from any adjoining residential district and one hundred (100) feet from the high water mark of any lake or navigable body of water.

E. The location and building plans and a Site Plan and Plan of Operation shall be submitted to and approved by the plan commission and the zoning agency.

27. Testing Laboratories (Experimental or Analytical): Agricultural, medical, biological, food processing and industrial design and manufacturing uses are permitted uses in the Industrial District subject to the provisions of the Industrial District and Conditional Uses in the A-B Agricultural Business, and A-1 Agricultural Districts, subject to the following standards:

A. The minimum lot size shall be three (3) acres.

B. The minimum offset for a Building housing such uses shall be fifty (50) feet where the zoning upon the adjoining lot permits residential use.

C. Off-street dedicated parking at a rate of one (1) space for each three hundred (300) square feet of floor area.

D. Approval of building plans, site plan and plan of operation.

E. Approvals of any other applicable state or federal agencies.

28. Other uses or situations not specifically provided for in this Conditional Use section and which may be determined to be acceptable under the provisions of Section 3(e) and in the judgment of the plan commission and County Zoning Agency, meet the intent of a Conditional Use as set forth in Section 4(a). Any such uses within the FLP or FLC Districts must comply with Section 11.

(Ord. of 11-5-84, §§ III, IV; Ord. No. 141-44, §§ XXIX-XXXV, LXX, 7-22-1986)

(Section 4(b) 2 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 4(b) 5 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 4(c) was amended by Enrolled Ordinance 162-47, effective 10-09-2007.)
(Section 4(c) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 4(d) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 4(d) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 4(f) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 4(g) 1 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 2 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 3 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 4 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 5 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 7 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 8 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 8.A was amended by Enrolled Ordinance 161-12, effective 7-13-2006.)
(Section 4(g) 9 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 9.A was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 4(g) 10 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 10 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 10.A was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 4(g) 11 was created by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 4(g) 12 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 12 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 13 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 13.B, formerly Section 3.07(7)(AA)2, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 4(g) 13 B was amended by Enrolled Ordinance 169-54, effective10-08-2014.)
(Section 4(g) 14, formerly Section 3.07(7)(I) was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 4(g) 14 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 4(g) 14.B was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 16 was created by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 4(g) 16 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 16 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 17.D was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 4(g) 17.D was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 17.E was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 4(g) 18 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 4(g) 18 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 18 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 18.E was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 20, formerly Section 3.07(7)(O), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 4(g) 20 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 20.D was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 4(g) 22 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 22 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 22.A.i was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 4(g) 22.B was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 4(g) 22E was amended by Enrolled Ordinance 169-24, effective 07-10-14.)
(Section 4(g) 23 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 4(g) 23 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 23 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 4(g) 23 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 24 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 4(g) 24 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 24 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 25 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 4(g) 25 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 4(g) 25 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 4(g) 25.G.i.b, formerly Section 3.07(7)(T)3(e)(1)b, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 4(g) 26.E was created by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 4(g) 26 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

(Section 4(g) 28 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

SECTION 5 (RESERVED)

SECTION 6 DISTRICTS

(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
FLC Farmland Conservancy District
FLP Farmland Preservation District
A-T Agricultural 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
C-1 Conservancy Overlay District
HG High Groundwater District
DSO Delafield Shoreland Overlay District
EC Environmental Corridor District
EC Environmental Corridor Overlay District

EFD Existing Floodplain Development Overlay District
M-1 Limited Industrial District
M-2 General Industrial District
NLO North Lake Overlay 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

(b) **Zoning map**

1. Districts mapped: The boundaries of zoning districts are shown upon maps as referred to in Section 3 of this Ordinance for all of the unincorporated towns of Waukesha County, and entitled Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps which are made a part of this Ordinance and adopted by reference.

A. *Wetlands:* The Final Wisconsin Wetlands Inventory Maps for Waukesha County, dated September 6, 1984 and subsequently amended, were utilized to assist in the preparation and identification of wetlands identified on the aerial photographs and accordingly are made a part of this Ordinance and are adopted by reference. The review and adoption of amendments to the Wisconsin Wetland Inventory Map shall be completed in accordance with Section NR 115.04(2) Wis. Admin. Code. The Wisconsin Wetland Inventory Maps are also depicted on the Department of Natural Resources Surface Water Data Viewer (http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland) and on the Waukesha County GIS. All the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said maps were all fully described herein. Said maps shall be kept on file in the offices of the County Zoning Agency and are periodically updated as amendments are made, and are for general informational purposes only. For the purpose of local administration, a copy of the appropriate maps shall also be kept on file in the office of each town.

All other wetlands subsequently identified by the Zoning Administrator, County Zoning Agency, SEWRPC, ACOE or the WDNR within the shoreland boundaries but not noted on the Wisconsin Wetland Inventory Maps, are subject to regulations contained in the C-1 Conservancy District. Said newly determined areas shall be noted on the Shoreland and Floodland Protection Ordinance Zoning Maps as a C-1 designated area within six (6) months of said determination.

B. *Floodplains*: The boundaries of the Floodplains shall be those areas designated as A or A-E on the FEMA Flood Insurance Rate Maps based on the Flood Insurance Study, including all areas covered by the Regional or Base Flood; those Floodplains identified as an Official Map below approved by WDNR; or as depicted as C-1 Conservancy District or EFD Existing Floodplain Development Overlay District on the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps referenced in Section 3(a) of this Ordinance, or as subsequently determined by the Zoning Administrator pursuant to Section 6(b)3, whichever boundary designates a greater Floodplain area.

Base Flood Elevations are derived from the Flood Profiles in the Flood Insurance Study published by FEMA. Areas covered by the Base Flood are identified as AE (numbered A-Zones) on the Flood Insurance Rate Map. Other regulatory zones are displayed as A Zones. Regional Flood Elevations may be derived from other studies and are approved by WDNR.

Any change to the Base Flood Elevations (BFE) or any changes to the boundaries of the Floodplain or Floodway in the Flood Insurance Study or on the Flood Insurance Rate Map must be reviewed and approved by the WDNR and FEMA through the Letter of Map Change process and through Section 39 of this Ordinance before it is effective. No changes to Regional Flood Elevations (RFE's) on non-FEMA maps shall be effective until approved by the WDNR.

A list of the official Floodplain maps to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is listed as follows. These maps and revisions for unincorporated Waukesha County are on file in the office of the Waukesha County Planning and Zoning Division located in the Waukesha County Administrative Center in Waukesha, Wisconsin. If more than one map or revision is referenced, the most restrictive information shall apply.

i. OFFICIAL MAPS: Based on the Flood Insurance Study approved by WDNR and FEMA.

a. See Table 6(b)1.B.i.

b. Revisions to the Waukesha County Flood Insurance Rate Map (FIRM) panel numbers: See Table 6(b)1.B.i.

ii. OFFICIAL MAPS: Based on other studies approved by WDNR. Said maps are more restrictive than those maps based on the Flood Insurance Study.

The list of official maps based upon other studies to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is as follows: See Table 6(b)1.B.ii.

Official maps approved by the WDNR and/or FEMA, including Flood Profiles, Floodway data tables, Regional or Base Flood Elevations and other information shall become official maps of this Ordinance and shall be specifically listed herein as adopted by the Waukesha County Board.

The county shall provide the list of the official maps to the WDNR and FEMA regional offices for unincorporated areas of Waukesha County. Approved studies shall not be considered official maps herein until the land is rezoned according to Section 39 of this Ordinance. Said areas must be rezoned and identified on the official zoning maps within 6 months of WDNR approval.

C. The Existing Floodplain Development Overlay District (EFD) is an overlay zoning district established to superimpose upon the conservancy zoning district regulatory standards or special regulations which will apply to the underlying zoning district

where it is found that such land areas do contain existing Development and are located within the Floodplain as herein defined. The mapping of this District shall be established pursuant to the procedures set forth in Section 39, changes and amendments, of this Ordinance.

2. Determination of boundaries: District boundaries shall be determined by measurement from and as shown on the official zoning maps and in case of any questions as to the interpretation of such boundary lines, the Zoning Administrator shall interpret the map according to the reasonable intent of this Ordinance.

   Unless otherwise specifically indicated or dimensioned on the maps, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the centerline of streets, highways, railways or alleys.

3. Determination of boundaries for C-1 Conservancy District, EFD Existing Floodplain Development Overlay District, and FLC Farmland Conservancy District: The boundaries of the C-1 Conservancy District, EFD Existing Floodplain Development Overlay District and FLC Farmland Conservancy District as drawn are intended to represent the edge of marsh lands, swamps, Floodlands, Wetlands or the Ordinary High Water Mark along streams or other watercourses. Where a question arises as to the exact location of those boundaries, they shall be determined by the Zoning Administrator or the County Zoning Agency through the utilization of the best available information such as topographic maps, soil maps, aerial photographs, infield botanical inventories, floodplain studies or other sources of information available which would lend assistance to such a determination and may be finally determined by actual conditions in each specific situation. An appeal to this determination may be made in conformance with Section 38 of this Ordinance. It is generally the intent of this Ordinance to place all wetlands and lands subject to inundation by the regional flood in either the C-1 District or EFD District if the areas are previously developed. Where land may be subject to inundation by the regional flood and a hydraulic and hydrologic analysis has not been prepared and/or the area is not indicated or mapped as Floodplain, a detailed hydraulic and hydrologic analysis shall be prepared and reviewed and found to be adequate by the WDNR or its designated agency, in which case the new floodplain data will be used in the administration of this Ordinance. The Zoning Administrator shall map these floodplain areas in appropriate zoning districts within six (6) months of the time the WDNR has determined the acceptability of the data and said mapping shall be done pursuant to Section 39 of this Ordinance. Any changes or amendments in the mapped Floodplains and made a part of this Ordinance shall be approved by the WDNR in accordance with the procedure set forth in Section 39 of this Ordinance.

   If an area is found that has not been previously identified or mapped as a Floodplain or a Wetland and not zoned as C-1 Conservancy or EFD Existing Floodplain Development Overlay, or a determination of navigability is made and a stream is subsequently found to be navigable, said stream and any Shoreland, Wetland or Floodplains as defined herein, shall immediately become subject to the provisions of this Ordinance. If the Floodplain has not been determined, said area of approximate Floodplain and Wetlands shall be considered to be subject to the C-1 and/or EFD regulations of this Ordinance. Appropriate procedures to establish Shoreland Zoning districts beyond that which is considered C-1 Conservancy or EFD Existing Floodplain Development Overlay shall be initiated under the mapping amendment procedure pursuant to Section 39 of this Ordinance and as set forth above. Water quality related standards of the Shoreland and Floodland Protection Ordinance are in effect immediately upon a determination of navigability or identification of a shoreland/Wetland or Floodplain (i.e., setback, grading, and land altering activities,

vegetation removal).

4. Discrepancy of Wetland boundaries: In the case of any discrepancy regarding a boundary between any mapped or newly determined Wetland, the Zoning Administrator shall consult with the WDNR and coordinate the appropriate onsite investigation to determine the exact boundary. If the WDNR staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately deny or grant a zoning permit in accordance with the regulations applicable to the correct zoning district designation as it may be modified by such field determination. A notation shall be made on the map indicating that such a change has been made for future reference purposes. Utilizing the procedures above, if an area is found to be inappropriately mapped in a C-1 Conservancy, EFD Existing Floodplain Development Overlay or FLC Farmland Conservancy District category, the Zoning Administrator shall have the authority to designate a District for the subject area consistent with the upland category which may exist adjacent to the site without necessity of a formal amendment process and shall note said changes on the zoning map within 6 months of said determination.

5. Dispute or discrepancy of Floodplain boundaries: In the case of any dispute or discrepancy regarding a boundary between an official zoning map and actual field conditions locating the Floodplain boundary, the criteria in paragraphs (a) or (b) below shall be used. If a significant difference exists, the map shall be amended according to Section 39 of this Ordinance. The Zoning Administrator can rely on a boundary derived from a Flood Profile elevation to grant or deny a permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the District boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an Applicant over the District boundary line shall be settled according to Section 38 of this Ordinance and the criteria in (a) and (b) below. Where the Flood Profiles are based on established Base Flood Elevations from a Flood Insurance Rate Map, FEMA must also approve any map amendment or revision pursuant to Section 39 of this Ordinance.

   A. If Flood Profiles exist, the map scale and the profile elevations shall determine the District boundary. The Regional or Base Flood Elevations shall govern if there are any discrepancies.

   B. Where Flood Profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(Ord. No. 141-44, §§ XLII, XLIII, 7-22-1986)
(Ord. Of 11-5-84, § V; Ord. No. 141-44, § XLI, 7-22-19

(Section 6(a) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 6(a) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 6(a) was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

(Section 6(b) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 6(b)1.B was amended by Enrolled Ordinance 166-108, effective 03-27-12.)
(Section 6(b)1.B was amended by Enrolled Ordinance 167-63, effective 01-16-13.)
(Section 6(b)1.B was amended by Enrolled Ordinance 168-3, effective 05-14-13.)
(Section 6(b)1.B was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 6(b)1.B was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 6(b)1.B was amended by Enrolled Ordinance 171-xx, effective 05-xx-2016.)

(Section 6(b)3 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

(Section 6(b)4 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

(Section 6(b)5 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

SECTION 7 C-1 CONSERVANCY DISTRICT

(a) **Applicability**

This District includes all shoreland areas that are considered Wetlands and/or Floodplains as defined in this Ordinance and as mapped and/or determined as Wetlands and/or Floodplains in Sections 3(a) and 6(b) of this Ordinance. Shoreland/Wetlands designated on the Wisconsin Wetland Inventory Maps prepared by the WDNR as also depicted on the Department of Natural Resources Surface Water Data Viewer are also referred to as being located in the "Shoreland-Wetland Zoning District" as defined in this Ordinance. Said Shoreland/Wetlands are subject to the regulations of this Section.

(b) **Purpose and intent**

This District is intended to preserve and protect environmentally sensitive lands by limiting the uses and intensity of uses that may be placed upon them to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and Development in said conservancy areas whenever possible. When Development is permitted, it shall occur in a manner that minimizes adverse impacts upon the area in question.

These lands are often in a natural, relatively undisturbed state and shall include wetlands, marshlands, swamps, floodlands and areas up to the Ordinary High Water Mark along streams or other navigable water.

(c) **Use regulations**

1. Permitted uses (Floodway, Floodfringe, and Wetland): The following uses shall be allowed, subject to compliance with all other provisions of this Ordinance, the provisions of Chapters 30, 31 and 87 Wisconsin Statutes and § 281.36, Wis. Stats., and the provisions of all other applicable local, state, and federal laws. WDNR and ACOE permits may be required prior to any activities being permitted pursuant to this section. The provisions of Section 7(c)2 must be met for all permitted uses that involve Development in the Floodplain, as defined in this Ordinance.

   A. Hiking, fishing, trapping, hunting, swimming and boating, harvesting of wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds in a manner that is not injurious to the natural reproduction of such crops and that does not involve filling, flooding, draining, dredging, ditching, tiling, or excavating.

   B. Pasturing of livestock and the construction and maintenance of fences, provided no filling, flooding, draining, dredging, ditching, tiling or excavating is done, with the exception of limited excavating and filling necessary for the construction and maintenance of fencing.

   C. The practice of silviculture including planting, thinning and harvesting of timber in accordance with Section 3(d)9.A and agricultural cultivation, provided that filling, flooding, draining, dredging, ditching, tiling or excavation is limited to the following associated activities:

i. The installation of temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.

ii. The cultivation of cranberries, including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries.

iii. The construction and maintenance of roads that are necessary to conduct silvicultural activities or agricultural cultivation if the following provisions are met:

a. The road cannot as a practical matter be located outside of the C-1 Conservancy District;

b. The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland enumerated in Section 39(e)2;

c. The road is designed with the minimum cross-sectional area practical to serve the intended use;

d. Road construction activities are carried out in the immediate area of the roadbed only; and

e. All fill material associated with the construction and maintenance of roads necessary to conduct temporary silvicultural activities must be removed from the conservancy zoned lands after any temporary silvicultural activities are completed.

D. The maintenance and repair of existing agricultural drainage systems, including flooding, draining, ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue any existing Agricultural Use. Filling attendant to the disposal of dredged spoil material adjacent to the drainage systems is not permitted within the Floodplain, but may be allowed in the wetland provided that dredged spoil is placed on existing spoil bands where possible or immediately adjacent to the ditches.

E. Functionally water-dependent uses, such as docks, piers or wharves, walkways built on pilings, flowage areas, water monitoring devices, culverts, navigational aids and river crossings of transmission lines, and pipelines, including limited excavating and

filling necessary for such construction and maintenance. Commercial docks, piers, moorings and wharves are permitted subject to issuance of a Conditional Use Permit under Section 4(g)17 and 23 of this Ordinance.

F. Dam construction and abandonment, provided a Conditional Use Permit is obtained in accordance with Section 4 of this Ordinance and all applicable permits are obtained from the WDNR pursuant to Chapter 31 of the Wisconsin Statutes and from the ACOE pursuant to federal requirements. Maintenance of an existing dam shall comply with the standards of this Ordinance, but shall not require the issuance of a Conditional Use Permit.

G. Maintenance, repair, replacement, reconstruction or new construction of town, county and state streets, highways and bridges, and normal driveway construction and related bridges that are necessary in order to provide access to a property, including limited excavating and filling as necessary, provided such facilities are deemed essential or provided that failure of existing streets, driveways and bridges would endanger public health or safety. Adequate Floodproofing measures shall be provided to the Flood Protection Elevation as identified in Section 8(c) and the standards of Section 3(d)5.A of this Ordinance shall be met.

H. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided the following provisions are met:

i. Any private development shall be used exclusively for the permitted use and the Applicant shall receive a permit or license under Chapter 29, Wisconsin Statutes, where applicable;

ii. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in Section 7(c)1.C.iii above; and

iii. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

I. The construction and maintenance of electric, gas, telephone, cable, fiber optic, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:

i. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the C-1 Conservancy District and provided such facilities are deemed essential or failure of existing facilities would endanger public health or safety. Adequate Floodproofing measures shall be provided to the Flood Protection Elevation and the standards of Section 3(d)5.A of this Ordinance shall be met.

ii. Such construction or maintenance is done in a manner designated to minimize adverse impact upon the natural functions of the Wetland enumerated in Section 39(e)2. Major electrical generative facilities and high voltage transmission lines that have obtained a certificate of public convenience and necessity under Section 196.491, Wisconsin Statutes, are not subject to the requirements of this Ordinance.

J. The construction or maintenance of nonresidential buildings and duck blinds. Nonresidential buildings are permitted only if the following provisions are met:

i. The Building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other Wetland or aquatic animals or some other use permitted in the C-1 Conservancy District;

ii. The Building cannot, as a practical matter, be located outside the wetland;

iii. The Building is not designed for human habitation and shall not exceed five hundred (500) square feet in floor area; and

iv. Limited filling and excavating necessary to provide structural support for the Building is permitted. Where the use is intended for commercial purposes, said use and Buildings shall be subject to the provisions of Section 4(g)9 and said commercial uses and Buildings are not permitted within the floodway.

K. Existing quarrying operations located within the Floodplain or that may expand the Floodplain via the extraction of sand, gravel, or other materials in compliance with Section 4(g)25. Said activities are prohibited in Wetlands.

2. <u>Standards for development in the Floodplain</u>:

A. General standards of Development for the above permitted uses in the Floodplain:

i. Any Development in the Floodplain shall comply with Section 3(d)5 and shall not have a high flood damage potential, as defined in this Ordinance. If the standards of Section 3(d)5 are not met, the area shall be rezoned in accordance with Section 39.

ii. Applicants shall provide the following data to determine the effects of the proposal according to the standards set forth in Section 3(d)5.A:

a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed Development will obstruct flow; or

b. An analysis calculating the effects of this proposal on regional flood height.

iii. Any Development in the Floodplain shall comply with the application requirements of Section 3(c)2.

iv. In addition to the lowest floor elevation and fill requirements of this Ordinance, any structure that is not placed on fill at an elevation above the Base or Regional Flood Elevation must meet the Floodproofing standards in Section 8(c).

v. The Zoning Administrator shall deny the permit application if the project will obstruct flow or cause any increase in the Flood elevations upstream or downstream based on data submitted pursuant to par. ii, iii and iv above. If an increase in the Flood elevation is proposed, the project must be reviewed in accordance with Section 4(g)14 as a Conditional Use and a Rezone must be obtained in accordance with Section 39. Compensatory Floodplain storage must be provided as required in Section 3(d)5.A.

vi. The Applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and Floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of Section 8(c) are met.

vii. Floodplain Certificate of Compliance: No land shall be occupied or used, and no Building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a Floodplain Certificate of Compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:

a. The Floodplain Certificate of Compliance shall show that the Building or premises or part thereof, and the proposed use, conform to the floodplain provisions of this Ordinance;

b. If all provisions are met, the Floodplain Certificate of Compliance shall be issued within 10 ft. days after written notification that the permitted work completed. The Zoning Administrator shall issue the Floodplain Certificate of Compliance to the Town Building Inspector and a copy of the Floodplain Certificate of Compliance to the Applicant.

B. Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the use is a permitted use in the C-1 Conservancy District, and the structures comply with the above standards for Development and the following criteria:

i. The Structure is not designed for human habitation and does not have a high flood damage potential, as defined in this Ordinance;

ii. The Structure must be anchored to resist flotation, collapse, and lateral movement;

iii. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and

iv. The Structure must not obstruct flow of flood waters, cause any increase in

flood heights during the occurrence of the regional flood or affect the storage capacity of the Floodplain.

C. Fill or deposition of materials may be allowed by minor grading or conditional use permit if the use is a permitted use in the C-1 Conservancy District, and if the activity complies with the above standards of development and the following criteria:

i. The standards set forth in Section 3(d)5.A are met; and

ii. No material is deposited in the navigable channel unless a permit is issued by the WDNR pursuant to Chapter 30, Wisconsin Statutes, and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable; and

iii. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading, or other approved measures; and

iv. The fill is not classified as a solid or hazardous material.

3. Specific prohibition: Any uses not permitted above are considered to be prohibited, including, but not limited to, the following uses, unless the area is rezoned to another appropriate District in accordance with the provisions of Section 39 of this Ordinance and sec. 59.69(5)(e), Wis. Stats.

A. Habitable structures, including modular homes, mobile homes and recreational vehicles; Structures with high flood damage potential, as defined in this Ordinance; and those Structures not associated with the permitted uses in the C-1 Conservancy District;

B. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

C. Uses not in harmony with or detrimental to uses permitted in the adjoining Districts;

D. Any new or addition to existing private or public sewage systems and permanent or portable toilets in the Floodway, except portable latrines that are removed prior to flooding and systems associated with recreational areas and except where an addition to an existing system has been ordered by a government agency to correct a hazard to public health. Any replacement, repair or maintenance of an existing private sewage system in a Floodway shall meet the applicable requirements of other ordinances, the Floodproofing measures of Section 8(c)3, and Chapter SPS 383, Wisconsin Administrative Code;

E. Any new public or private wells and appurtenant structures or modifications to an existing well, which are used to obtain potable water, except those that are located to benefit recreational areas. The wells and appurtenant structures shall meet the requirements of other ordinances, the Floodproofing measures of Section 8(c)3, and Chapters NR 811 and NR 812, Wisconsin Administrative Code. Any replacement, repair or maintenance of an existing well in the Floodfringe and Floodway shall also meet the requirements of all other ordinances, the Floodproofing measures of

Section 8(c)3 and Chapters NR 811 and NR 812, Wisconsin Administrative Code;

F. Any solid or hazardous waste disposal sites;

G. Any wastewater treatment ponds or facilities, except those permitted under Section NR 110.15(3)(b), Wis. Adm. Code; and

H. Any sanitary sewer or water supply lines, except those to service existing or proposed Development located outside of the Floodplain, which complies with the regulations of this Ordinance.

4. Area Regulations:
There are no specific minimum lot size requirements although conservancy zoned lands that lie within a larger parcel or tract of land, the remainder of which is zoned in any other District, shall have a minimum area requirement of that non-conservancy district.

5. Any Variance granted for structures located in the Floodplain shall meet the minimum Floodplain criteria specified in Section 38 of this Ordinance.

(Section 7 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 7 (c)1 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 7(c) 1.C, formerly Section 5.03(C), was amended by Enrolled Ordinance 159-10, effective 12-12-2004.)
(Section 7(c) 1.C was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 7(c) 1.D, formerly Section 5.03(D), was amended by Enrolled Ordinance 159-10, effective 12-12-2004.)
(Section 7(c) 1.I was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 7 (c) 2.A.iv was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 7 (c) 2.A.v was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 7 (c) 2.A.vi was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 7 (c) 3.D was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 7 (c) 3.E was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 7 (c) 5 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

SECTION 7.1 C-1 CONSERVANCY OVERLAY DISTRICT

All parameters and requirements of Section 7 C-1 Conservancy District shall apply to lands mapped C-1 Conservancy Overlay District. The underlying base zoning district designation standards shall only be applicable if an in-field determination finds that all or a portion of a property within said overlay district is erroneously mapped. All references to the C-1 District or C-1 Conservancy District within this Ordinance shall also apply to the C-1 Conservancy Overlay District.

(Section 7.1 was created by Enrolled Ordinance 170-71, effective 12-31-15.)

SECTION 8 EFD EXISTING FLOODPLAIN DEVELOPMENT OVERLAY DISTRICT

(a) **Purpose and intent**
The purpose and intent of this District is to provide for the continued use of improved properties that lie within the Floodplain and which are considered prohibited structures in Section 7. With the preparation of new floodplain data where such information was previously not available for many

reaches of the various waterways in Waukesha County, it is becoming more apparent that small concentrations of Development lie within the Floodplains, which may not have been previously recognized as Floodplain. Accordingly, it is recognized that these improvements represent the substance of many landowners' businesses, families' estates, and principal residences. Therefore, the intent of this section is to recognize existing uses and structures and regulate them in accordance with sound Floodplain management practices while protecting the overall water quality of the river system.

It is further the intent of these provisions to regulate and diminish the proliferation of non-conforming structures and uses in floodplain areas and to regulate said reconstruction, remodeling, conversion and repair with the overall intent of lessening the public responsibilities attendant to the continued and expanded Development of land and structures which are inherently incompatible with natural Floodplains and to lessen the potential danger to life, safety, health and welfare of persons whose lands are subject to the hazards of floods.

The provisions for this overlay district shall apply to all Floodplains where specifically mapped and where structures are in existence as of the date of this provision (date of adoption December 17, 1981) based upon available flood data. As more detailed hydrologic and flood data becomes available and Floodways and Floodplains are more definitively identified, such portions of land areas where structures exist may be placed into this overlay district subject to the amendment procedures as set forth in Section 39 of this Ordinance.

The degree of flood protection intended to be provided by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the regional Floodplain or land uses permitted within such areas will always be totally free from flooding or flood damages, nor shall this Ordinance create a liability on the part of or a cause of action against the County of Waukesha or any officer or employee thereof for any flood damage that may result from reliance on this Ordinance.

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

1. Any use as permitted in the C-1 Conservancy District.

2. Structures and uses, including principal as well as accessory uses and structures existing at the time of adoption of this provision, subject to compliance with the following:

   A. Except as provided in subsection B below, if an existing legal Nonconforming Structure or any structure with a Nonconforming Use is destroyed or substantially damaged, it cannot be maintained, repaired or reconstructed unless the use and the structure meet the current Ordinance requirements. For purposes of this section, a structure is considered substantially damaged if the total cost to repair or reconstruct the structure to its pre-damaged condition equals or exceeds 50% of the structure's present Equalized Assessed Value. For purposes of valuing the cost to repair or reconstruct the Nonconforming Structure, the cost of elevating the lowest floor of a structure to the Flood Protection Elevation and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities shall not be included. Any such structure that is destroyed or substantially damaged must meet the following standards:

      i. The structure must be located outside of the Floodway.

ii. The elevation of the lowest floor of a principal structure including an attached garage, excluding those Basements or Crawlspaces that are five (5) feet or less in height, shall be placed at or above the flood protection elevation and reconstruction may only occur on the same foundation or newly constructed foundation which represents no greater an encroachment or extension of the previously existing structure other than vertically. Said foundation shall be Floodproofed and certified as set forth herein. Fill shall be used to elevate the lowest floor, excluding those Basements or Crawlspaces, five (5) feet or less in height, so as to meet the above. Basements or Crawlspaces that are five (5) feet or less in height must comply with the provisions of Section 8(b)2A.iii below. The fill surrounding the structure shall not be less than one (1) foot below the flood protection elevation for the particular area and the fill shall extend at such elevation at least fifteen (15) feet beyond the limits of the structure. The fill shall not negatively alter floodwater conveyance or increase flood heights. Where such distance cannot be achieved because of lot lines, elevations of existing streets or sewer lines, flood impacts, or other similar constraints, a Variance is required from the Waukesha County Board of Adjustment and said fill elevation shall extend as far as is practicable resulting in no slope conditions at its terminus which may adversely affect surface water drainage on adjacent properties. In addition, where the fifteen (15) feet of fill cannot be achieved as set forth above, the structures shall be Floodproofed to the flood protection elevation in accordance with the methods set forth herein and shall be certified as such by an architect or professional engineer registered in the State of Wisconsin and be authorized by the WDNR. Other methods may be used, as long as they are certified as set forth above, which are designed to the flood protection elevation for the particular area in question. All Floodproofing measures shall at a minimum provide anchorage to resist flotation and lateral movement, and shall insure that the structural walls and floors are watertight. In order to insure that adequate measures are taken, the Applicant shall submit a plan or document certified, as above, that the Floodproofing measures are adequately designed to protect the property to the flood protection elevation for the subject area. (Cross reference-Flood Protection Elevation, defined in Section 2(b).

iii. If any such structure has a Basement or Crawlspace which is five (5) feet in height or less and which is not useable as living area, the surface of the floor of the Basement or Crawlspace shall be at or above the regional flood elevation. Heating, ventilation, air conditioning, electrical and gas equipment shall be at or above the flood protection elevation. In any case, the Basement or Crawlspace shall be Floodproofed in accordance with Section 8(c) to the flood protection elevation so that floodwater cannot enter directly over the ground surface into such Basement or Crawlspace.

iv. The elevation of the lowest floor of an accessory structure, which is not connected to a principal structure, shall be constructed on fill with its lowest floor a minimum of one (1) foot above the Regional Flood Elevation.

v. There shall be contiguous dry land access to all structures and uses affected by these regulations and as determined by the Zoning Administrator, dry land access to be considered a vehicular access route which is above the

regional flood elevation and which connects land located in the Floodplain to land outside the Floodplain, such as a road with its surface above the Regional Flood Elevation and wide enough for wheeled rescue and relief vehicles.

In Developments where existing street or sewer line elevations make compliance with Section 8(b)2.A.v impractical, a permit may be issued where roads are below the regional flood elevation, if the municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or the municipality has a WDNR approved emergency evacuation plan.

vi. All private sewage systems and private wells shall be designed to minimize or eliminate infiltration of flood waters into the system to the Flood Protection Elevation pursuant to Section 8(c) of this Ordinance, comply with the Floodproofing measures of Section 8(c)3 and shall conform with the provisions of the Waukesha County Code of Ordinances and Wisconsin Administrative Codes where applicable to such facilities.

vii. A Structure may be reconstructed or rebuilt which has less than the minimum Floor Area requirements of 3(j). If a larger floor area than previously existed is desired or the previous Building Footprint exceeded the applicable District requirements, reconstruction or enlargement (vertically only) may not exceed the Building Footprint requirements set forth in the applicable District. Offset and setback requirements of the applicable District shall apply. If an underlying zoning district has not yet been established, the area regulations of R-3 Residential District apply.

viii. 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 one (1) Principal Building on a property exists, and is destroyed or damaged 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.

ix. The structure will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

x. The development standards of Section 7(c).2.A and C must be complied with.

B. If an existing Legal Nonconforming Structure or a Structure with a Legal 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 shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

i. Residential Structures

a. Shall have the lowest floor, including Basement, elevated to or above the Base Flood Elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Section 8(c)2 of this Ordinance.

b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to Flood damage.

c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

d. In A Zones, obtain, review and utilize any Flood data available from a federal, state or other source.

ii. Nonresidential Structures

a. Shall meet the requirements of Section 8(b)2.B.i.a and b above.

b. Shall either have the lowest floor, including Basement, elevated to or above the Regional Flood Elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Section 8(c)1 or 2.

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, 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 building's 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 fifty percent (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.

C. Where a Structure, which was not damaged or destroyed, lies within the Floodplain but outside of the Floodway, no modification or addition to such Structure shall be permitted unless it conforms with the following standards. For the purpose of this section, the words "modification" and "addition" shall include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding, replacement or lateral enlargement of any such existing use or Structure, principal or accessory. Maintenance is not considered a modification for the purposes of this section unless, in combination with modifications or additions, the improvements equal or exceed fifty percent (50%) of the present equalized assessed value over the lifetime of the Structure or unless Maintenance, on its own, equals or exceeds fifty percent (50%) of the present equalized assessed value per event basis. Maintenance includes painting, decorating, paneling, and other non-structural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities.

i. The Structure is not located in a Floodway. Modifications and additions to a structure located in the Floodway are prohibited.

ii. The modification or addition to a Structure may not decrease floodwater conveyance or storage capacities. Said modification or addition to a Structure shall not extend laterally from the structure so as to extend into the Floodplain but may be allowed to go above existing floors of the structure. One (1) detached garage or shed, not including a Boathouse, may be permitted if all other applicable ordinance requirements are met provided that there is no area outside of the Floodplain to locate said Building and provided that all provisions of this section are met.

iii. The provisions of subsection 8(b)2.A.ii, iii, iv, v, vii, ix, and x shall be complied with. Only 1 principal structure on a lot will be allowed to be modified or altered in accordance with the intent of subsection A.viii above.

iv. The provisions of subsection 8(b)2.A.vi shall be complied with. Where a modification or addition requires a larger waste disposal system than what exists (i.e., additional bedrooms), it shall be demonstrated to the Zoning Administrator that a new or expanded waste disposal system can be provided and a county sanitary permit granted, meeting the requirements of the Waukesha County Sanitary Code and the Wisconsin Administrative Code, where applicable, prior to the issuance of a zoning and building permit for such alterations to the Structure. Such new, improved or enlarged waste disposal system shall be required to be installed concurrently with the construction or prior to occupancy of the altered Structure.

The intent of this provision is to allow only those additions and modifications which can be accommodated with an onsite waste disposal system, which will comply with contemporary standards for waste disposal and which will result in improved systems which will be adequately protected from flooding and which will accommodate said Structures and their improvements.

D. Conversion of residences from seasonal use to year round use will not be allowed

unless all of the conditions set forth in Section 8(b)2.C above are met. Conversions of this nature will require a zoning permit and inspection to determine conformance with the above-cited subsection.

E. A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with Section 7(c)2.A, flood resistant materials are used, and construction practices and Floodproofing methods that comply with Section 8(c) are used. For the purposes of this section, an alteration is an enhancement, upgrading, or substantial change or modification other than an addition or repair to a structure or to electrical, plumbing, heating, ventilation, air conditioning and other systems within a structure. Repair or rehabilitation of historic structures shall be exempt from the development standards of Sections 7(c)2, 8(b)2.B.1, and 8(c) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

F. Existing storage yards, surface parking lots and other such uses may remain at an existing elevation which is below the flood protection elevation if an adequate warning system exists to protect life and property and if the storage of materials as identified in Section 8(b)2.H are floodproofed in accordance with Section 8(c).

G. A manufacturing or industrial type structure shall have the lowest floor elevated to or above the Flood Protection Elevation or meet the Floodproofing measures in Section 8(c).

H. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish, or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with Section 8(c). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

I. The provisions set forth above and related to reconstruction, modification, remodeling and additions, shall conform with all other requirements and provisions of this Ordinance, except as may be allowed to be modified as set forth in Section 8 of this Ordinance.

J. Any repairs, reconstruction, modifications, additions, or lateral extension of structures which may be prohibited above may be allowed only with approval by the Waukesha County Board of Adjustment in accordance with the procedures established in Section 38 of this Ordinance. The Board of Adjustment in granting said variance shall determine whether the spirit and intent of the Ordinance will be upheld by granting said variances from the provisions regulating the continued or intensified use of lands which are located in Floodplains and whether the public health, safety and welfare will be in any way jeopardized through the granting of said variances.

K. Any Variance granted for structures located in the Floodplain shall meet the minimum floodplain criteria specified in Section 38 of this Ordinance.

L. (Reserved).

M. In the administration of the above standards, it is required that various standards set forth above shall be subject to review and approval by the zoning administrator upon submittal of appropriate data and information necessary to determine compliance with the above regulations.

(c) **Floodproofing standards**

1. No permit or Variance shall be issued for a non-residential structure designed to be watertight below the Regional Flood Elevation until the Applicant submits a plan certified by a registered professional engineer or architect that the Floodproofing measures will protect the Structure or Development to the Flood Protection Elevation and submits a FEMA Floodproofing Certificate.

2. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the Applicant submits a plan either;

   A. Certified by a registered professional engineer or architect; or

   B. Meets or exceeds the following standards:

      i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

      ii. The bottom of all openings shall be no higher than one foot above grade; and

      iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3. Floodproofing measures shall be designed, as appropriate, to:

   A. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

   B. Protect structures to the flood protection elevation;

   C. Resist flotation and lateral movement by anchoring structures to foundations;

   D. Minimize or eliminate infiltration of Flood waters; and

   E. Minimize or eliminate discharges into Flood waters.

(Section 8 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 8(b)1 was amended by Enrolled Ordinance 170-71, effective 12-31-15.)

(Section 8(b)2.A was amended by enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 8(b)2.A.viii was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 8(b)2.B was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 8(b)2.B was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 8(b)2.C was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 8(b)2.F, formerly Section 11.02a(1)(B)6, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 8(b)2.E was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 8(b)2.G was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 8(b)2.K was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 8(b)2.L was repealed by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 8(c) was repealed by Enrolled Ordinance 169-54, effective 10-08-2014.)

SECTION 9 EC ENVIRONMENTAL CORRIDOR DISTRICT

(a) Purpose and Intent

The EC Environmental Corridor District, as mapped or intended to be mapped, includes non-Wetland/Floodplain Primary and Secondary environmental corridors and Isolated Natural Resource Areas as defined in this Ordinance, and is intended to be used to preserve, protect, enhance, and restore significant woodlands, upland wildlife habitat areas, scenic overlooks, slopes exceeding twelve percent (12%), and upland wooded areas, while also affording an opportunity to use the site for limited residential purposes, in concert with the goal and intent of the Regional Land Use Plan, Comprehensive Development Plan for Waukesha County, or locally adopted plan, which recommends that residential densities in such areas not exceed one unit per five (5) acres for all parcels which lie entirely within the environmental corridor. Where questions arise as to the exact location or boundary of an environmental corridor, the extent and location of such corridors shall be refined and finally determined by infield investigation by the Zoning Administrator or his/her designee, and a notation shall be made on the District Zoning map of the Waukesha County Shoreland and Floodland Protection Ordinance indicating that such a determination has been made for future reference and map amendment purposes.

(b) Use Regulations

1. Any uses permitted in the C-1 Conservancy District with the following exceptions:

   A. Whenever possible, pasturing and grazing of livestock shall be located outside of the environmental corridor.

   B. The cultivation of agricultural crops, except silviculture when done in accordance with the use regulations outlined in the C-1 Conservancy District.

2. Single-family Dwellings.

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. The keeping of hogs, male goats or fur-bearing animals shall not be permitted.

4. The following Accessory Buildings and uses, subject to the conditions specified:

   A. Private garages, when located on the same lot, and not involving the conduct of a business; provided, however, that no private garage shall be erected unless that Principal Building to which such garage is an accessory use has been erected or is to be erected simultaneously with said garage.

B. Quarters for household or farm employees; provided, however, that such quarters shall be occupied only by individuals employed full time on the premises and their families.

C. Stables, barns, or poultry houses, which house livestock or poultry, shall not be less than fifty (50) feet from an adjacent property line.

5. A sign in accordance with Section 18(a)7.

6. Hobby kennel in accordance with Section 18(a)8.

7. Guesthouses are prohibited in the EC Environmental Corridor District.

8. The establishment and enhancement of public parks and recreation areas, wilderness or walk-in unimproved boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and wildlife habitat areas, provided that any tree and vegetation removal and subsequent restoration done in the EC Environmental Corridor District and any improvements and/or construction shall be approved by the Zoning Administrator before beginning any development activities. Vegetative restoration may be allowed within the corridor for the purpose of improving wildlife habitat or to otherwise enhance wildlife values provided all necessary permits are obtained and said activities shall only be approved after review and approval and issuance of all permits, as required. Roads and trails to service the recreational and wildlife areas, etc. may be permitted, but said roads and trails may not include vegetation removal or other construction activity within the corridor without obtaining all approvals, as required.

(c) **Building Location**

1. Road Setback:

A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

i. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

A. Thirty-five (35) feet minimum. In the case of existing legal non-conforming principal or accessory structures that are less than the required thirty-five (35) foot minimum, an extension or addition may be allowed closer than thirty-five (35) feet as long as said extension or addition does not extend or encroach closer to the side lot line than the existing structure to which it is attached, at its closest point as measured in this Ordinance, and in no case shall be less than twenty (20) feet unless a Special Exception is granted by the Board of Adjustment to allow such extension or addition, and with the requirement that all of the disturbance regulations of Section 9 of this Ordinance be met as applicable.

B. Additional regulations and exceptions from Section 3(h)3 apply.

(d) **Height Regulations:** The regulations and exceptions of Section 3(i) apply.

(e) **Area Regulations**

1. Floor Area and Building Footprint:

A. Minimum Floor Area Required for Single-family Dwelling:

i. First floor: Eight hundred and fifty (850) square feet.

ii. Total: Eleven hundred (1,100) square feet.

B. Maximum Building Footprint Permitted: Lots that are less than two (2) acres in area are restricted to a maximum Building Footprint of seventeen and one half percent (17.5%) or eleven hundred square feet (1,100), whichever is greater, unless preservation of Green Space limitations are more restrictive.

C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance) and Density:

A. Minimum area: The overall density of parcels lying entirely within the environmental corridor shall be not more than one (1) 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 determined by the Zoning Administrator, as long as any 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 document approved by the Waukesha County Park and Planning Commission or the Zoning Administrator and recorded in the office of the Register of Deeds. The overall goal of this requirement is to obtain a maximum density of building activity within the environmental

corridor of not more than one (1) dwelling unit for each five (5) acres of environmental corridor lands.

B. Lands which lie within a larger parcel or tract of land, the remainder of which is zoned either FLP Farmland Preservation District or FLC Farmland Conservancy District shall have a minimum (gross) parcel size of thirty-five (35) acres.

3. Preservation of Green Space:

A. For parcels lying entirely within the EC Environmental Corridor District, no open space regulation shall apply. However, the maximum area of disturbance in the EC Environmental Corridor District for all land altering activities and vegetative removal, including building sites, septic areas, and drive areas, shall be the greater of 15,000 square feet or fifteen (15) percent of a parcel's area, up to a maximum of 32,670 square feet, and a deed restriction shall be recorded in the office of the Register of Deeds describing the permitted area of disturbance at time of Zoning Permit issuance.

B. For parcels which lie partially within and partially outside of the EC Environmental Corridor District, the area of disturbance as described in subsection 3.A. above shall be limited to that area outside of the EC Environmental Corridor District unless otherwise permitted by a building envelope on a certified survey map, subdivision plat, or other document, or unless the developable area of a parcel (that area that is not constrained by zoning district setback and offset requirements and that is located outside of the EC Environmental Corridor District) is less than the greater of 15,000 square feet or fifteen (15) percent of the area of a parcel, up to a maximum of 32,670 square feet.

If the developable area on a lot is less than the above specified thresholds, a maximum area of disturbance within the EC Environmental Corridor District, as described in subsection 3.A. above, up to the amount of area needed to achieve a 15,000 square foot developable area or a developable area of up to fifteen (15) percent of the area of the parcel, up to a maximum of 32,670 square feet of disturbance area, as described in subsection 3.A. above, may be permitted by the Zoning Administrator provided a deed restriction is recorded in the office of the Register of Deeds describing and authorizing the area of disturbance. The maximum area of disturbance within the environmental corridor portion of such a lot shall be determined by calculating the available developable area that is located outside of the environmental corridor and subtracting the available developable area from the above described 15,000 square foot or 15% threshold.

4. Tree and Vegetation Cutting and Removal:

A. All tree, shrubbery and groundcover vegetation cutting and removal within the EC Environmental Corridor District and within thirty-five (35) feet of the Ordinary High Water Mark of a Navigable Waterway shall require a Zoning Permit in compliance with Section 3(d)9.A and all other native tree, shrubbery and groundcover cutting and removal within the EC Environmental Corridor District shall require a Zoning Permit in accordance with this Section, with the following exceptions:

i. The removal of invasive species or the removal of vegetation necessitated by the extension of utilities to public or private property shall not require a

Zoning Permit, unless the vegetation removal is proposed within thirty-five (35) feet of the Ordinary High Water Mark of a Navigable Waterway. Any vegetation removal proposed within thirty-five (35) feet of the Ordinary High Water Mark of a Navigable Waterway shall comply with the standards of Section 3(d)9.A.

ii. The Zoning Administrator may waive Zoning Permit requirements for tree cutting or vegetation removal in the event of widespread storm damage or for the cutting of trees that present a safety hazard.

B. Except for those activities conducted in accordance with the provisions of Section 9(e)3 above and Section 3(d)9.A, tree and vegetation cutting and removal in the EC Environmental Corridor District shall be limited to the cutting and removal of dead, dying, and diseased trees or vegetation; the cutting and removal of invasive species; or the cutting and removal of trees and vegetation related to the implementation of a forest management plan approved by the Zoning Administrator or his/her designee;, in order to protect natural beauty and wildlife habitat and to prevent erosion. Cutting and removal activities must demonstrate enhancement of the environmental corridor. The Zoning Administrator may consult with natural resource experts at the Southeastern Wisconsin Regional Planning Commission or other governmental agencies to determine the appropriateness of the proposed cutting or removal activities and to solicit recommendations regarding any required re-planting or restoration requirements in order to ensure that the project does not have an adverse impact on the natural environment.

(Section 9 was amended by Enrolled Ordinance 169-47, effective 09-09-2014.)

(Section 9(b) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 9(b)1 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 9(b)3 was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 9(b)3 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 9(b)C was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 9(b)7 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 9(d), formerly Section 6.74, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 9(e)2.A was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 9(e)2.B was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 9(e)3.A was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

Section 9.1 EC ENVIRONMENTAL CORRIDOR OVERLAY DISTRICT

All parameters and requirements of Section 9 EC Environmental Corridor District shall apply to lands mapped EC Environmental Corridor Overlay District. If an in-field determination finds that all or a portion of a property within said overlay district is erroneously mapped, the field determined boundaries shall immediately become subject to the applicable district regulations. Lands with an underlying zoning designation of FLP Farmland Preservation District shall comply with the more restrictive parameters of the FLP District but shall be allowed limited disturbance within EC areas if authorized in accordance with Section 11(i)(3)(d). All references to the EC District or EC Environmental Corridor District within this Ordinance shall also apply to the EC Environmental Corridor Overlay District.

(Section 9.1 was created by Enrolled Ordinance 170-71, effective 12-31-2015.)

SECTION 10 FLC FARMLAND CONSERVANCY DISTRICT

(a) **Purpose and intent**

This District is intended to apply to those areas that are designated on the Comprehensive Development Plan for Waukesha County for Farmland Preservation and which are presently in Agricultural Use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and/or the presence of natural vegetation indicative of wet soils. The intent of the District is to preserve and maintain Agricultural Uses on lands suited for such purposes. They often include lands poorly suited for urban or suburban Development while being particularly well suited for some types of Agricultural Use.

In this District, structures related to farm operations, including existing dwellings, are deemed consistent with the purpose of this section where the location of Buildings associated with the permitted agricultural operation is found to conform with health, sanitation and safety provisions of this and any other state regulation or local ordinance. Determination of such suitability shall be evidenced by on-site examination and evaluation. The intent for mapping purposes is that lands within this District shall have exhibited those Agricultural Uses in the past. It is not the intent of this section to promote or permit the conversion of wetlands. If a new lot of less than 35 acres is proposed and a portion of the lands to be included in the lot area are zoned FLC District, said lands may only be included within the lot area if the proposal complies with the siting, density, area, etc. parameters of the FLP District.

(b) **Use regulations: Permitted uses**

1. Any uses and structures permitted in the C-1 Conservancy District and if located in a wetland or Floodplain, the provisions of Section 7(c)2 must be met.

2. Agricultural Uses, as defined within this Ordinance, except fur and pig farms and poultry and/or egg production which require Conditional Use authorization pursuant to Section 10(c)4. Such uses shall not fill or convert Wetlands or Floodplains.

3. Agricultural Accessory Uses including existing Single-family Dwellings that existed on January 1, 2014 and shelters for housing animals that comply with Section 2(b)14. of this Ordinance or permitted as an appurtenance to a Farm Residence, except that no structure shall be located in a Floodplain or wetland or upon lands not suited due to soil limitations. Any existing structures within floodlands must conform to Section 8 of this Ordinance.

4. Nurseries, greenhouses and hatcheries limiting the retail sales of such 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.

5. Road side stands, subject to the provisions of Section 11(d)(2)(E).

6. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.

7. Any variance granted for structures located in the Floodplain shall meet the Floodplain

criteria specified in Section 38 of this Ordinance.

(c) **Conditional uses**

Conditional uses, as provided in Section 4(g)(1) and listed below, and in accordance with the procedural requirements of Section 4(g) and the provisions of Section 11(e):

1. Landing Fields and Take Off Strips serving agricultural or municipal uses.

2. Animal Hospitals and Veterinarian Clinics; and Commercial Dog Kennels but only if they comply with the Farm Family Business provisions of ATCP 49.

3. Commercial Truck Parking, except that such use may be allowed but only if incidental to and compatible with the continued long term Agricultural Use of the lands as determined by the Town Plan Commission and the County Zoning Administrator and comply with the Farm Family Business provisions of ATCP 49.

4. Fur Farms, Pig Farms, Creameries, Condensories, Commercial or Custom Grain Drying Operations and Poultry and/or Egg Production.

5. Existing non-metallic mineral extraction or quarrying (as defined in this Ordinance), except that such use may be allowed only if incidental to and compatible with the continued long term Agricultural Use of the lands which make up the major portion of lands in the FLC or FLP Districts (i.e., sand and gravel removal on non-productive lands, for example).

6. Private Clubs and Resorts (including commercial boarding stables), except that such use may be allowed only if incidental to and compatible with the continued long term Agricultural Use of the lands (i.e., private hunt clubs during the non-growing season, for example).

7. Land altering activities in accordance with the requirements of Section 4(g)14, provided such activities do not negatively affect the long-term suitability of the lands for agricultural purposes.

8. Limited Family Businesses, as provided for and in accordance with all parameters of Section 4(g)16. Said uses must comply with the Farm Family Business provisions of ATCP 49.

9. In-law units, pursuant to Section 4(g)13., provided that the density requirements of the Farmland Preservation Plan are complied with.

10. Other uses, situations, or non-farm type businesses not specifically provided for in this Conditional Use section and which may be determined to be acceptable under the provisions of Section 4S and in the judgment of the Town Plan Commission and County Zoning Agency, meet the intent of a Conditional Use as set forth in Section 4 and comply with the Farm Family Business provisions of ATCP 49, also referred to as an Unspecified Conditional Use in this Ordinance.

(d) **Building location**

Residential use structures must comply with the requirements of Section 11(i) and structures are subject to the following locational requirements:

1. <u>Road Setback</u>:

A. Fifty (50) feet minimum, unless measured from a Local Road, in which case, the setback is thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

A. Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.

B. Buildings that house animals must be fifty (50) feet minimum.

C. Additional regulations and exceptions from Section 3(h)3 apply.

(e) **Height regulations**

1. Residential Buildings:

A. Residence: The regulations and exceptions of Section 3(i)1 apply.

B. Accessory: Twenty (20) feet maximum. The Structure shall comply with Section 3(i)2 if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

2. Farm Buildings:

A. Sixty (60) feet maximum. The Structure shall not exceed thirty-five (35) feet in height if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

B. Farm Buildings may be increased to not more than one hundred (100) feet where the Road Setback, Shore/Wetland Setback, and offset all equal or exceed the height of the structure. In no case, shall the Structure exceed thirty-five (35) feet in height if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

3. Additional regulations and exceptions from Section 3(i) apply.

(f) **Area regulations**

1. Floor Area and Building Footprint:

   A. Minimum Floor Area required for Single-family Dwelling where permitted:

      1. First floor: Eight hundred fifty (850) square feet.

      2. Total: Eleven hundred (1,100) square feet.

   B. Minimum and maximum parcel size must comply with the parameters of Section 11(i)(4) and Section 11(i)(5) (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance).

   C. Maximum Building Footprint permitted: Ten (10) percent, or eleven hundred (1,100) square feet, whichever is greater.

   D. Additional regulations and exceptions from Section 3(j) apply.

(g) **Rezoning lands out of FLC District**

1. Except as provided in Section 10(g)(2), lands may not be rezoned out of the FLC District unless the respective town and the County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:

   A. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.

   B. The rezoning is consistent with any applicable comprehensive plan.

   C. The rezoning is substantially consistent with the County Farmland Preservation Plan, which is in effect at the time of the rezoning.

   D. The rezoning will not substantially impair or limit current or future Agricultural Use of other protected farmland.

2. Subsection 10(g)(1) does not apply to any of the following:

   A. A rezoning that is affirmatively certified by DATCP under Ch. 91 of State Statutes.

   B. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

3. By March 1 of each year, Waukesha County shall provide to DATCP a report of the number of acres that Waukesha County has rezoned out of the FLC District during the previous year and a map that clearly shows the location of those acres.

(Ord. No. 141-44, §§ XLVI, 7-22-1986)
(Section 10 was renamed and amended by Enrolled Ordinance 170-71, effective 12-31-15.)

(Section 10(b) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 10(b)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 10(b)7 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 10(c) was amended by Enrolled Ordinance 165-69, effective 12-23-2010)

(Section 10(e)2, formerly Section 6.05, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 10(f)2 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 11 FLP FARMLAND PRESERVATION DISTRICT

(a) **Purpose and Intent**
The intent and purposes of the FLP Farmland Preservation District are:

1. To maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural Development and minimizing land use conflicts among incompatible uses.

2. To maintain a viable agricultural base and associated agricultural supportive uses.

3. To protect and preserve the rural landscape.

4. To implement the provisions of the Waukesha County Farmland Preservation Plan.

5. To comply with the provisions of the Wisconsin Farmland Preservation Law which permits eligible landowners to receive tax credits under Section 71 of the Wisconsin State Statutes.

6. To maintain a use that adds to the economic base of the County.

(b) **Lands to be included within the FLP Farmland Preservation District.** Lands that are to be included or mapped within the FLP District are limited to those lands that have been designated for farmland preservation in the adopted Waukesha County Farmland Preservation Plan.

(c) **Land Uses in the FLP Farmland Preservation District; General.** Only the following land uses are allowed in a Farmland Preservation District:

1. Uses allowed under Section 11(d) as a Permitted Use.

2. Uses allowed under Section 11(e) with a Conditional Use Permit.

3. Legal nonconforming uses, subject to Wisconsin State Statutes.

(d) **Use Regulations: Permitted Uses**

1. Agricultural Uses as defined in this Ordinance.

2. Agricultural Accessory Uses as defined in this Ordinance and subject to the following requirements:

   A. Living quarters for full-time farm employees if the unit is within 200 feet of the existing cluster of farm buildings, is served by a common driveway, and is intended and necessary for the farm operation. Occupancy of such living quarters is limited to full-

time hired employees of the farming operation and their immediate family. Such living quarters may not be inhabited by the farm owners. Only one such quarters for full-time farm employees is permitted on a lot. An In-Law Unit requires a conditional use permit.

B. Home occupations as regulated in Section 18(a)6 of this Ordinance if said particular use complies with the farm family business provisions as specified by rule by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).

C. Private hobby kennels as regulated in Section 18(a)8 of this Ordinance.

D. Farm buildings housing animals, barnyards, and feedlots that are not located within a floodland, nor closer than one hundred (100) feet to any navigable water course, nor closer than one hundred (100) feet to an existing adjacent dwelling.

E. Road side stands, subject to the following requirements:

i. Temporary road side stand structures shall be no more than one hundred (100) square feet in size.

ii. Off-street parking for a minimum of five (5) vehicles must be provided and there shall be no parking within the right-of-way of the public road.

iii. No such stand shall be closer than thirty (30) feet to the Base Setback Line or closer than twenty (20) feet to any lot line.

iv. Only produce and farm products can be displayed for sale.

v. Road side stands with a permanent Building shall require Site Plan and Plan of Operation approval in accordance with Section 3(c)(6) of this Ordinance and shall comply with all size and locational requirements of the zoning district in which a stand is located.

F. Nurseries, orchards, greenhouses/horticulture/floriculture, viticulture, apiculture, forestry, and hatcheries limiting the retail sales of such product to that which is produced on the premises by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the Town Plan Commission and the Zoning Administrator in accordance with Section 3(c)6 of this Ordinance.

G. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.

3. Agriculture-Related Uses as defined in this Ordinance and subject to the requirements of Chapter 91 of the Wisconsin Statutes and subject to the 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.

4. Pre-existing Nonfarm Residences that existed as of January 1, 2014 and Farm Residences that existed as of May 31, 2015.

5. A transportation, communication, utility (electric, gas, telephone, cable, fiber optic, water, sewer, etc.) transmission, distribution, or pipeline, drainage, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located

in a specific place under a state or federal law that pre-empts the requirement for a Conditional Use Permit for that use as outlined in Section 11(e)(3)(c) below.

6. Legal non-conforming uses.

7. Other uses identified by DATCP rule and which are deemed consistent with the stated purpose and intent of this District subject to approval of the Town Plan Commission and the Zoning Administrator. The Zoning Administrator shall make a determination as to whether such uses must obtain Conditional Use approval for unspecified uses.

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

1. Conditional Uses as provided for in Section 4(g) and Section 11(e)(3) and pursuant to the procedural requirements of Section 4(g), and if all of the following apply:

   A. The use and its location in the FLP District are consistent with the purposes and intent of the FLP District.

   B. The use and its location in the FLP District are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.

   C. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from Agricultural Use or Green Space use.

   D. The use does not substantially impair or limit the current or future Agricultural Use of surrounding parcels of land that are zoned for or legally restricted to Agricultural Use.

   E. Construction damage to land remaining in Agricultural Use is minimized and repaired to the extent feasible.

   F. The use does not conflict with surrounding land uses.

   The following additional standards apply to Non-Metallic Mineral Extraction or Quarrying Conditional Use requests:

   G. The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stat. § 295.13 or Wis. Stat. § 295.14 (including all applicable provisions of this Ordinance), and with any applicable requirements of the Department of Transportation concerning the restoration of nonmetallic mining sites.

   H. The owner agrees to restore the land to Agricultural Use, consistent with any required reclamation plan, when extraction is completed.

   I. The requirements of 4(g)25 of the Ordinance shall be met.

2. Prior to the issuance of a Conditional Use Permit for an approved Conditional Use in the FLP District, any requirements listed for an individual Conditional Use under Section 4(g), in Section 11(e) of the FLP District, or imposed as part of the Conditional Use approval must

first be satisfied.

3. The list of Conditional Uses that may be applied for within the FLP District is as follows:

A. Government, nonprofit community uses, institutional, Buildings for religious assembly, cemeteries and mausoleums for the burial of human remains only, and other public and semi-public Buildings and uses – as defined in this Ordinance.

B. Non-Metallic Mineral Extraction or Quarrying (as defined in this Ordinance), except that such use may be allowed only if incidental to and compatible with the continued long term Agricultural Use of the lands (i.e., sand and gravel removal on non-productive lands, for example)

C. Transportation, communication, utility (electric, gas, telephone, cable, fiber optic, water, sewer, etc.) transmission, distribution, or pipeline, drainage, or other uses not allowed as a permitted use in Section 11(d)5 above.

D. Animal Hospitals and Veterinarian Clinics; and Commercial Dog Kennels but only if they comply with the Farm Family Business provisions of ATCP 49.

E. Commercial Truck Parking, except that such use may be allowed but only if incidental to and compatible with the continued long term Agricultural Use of the lands as determined by the Town Plan Commission and the County Zoning Administrator and comply with the Farm Family Business provisions of ATCP 49.

F. Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations and Poultry and/or Egg Production.

G. Landing Fields and Take Off Strips serving agricultural or municipal uses.

H. Private Clubs and Resorts (including commercial boarding stables), except that such use may be allowed only if incidental to and compatible with the continued long term Agricultural Use of the lands (i.e., private hunt clubs during the non-growing season, for example).

I. Land altering activities in accordance with the requirements of Section 4(g)(14), provided such activities do not negatively affect the long-term suitability of the lands for agricultural purposes.

J. Limited Family Businesses, as provided for in accordance with all parameters of Section 4(g)(16). Said uses must comply with the Farm Family Business provisions of ATCP 49.

K. In-law units, pursuant to Section 4(g)13, provided that the density requirements of the Farmland Preservation Plan are complied with.

L. Other uses, situations, or non-farm type businesses not specifically provided for in this Conditional Use section and which may be determined to be acceptable under the provisions of Section 11(e) and in the judgment of the Town Plan Commission and County Zoning Agency, meet the intent of a Conditional Use as set forth in Section 4(a) and comply with the Farm Family Business provisions of ATCP 49, also referred to as an Unspecified Conditional Use in this Ordinance.

(f) **Building Location**

1. Road Setback:

   A. Residential Use Structure: Fifty (50) feet minimum, unless measured from a Local Road, in which case, the setback is thirty-five (35) feet minimum.

   B. Accessory or Farm Building: Fifty (50) feet minimum, unless measured from a Local Road, in which case, the Setback is thirty-five (35) feet minimum. Buildings that house animals must be fifty (50) feet minimum.

   C. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Residential Use Structure: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.

   B. Accessory or Farm Building: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

   C. Additional regulations and exceptions from Section 3(h)3 apply.

(g) **Height Regulations**

1. Residential Buildings:

   A. Residence: The regulations and exceptions of Section 3(i)1 apply.

   B. Accessory: Twenty (20) feet maximum. The Structure shall comply with 3(i)2 if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

2. Farm Buildings:

A. Sixty (60) feet maximum. The Structure shall not exceed thirty-five (35) feet in height if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

B. Farm buildings may be increased to not more than one hundred (100) feet where the Road Setback, Shore/Wetland Setback, and Offset all equal or exceed the height of the Structure. In no case, shall the Structure exceed thirty-five (35) feet in height if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

3. Additional regulations and exceptions from Section 3(i) apply.

(h) **Area and Building Footprint Regulations**

1. Minimum Floor Area required for Single-family Dwelling where permitted:

A. First floor: Eight hundred fifty (850) square feet.

B. Total: Eleven hundred (1,100) square feet.

2. Maximum Building Footprint permitted: Ten (10) percent, or eleven hundred (1,100) square feet, whichever is greater.

2. Additional regulations and exceptions from Section 3(j) apply.

(i) **New Residences and Lots**

New residences and new lots or parcels of less than 35 acres shall be prohibited for lands currently zoned FLP District and shall only be authorized if in accordance with the following requirements:

1. Rezoning required. New residences and new lots or parcels of less than 35 acres in area are not permitted within the FLP District without the benefit of rezoning. If a new Residence or lot of less than 35 acres is proposed for lands currently zoned FLP District, the land must first be rezoned to the R-1 Residential District where farm or residences are a permitted use. Lands to be rezoned must comply with the density parameters of the Comprehensive Development Plan for Waukesha County that are described in detail in Section 11(i)(2) below. Prior to submitting an application to rezone lands currently zoned FLP District, petitioners shall participate in a concept review meeting to be held with the respective town Planner and Waukesha County Planning & Zoning Staff to discuss proposed density and lot siting and compliance with the below stated requirements of this section.

If a lot of less than 35 acres is permitted via the rezoning process, the remnant lands can be less than 35 acres in area provided that a deed restriction is recorded against said lands prohibiting construction of residences or non-farm Buildings.

New Nonfarm Residences must also comply with the standards set forth in Chapter 91 of the Wisconsin Statutes.

2. Density. A maximum density of one (1) dwelling unit per thirty-five (35) acres shall be permitted for lands designated for Farmland Preservation on the adopted Comprehensive Development Plan for Waukesha County. Existing dwelling units and land divisions that have taken place after the dates specified below shall be used in computing available density. If only part of a parcel is within the County's shoreland jurisdictional area, the entire property's acreage, number of existing dwelling units and prior land divisions from parent parcels shall be considered in determining available density.

A. Density Considerations- land divisions after January 1, 1997: New lots or parcels of less than 35 acres that were created from a parent parcel or parcels that comprised a farm, as it existed on January 1, 1997, and that were located on lands designated "Agricultural Preservation" or "Farmland Preservation" at the time of land division on the Comprehensive Plan for Waukesha County, shall be counted in determining the available density or "Development Rights" remaining for a farm as it was configured on May 31, 2015. The number of available Development Rights shall be reduced by one Development Right for each such lot that was created after January 1, 1997. Farm boundaries, as of May 31, 2015, have been mapped on the "Farm Tracking Unit" layer on the Waukesha County GIS website in order to make available density information readily available. Density tracking is further described in Section 11(i)(2)(D).

Example: 105 acre farm comprised of two parcels in the same ownership.

Step 1- 35 Acre Density Calculation = 105 acres/35= 3 (Maximum number of dwelling units before consideration of existing dwelling units and recent land divisions).

Step 2- Account for existing dwelling units and land divisions that created parcels of less than 35 acres after January 1, 1997: The farm contains one house. (counts as one dwelling unit) and a lot of less than 35 acres was split from the farm by Certified Survey Map in 2001 (counts as second dwelling unit)= total of 2.

Step 3- Subtract total of Step 2 from Step 1 to adjust for existing dwelling units and parcels of less than 35 acres created since January 1, 1997. (3 minus 2= 1).

Summary- Available dwelling units/Development rights:
Farm is entitled to one additional dwelling unit or Development Right.

B. Density Exception for Legal Lots of Record that existed on May 31, 2015: Existing legal lots of record as of May 31, 2015 that are less than thirty-five (35) acres in size shall be entitled to one (1) dwelling unit if a dwelling unit does not already exist on the parcel, with the following exceptions:

1. If new lots or dwelling units have been created from a parent parcel or farm after 1997 without the benefit of a comprehensive development plan amendment from the Farmland Preservation category to another appropriate land use category, and thirty-five (35) acre density cannot be maintained with the addition of another dwelling unit, then no additional dwelling units are permitted.

2. If a prior imposed rezoning condition, deed restriction, conveyance, or some other official action prohibiting future land splits or dwelling units exists,

then no additional dwelling units shall be permitted on said existing legal lot of record.

C. Review of Land Divisions. All land divisions, including transfers of adjacent land, that are proposed in towns that are subject to the Waukesha County Zoning Code and involve land that is in the planned "Farmland Preservation" category of the Comprehensive Development Plan for Waukesha County shall be reviewed and approved by the respective town and Waukesha County, regardless of whether the parcel contains shoreland jurisdiction, so that Development Plan density compliance can be ensured and tracked over time.

Each residence that is permitted shall be placed on a separately described parcel created in conformance with the town and County Comprehensive Development Plans, the Farmland Preservation Plan, the minor land division regulations of the town in which they are located, this Ordinance, and the Waukesha County Shoreland & Floodland Subdivision Control Ordinance (Appendix D), as applicable.

D. Density Tracking. Available density or dwelling units are tracked by a mapping layer on the Waukesha County Geographic Information System. Each farm consisting of one or more contiguous parcels that were owned by a common owner or owners as of May 31, 2015 have been assigned a "Farm tracking unit" name and number. Farm Tracking Units have been created to track the number of lots or dwelling units (Development Rights) that a farm or farm owner is entitled to when applying the density considerations of Section 11(i)(2)(A and B).

Each time that a new dwelling unit or lot is created in the future, in accordance with the standards of Section 11, the Farm Tracking Unit data will be updated on the Waukesha County GIS. In addition, a deed restriction must be recorded against the land to disclose the remaining density available to a given Farm Tracking Unit.

E. Density Transfer. Transfer of density rights from one Farm Tracking Unit to another Farm Tracking Unit or property must be approved by the respective town and Waukesha County Zoning Administrator and will be tracked on the farm tracking unit Waukesha County GIS layer. A deed restriction must be recorded against the land to disclose the density transfer.

3. Siting Standards.

Lands that are zoned FLP, but that are proposed to be rezoned to the R-1 District to accommodate new Nonfarm Residences, must comply with the following siting standards. Compliance with siting standards shall be considered by the town and Waukesha County as part of the rezoning review process.

A. New Nonfarm Residences or lots shall be located on uncultivated lands to the greatest extent practicable.

B. New Nonfarm Residences or lots shall be clustered together to the greatest extent practicable.

C. New Nonfarm Residences or lots shall be located on non-prime (non-Class I and II) soils to the greatest extent practicable.

D. New Nonfarm Residences or lots may be permitted within upland Environmental Corridor areas that are zoned FLP District with an EC Overlay District designation provided that the area to be disturbed is rezoned to the R-1 District and provided that the respective town and County have made a determination that alternative building sites located outside of the Environmental Corridor and cultivated lands are not available. If such a determination is made, the maximum area of Environmental Corridor disturbance shall be 15,000 square feet per lot, inclusive of drive areas, septic sites, building sites and any other area to be disturbed. In addition, any authorized disturbance within the Environmental Corridor shall comply with County Comprehensive Development Plan recommendations which call for no more than one dwelling unit per five acres of upland area. A deed restriction shall be recorded in the office of the Register of Deeds identifying and describing the permitted area of Environmental Corridor disturbance prior to Zoning Permit issuance.

E. Lots shall be located near existing roads to the extent practicable with consideration of the above stated criteria.

4. Lot Size requirements for Lots created by rezoning from the FLP District to the R-1 District (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

A. Minimum parcel size, one (1) acre.

B. Minimum average width for parcels, one hundred and fifty (150) feet.

C. Maximum parcel size, three (3) acres, except as may be provided in Section 11 (i)5 below for those residual existing dwellings and parcels that result due to Farm Consolidation.

5. Lot Size for Farm Consolidations created by rezoning from the FLP District to the R-1 District (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

A. Minimum parcel size, one (1) acre.

B. Minimum average width: One hundred and fifty (150) feet.

C. Maximum parcel size, five (5) acres.

(j) Rezoning land out of FLP District

1. Except as provided in Section 11(j)(2), lands may not be rezoned out of the FLP District unless the respective town and the County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:

A. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.

B. The rezoning is consistent with any applicable comprehensive plan.

C. The rezoning is substantially consistent with the County Farmland Preservation Plan, which is in effect at the time of the rezoning.

D. The rezoning will not substantially impair or limit current or future Agricultural Use of other protected farmland.

2. Subsection 11(j)(1) does not apply to any of the following:

A. A rezoning that is affirmatively certified by DATCP under Ch. 91 of State Statutes.

B. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

3. By March 1 of each year, Waukesha County shall provide to DATCP a report of the number of acres that Waukesha County has rezoned out of the FLP District during the previous year and a map that clearly shows the location of those acres.

(Ord. of 11-5-1984, § VI)
(Ord. of 11-5-1984, § VIII)

(Section 11(b)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 11(c)5 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

(The title and all of Section 11 was amended by Enrolled Ordinance 170-71, effective 12/31/15.)

SECTION 12 A-T AGRICULTURAL TRANSITION DISTRICT

(a) **Purpose and intent**
This District is intended to reflect the transitional nature of lands that are currently in agricultural or open space use but are planned for and are likely to be developed for other land uses over time.

(b) **Land to be included with A-T Agricultural Transition District:**

1. Lands used for agricultural purposes.

2. Vacant lands consisting of fallow or natural resource lands.

(c) **Use regulations: Permitted uses**
Any permitted use as described in the A-1 Agricultural District.

(d) **Conditional uses**
Conditional Uses as provided in Sections 4(g)1, 2, 3, 5, 7, 8, 9, 10, 12, 13, 14, 15, 16, 23, 24, 25 and 28.

(e) **Building location**

1. Road Setback:

A. Residential Use Structure: Fifty (50) feet minimum, unless measured from a Local Road, in which case, the setback is thirty-five (35) feet minimum.

B. Accessory or Farm Building: Fifty (50) feet minimum, unless measured from a

Local Road, in which case, the setback is thirty-five (35) feet minimum., Buildings that house animals must be fifty (50) feet minimum.

C. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

A. Residential Use Structure: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.

B. Accessory or Farm Building: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

C. Additional regulations and exceptions from Section 3(h)3 apply.

(f) **Height regulations**

1. Residential Buildings:

A. Residence: The regulations and exceptions of Section 3(i)1 apply.

B. Accessory: Twenty (20) feet maximum. The Structure shall comply with Section 3(i)2 if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

2. Farm Buildings:

A. Sixty (60) feet maximum. The Structure shall not exceed thirty-five (35) feet in height if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

B. Farm buildings may be increased to not more than one hundred (100) feet where the Road Setback, Shore/Wetland Setback, and Offset all equal or exceed the height of

the Structure. In no case, shall the Structure exceed thirty-five (35) feet in height if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

3. Additional regulations and exceptions from Section 3(i) apply.

(g) **Area regulations**

1. Minimum Floor Area required:

   A. First floor: Eight hundred fifty (850) square feet.

   B. Total: Eleven hundred (1,100) square feet.

2. Maximum Building Footprint permitted: Ten (10) percent, or eleven hundred (1,100) square feet, whichever is greater.

3. Additional regulations and exceptions from Section 3(j) apply.

(h) **Lot size** (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance)

1. Minimum parcel size: Twenty (20) acres.

2. Minimum average width: Three hundred (300) feet.

(Ord. of 11-5-1984. § X)
(The title to Section 12 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(The title and all of Section 12 was amended by Enrolled Ordinance 170-71, effective 12/31/15.)

SECTION 13 A-B AGRICULTURAL BUSINESS DISTRICT

(a) **Purpose and intent**

The primary purpose of this District is to maintain, encourage and promote agriculturally related business endeavors on appropriate lands within the community. Such endeavors properly located and regulated serve to support and enhance the viability of agriculture as an economic activity.

For mapping purposes--It is the intent of this Ordinance that suitable areas be described to provide for buffering from adjacent uses and that the minimum size of any proposed establishment of the A-B District be five (5) acres in extent. Existing uses which may come under the A-B Agricultural Business District shall be considered on a case-by-case basis and may be less than five (5) acres if the existing parcel upon which the use is located contains less than the required five (5) acres, with the plan commission making a determination as to compatibility with the existing site and the surrounding or adjacent uses.

(b) **Use regulations: permitted uses**

All the following uses permitted by right in the A-B Agricultural Business District are subject to Site Plan and Plan of Operation approval of the plan commission and zoning administrator:

1. Warehousing, transfer and transport services of agricultural commodities.

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.

3. Feed milling operations.

4. Agricultural machinery sales and services.

5. Cheese factories.

6. Bulk milk collection, storage and distribution facilities.

7. Veterinarian services.

8. Custom grain drying.

9. Poultry and/or egg production.

10. Residential use may be permitted only in connection with or accessory to otherwise permitted uses.

11. Any other use consistent with stated intent of this District subject to approval of the town plan commission and zoning administrator.

(c) **Conditional Uses**
Conditional Uses as provided in Sections 4(g) 1, 2, 8, 9, 12, 15 and 28.

(d) **Building location**

1. Road Setback:

A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

i. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

A. Buildings used for commercial purposes which include the housing of livestock one hundred (100) feet minimum unless adjacent District is the FLP, A-B, or FLC agricultural districts, in which case twenty (20) feet minimum shall apply.

B. Buildings used for commercial purposes not involving livestock housing or animal waste storage, ten (10) feet minimum.

C. The integrated site plan will relate Buildings, parking areas and any loading dock facilities that may be necessary and accessory to the use and shall be governed by suitable contemporary design criteria.

D. Additional regulations and exceptions from Section 3(h)3 apply.

(e) **Height regulations**

1. Principal Building: *See* Section 3(i)1 for regulations.

2 Accessory Building: Sixty (60) feet maximum, except that both Principal and Accessory Buildings may be increased to more than one hundred (100) feet when the Road Setback, Shore/Wetland Setback, and Offset equals or exceeds the height of the Structure. In no case, shall the Structure exceed thirty-five (35) feet in height if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

3. Additional regulations and exceptions from Section 3(i) apply.

(f) **Area regulations**

1. Floor Area and Building Footprint:

A. Minimum Floor Area required for Single-family Dwelling:

i. First floor: Eight hundred fifty (850) square feet.

ii. Total: Eleven hundred (1,100) square feet.

B. Maximum Building Footprint: Fifty (50) percent of the site, or eleven hundred (1,100) square feet, whichever is greater.

C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

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

B. Minimum average width: Three hundred (300) feet.

(Section 13(b), formerly Section 6.22, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 13(b)2 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 13(f) 2.A was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 14 (Reserved)

SECTION 15 AD-10 AGRICULTURAL DENSITY-10 DISTRICT

(a) **Purpose and intent**

1. The purpose of this ten (10) acre density zoning district is to allow for agricultural and rural use of lands to continue while also allowing for clustered Development on lands located in rural or semi-rural areas. Additional stated purposes of the District are as follows:

   A. Promote the preservation of the rural character of the towns by encouraging farm fields, pastures, orchards, and natural open spaces to be retained either as common open spaces, or as part of a farm operation.

   B. To achieve the optimum residential environment while recognizing the rural character of towns. The density transfer technique is designed to permit variable lot sizes in the utilization of the most desirable terrain for housing sites while encouraging preservation of natural resource lands and agricultural lands.

   C. This District allows for the transfer of residential development rights from one area of a parcel to another area of a parcel, thereby allowing an increase in density of Development on suitable lands for Development in exchange for establishing the preservation of natural resource or agricultural lands known as “preserved lands".

(b) **Review of Proposed Development**

Where a Development is to occur involving the establishment of "preserved lands," approval by the Plan Commission and the County Zoning Agency shall be required. The Development proposed shall conform to the following standards:

1. The shape and arrangement of preserved lands shall be approved by the Plan Commission and County Zoning Agency pursuant to the requirements of the AD-10 District.

2. Lands zoned AD-10 that are proposed to be developed via subdivision plat must be developed in a conservation design format, as detailed in the County Development Plan. Subdivisions shall provide common open space and conserve natural resource lands in accordance with the guidelines of the County Development Plan relative to Development of Rural Development Areas and the Rural Density Conservation Design criteria.
3. <u>The preserved lands shall be retained in one of the following manners</u>:

   A. A deed restriction or covenant recorded with the Waukesha County Register of

Deeds so noting that part or all of the Development Rights have been utilized for the subject land. No additional Development Rights would accrue to that site until such time as it could be served with municipal sewer and a zoning change is approved by the Town and County in accordance with adopted local and County Land Use Plans.

B. All lot owners within the developed area for which the preserved lands are protected could own an undividable interest in said preserved land. Development of those lands may not occur until such time as sewer is available and a zoning change is approved by the Town and County in accordance with adopted local and County Land Use Plans.

C. The preserved lands may be retained in public ownership if a town or the County is willing to accept a dedication or acquire the lands.

4. On a Lot which is zoned AD-10, the development density shall not exceed ten (10) acres for each dwelling unit.

5. In order to preserve the rural character as well as the efficiency and safety of existing road systems, lands to be developed via subdivision plat shall have lots clustered on interior subdivision streets to minimize lots being accessed from existing arterials or roadways by individual driveway accesses. The goal of this provision is to encourage grouping of lots on an interior street which will then access the existing road system.

6. Any land claimed, in addition to the actual described residential lots, for credit toward meeting the density factor requirement shall have its status permanently established and guaranteed either by dedication to the public, by appropriate covenants running with the lands, or by conveyance of agricultural easements. Such covenants and easements shall be recorded in the office of the Register of Deeds and shall restrict the property against any Development or use except as is consistent with its preservation as agricultural land or as a form of common open space unless sewer becomes available, and the zoning of the property is changed in accordance with adopted local and County Land Use Plans. The preserved land status of any Lot shall be indicated on the official zoning map.

7. In addition to requiring an appropriate open space or an agricultural easement on the transferring lands in favor of the town and/or county, covenants shall be placed on the title of each dwelling unit, giving the owner enforceable rights to prevent the future Development of the transferring lands until such time as sewer is available and the subject property is rezoned to allow additional Development.

(c) **Use Regulations: Permitted Uses**

1. <u>Residential</u>:

A. Single-family uses.

B. Duplexes pursuant to issuance of a conditional use permit as required by Section 4(g)20 and compliance with the minimum Floor Area and Building Footprint requirements contained herein.

2. Agricultural or Farm Uses on Lots having a minimum of five (5) acres, except on Lots having less than five (5) acres one (1) horse shall be allowed on Lots having a minimum of three (3) acres and there may be one (1) additional horse for each additional one (1) acre thereafter. 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.

3. Accessory Uses and Buildings normally associated with an agricultural operation including Garages, stables, and poultry houses. Buildings used for housing animals shall maintain a minimum Offset of fifty (50) feet from all adjacent Lot Lines.

4. Signs:

   A. Sign not to exceed twelve (12) square feet in area displaying the name of the Farm or farm organization.

   B. Subdivision signs in accordance with the sign provisions of this Ordinance.

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.

6. Roadside stands subject to the following:

   A. Off-street parking for a minimum of five (5) vehicles must be provided.

   B. No such stands shall be closer than thirty (30) feet to the Base Setback Line or closer than twenty (20) feet to any Lot Line.

7. Home Occupation and Professional Offices as regulated herein.

8. Hobby Kennels as regulated in Section 18(a)8.

(d) **Building Location**

1. Road Setback:

   A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

      i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

      ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Twenty (20) feet minimum

   B. Additional regulations and exceptions from Section 3(h)3 apply.

(e) **Height Regulations:** The regulations and exceptions of Section 3(i) apply.

(f) **Area Regulations**

1. Floor Area and Building Footprint:

   A. Single-family Dwelling:

      i. First Floor:- Eight hundred fifty (850) square feet.

      ii. Total: Eleven hundred (1,100) square feet.

   B. Maximum Building Footprint: Fifteen percent (15%) or eleven hundred (1,100) square feet, whichever is greater.

   C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

   A. Minimum required area: one (1) acre

   B. Minimum average width: one hundred and fifty (150) feet.

3. Density Division Standard: Development shall not exceed one (1) dwelling unit per ten (10) acres.

(Section 15(a)1.D was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 15(b)2 was amended by Enrolled Ordinance 170-571 effective 12-31-2015.)
(Section 15(b)4 was amended by Enrolled Ordinance 170-571 effective 12-31-2015.)

(Section 15(c)1 was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 15(c)2 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 15(c)5 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 15(f)3 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 15(f)4.A.i was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 15(f)4.B was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 15(f)4.B.ii was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

SECTION 16 RRD-5 RURAL RESIDENTIAL DENSITY DISTRICT 5

(a) **Purpose and intent**

1. The purpose of this five-acre density zoning district is to allow for agricultural and rural use of lands to continue while also allowing for clustered development on lands located in rural or semi-rural areas. Additional stated purposes of the District are as follows:

   A. Promote the preservation of the rural character of the towns by encouraging farm fields, pastures, orchards, and natural open spaces to be retained either as common open spaces, or as part of a farm operation.

   B. To achieve the optimum residential environment while recognizing the rural character of towns. The density transfer technique is designed to permit variable lot sizes in the utilization of the most desirable terrain for housing sites while encouraging preservation of natural resource lands and agricultural lands.

   C. This District allows for the transfer of residential development rights from one area of a parcel to another area of a parcel, thereby allowing an increase in density of Development on suitable lands for Development in exchange for establishing the preservation of natural resource or agricultural lands known as “preserved lands".

(b) **Review of Proposed Development**

Where a Development is to occur involving the establishment of "preserved lands," approval by the Plan Commission and the County Zoning Agency shall be required. The Development proposed shall conform to the following standards:

1. The shape and arrangement of preserved lands shall be approved by the Plan Commission and County Zoning Agency pursuant to the requirements of the RRD-5 District.

2. Lands zoned RRD-5 District that are proposed to be developed via subdivision plat must be developed in a conservation design format, as detailed in the County Development Plan. Subdivisions shall provide common open space and conserve natural resource lands in accordance with the guidelines of the County Development Plan relative to Development of Rural Development Areas and the Rural Density Conservation Design criteria.

3. <u>The preserved lands shall be retained in one of the following manners</u>:

   A. A deed restriction or covenant recorded with the Waukesha County Register of Deeds so noting that part or all of the Development Rights have been utilized for the subject land. No additional Development Rights would accrue to that site until such time as it could be served with municipal sewer and a zoning change is approved by

the Town and County in accordance with adopted local and County Land Use Plans.

B. All lot owners within the developed area for which the preserved lands are protected could own an undividable interest in said preserved land. Development of those lands may not occur until such time as sewer is available and a zoning change is approved by the Town and County in accordance with adopted local and County Land Use Plans.

C. The preserved lands may be retained in public ownership if a town or the County is willing to accept a dedication or acquire the lands.

4. On a parcel which is zoned RRD-5, the development density shall not exceed five (5) acres for each dwelling unit.

5. In order to preserve the rural character as well as the efficiency and safety of existing road systems, lands to be developed via subdivision plat shall have lots clustered on interior subdivision streets to minimize lots being accessed from existing arterials or roadways by individual driveway accesses. The goal of this provision is to encourage grouping of lots on an interior street which will then access the existing road system.

6. Any land claimed in addition to the actual described residential lots, for credit toward meeting the density factor requirement, shall have its status permanently established, and guaranteed, either by dedication to the public, or by appropriate covenants running with the lands, by conveyance of agricultural easements. Such covenants and easements shall be recorded in the office of the Register of Deeds and shall restrict the property against any Development or use except as is consistent with its preservation as agricultural land or as a form of common open space unless sewer becomes available, and the zoning of the property is changed in accordance with adopted local and County Land Use Plans. The preserved land status of any parcel shall be indicated on the official zoning map.

7. In addition to requiring an appropriate open space or an agricultural easement on the transferring lands in favor of the town and/or county, covenants shall be placed on the title of each dwelling unit, giving the owner enforceable rights to prevent the future Development of the transferring lands until such time as sewer is available and the subject property is rezoned to allow additional Development.

(c) **Use Regulations: Permitted Uses**

1. <u>Residential</u>:

A. Single-family uses.

B. Duplexes pursuant to issuance of a conditional use permit as required by Section 4(g)20 and compliance with the minimum floor area and Building Footprint requirements contained herein.

2. 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. 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.

3. Accessory uses and Buildings normally associated with an agricultural operation including garages, stables, and poultry houses. Buildings used for housing animals shall maintain a minimum offset of fifty (50) feet from all adjacent lot lines.

4. Signs:

   A. Sign not to exceed twelve (12) square feet in area displaying the name of the farm or farm organization.

   B. Subdivision signs in accordance with the sign provisions of this Ordinance.

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.

6. Roadside stands subject to the following:

   A. Off-street parking for a minimum of five (5) vehicles must be provided.

   B. No such stands shall be closer than thirty (30) feet to the Base Setback Line or closer than twenty (20) feet to any lot line.

7. Home occupation and professional offices as regulated herein.

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

(d) **Building Location**

1. Road Setback:

   A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

      i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

      ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Twenty (20) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)3 apply.

(e) **Height Regulations:** The regulations and exceptions of Section 3(i) apply.

(f) **Area Regulations**

1. Floor Area and Building Footprint

   A. Minimum required for Single-family Dwelling:

      i. First Floor: Eight hundred fifty (850) square feet.

      ii. Total: Eleven hundred (1,100) square feet.

   B. Maximum Building Footprint: Fifteen percent (15%) or eleven hundred (1,100) square feet, whichever is greater.

   C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance)

   A. Minimum: One (1) acre.

   B. Minimum average width: One hundred and fifty (150) feet.

3. Density Division Standard: Development shall not exceed one (1) dwelling unit per five (5) acres.

(Section 16(a)1 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 16(a)1 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

(Section 16(b)2 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 16(b)2 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

(Section 16(b)7 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 16(b)7 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

(Section 16(c)5 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 16(c)7, formerly Section 8.01c(C)(1)(g), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 16(c)8, formerly Section 8.01c(C)(1)(h), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 16(f)4.B was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 16(f)4.B.i was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 16(f)4.B.ii was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

SECTION 17 A-5 MINI-FARM DISTRICT

(a) **Purpose and Intent**

This District is intended to provide for very low-density single-family residential development and the conversion of older farm dwellings to two-family units in predominantly rural areas in order to maintain, to some degree, the agricultural character of the property. These lands are best suited for small farm units, i.e., truck farms, horse farms, hobby farms, orchards and other similar agriculturally-related activities and usually contain a predominance of U.S.D.A. defined statewide significant category soils or prime category soils on parcels which do not qualify for agricultural preservation zoning or in areas which have an existing pattern of scattered or low-density residential development. Such a District is intended to be used to implement the County or Regional Land Use Plan category entitled "Other Agricultural or Rural Land."

(b) **Use Regulations**

1. Permitted Uses:

   A. Any use permitted in the A-1 Agricultural District.

   B. Two-family uses in converted farm dwellings existing on the date of adoption of this Ordinance (June 23, 1970) subject to issuance of a conditional use permit contained in 4(g)20.

2. Permitted Accessory Uses:
   Any of those accessory uses in the EC Environmental Corridor District.

(c) **Building Location**

1. Road Setback:

   A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

      i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

      ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Thirty (30) feet minimum.

   B. Not less than fifty (50) feet from an adjacent property line for any Building housing livestock, poultry or other animals. This does not include doghouses.

   C. Additional regulations and exceptions from Section 3(h)3 apply.

(d) **Height Limitations:** The regulations and exceptions of Section 3(i) apply.

(e) **Area Regulations**

1. Floor Area and Building Footprint:

   A. Minimum Floor Area required for Single-family Dwelling:

      i. First floor: Eight hundred fifty (850) square feet.

      ii. Total: Eleven hundred (1,100) square feet.

   B. Maximum Building Footprint permitted: Ten percent (10%) or eleven hundred (1,100) square feet, whichever is greater.

   C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot Size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

   A. Minimum area: Five (5) acres.

   B. Minimum average width: Three hundred (300) feet.

(Section 17(c)2.B was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 17(d), formerly Section 6.64, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

SECTION 18 A-1 AGRICULTURAL DISTRICT

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

1. Any use as permitted in the HG High Groundwater District.

2. Single-family Dwellings.

3. 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. 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. The Zoning Administrator, upon recommendation of the Town Plan Commission, may grant a waiver for the cultivation of lands on parcels smaller than five acres if a determination is made that said use will not negatively affect surrounding property owners.

4. Horticulture.

5. The following Accessory Buildings and uses, subject to the conditions specified:

   A. Private garages, when located on the same lot, and not involving the conduct of a business; provided, however, that no private garage shall be erected unless that Principal Building to which such garage is an accessory use has been erected or is to be erected simultaneously with said garage.

   B. Quarters for household or farm employees; provided, however, that such quarters shall be occupied only by individuals employed full time on the premises and their families.

   C. Private Boathouses, provided no living quarters are included in said Boathouse. Only one (1) Boathouse per lot is permitted.

   D. Stables, barns, or poultry houses, which house livestock or poultry, shall not be less than fifty (50) feet from an adjacent property line.

6. 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.

7. A sign pertaining to the lease or sale of any Building or land provided such sign does not exceed twenty (20) square feet in area. A sign not exceeding six (6) square feet in area may be maintained by the owner or occupant of any land or Building for the purpose of displaying the name of the owner or occupant, or for the purpose of warning against trespasses.

8. Hobby kennel accessory to an otherwise permitted use, provided such use has the specific approval of the town plan commission and will not adversely affect the use of adjacent lands as may be determined by findings of the town plan commission. The proposed use of parcels in such a manner shall be made by written notice to land owners within one hundred (100) feet of the subject property and in any case to land owners immediately adjacent and across the street from such use by first class mail from the town plan commission prior to the meeting at which the town plan commission will consider approval of such use. The town plan commission may require such measures or provisions by the Applicant as it may deem necessary to provide adequate protection of surrounding property. The town may deny the right to a hobby kennel on the basis of a finding that such a use would be incompatible and a possible nuisance to surrounding uses and not in the public interest. Any person aggrieved by a decision of the plan commission relative to this provision may appeal such decision to the board of adjustment for review and determination as provided for in Section 38 of this Ordinance.

   Where two (2) or fewer dogs are kept, such use shall be considered accessory to the principal use and shall not require special approval by the plan commission. In any case, if the keeping of any number of dogs accessory to the principal use becomes a nuisance to the neighborhood as may be determined by the town plan commission or town board, such use shall be terminated or the nuisance abated. Where necessary, the town plan commission or town board may take appropriate steps to abate such nuisance.

(b) **Building location**

1. <u>Road Setback</u>:

   A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

      i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

      ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. <u>Shore and Wetland Setback</u>:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. <u>Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA)</u>:

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

A. Twenty (20) feet minimum.

B. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations:** The regulations and exceptions of Section 3(i) apply.

(d) **Area regulations**

1. Floor area and Building Footprint:

A. Minimum Floor Area required for Single-family Dwelling:

i. First floor: Eight hundred fifty (850) square feet.

ii. Total: Eleven hundred (1,100) square feet.

B. Maximum Building Footprint permitted: Ten (10) percent or eleven hundred (1,100) square feet, whichever is greater.

C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

A. Minimum area: Three (3) acres.

B. Minimum average width: Two hundred (200) feet.

(Ord. No. 141-44, §§ XLVIII, XLIX, 7-22-1986)

(Former Section 7.01(J) was repealed by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 18(a)1 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)
(Section 18(a)3 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 18(a)3 was amended by Enrolled Ordinance 170-71, effective 12-31-2015.)

(Section 18(a)4 was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 18(a)4 was repealed by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 18(a)6, formerly 18(a) 7., was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 18(a)6.D was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 18(a)9 was amended by Enrolled Ordinance 162-47, effective 10-09-2007.)

SECTION 19 A-2 RURAL HOME DISTRICT

(a) **Use regulations**

1. 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.

2. Nurseries and greenhouses for the private and exclusive use of the dwelling occupant are permitted.

(b) **Building location**

1. Road Setback:

   A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

      i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

      ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Thirty (30) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations:** The regulations and exceptions of Section 3(i) apply.

(d) **Area regulations**

1. Floor Area and Building Footprint:

A. Minimum Floor Area required for Single-family Dwelling:

i. First floor: Eight hundred fifty (850) square feet.

ii. Total: Eleven hundred (1,100) square feet.

B. Maximum Building Footprint permitted: Ten (10) percent, or eleven hundred (1,100) square feet, whichever is greater.

C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

A. Minimum area: Three (3) acres.

B. Minimum average width: Two hundred (200) feet.

(Ord. of 11-5-1984, § XII)
(Ord. No. 141-44, §§ L, LI, 7-22-1986)

(Section 19(a)1 was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 19(a)1 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 19(c), formerly Section 8.03, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

SECTION 20 A-3 SUBURBAN ESTATE DISTRICT

(a) **Use regulations: Permitted Uses**
Any use as permitted in the A-2 Rural Home District.

(b) **Building location**

1. Road Setback:

A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

A. Twenty-five-foot minimum.

B. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations:** The regulations and exceptions from Section 3(i) apply.

(d) **Area regulations**

1. Floor Area and Building Footprint:

A. Minimum Floor Area required for Single-family Dwelling:

i. First floor: Eight hundred fifty (850) square feet.

ii. Total: Eleven hundred (1,100) square feet.

B. Maximum Building Footprint permitted: Ten (10) percent or eleven hundred (1,100) square feet, whichever is greater.

C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance:

A. Minimum required: Two (2) acres.

B. Minimum average width: One hundred seventy-five (175) feet.

(Section 20(a) was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)

SECTION 21 A-4 COUNTRY ESTATE DISTRICT

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

Any use permitted in the A-3 Suburban Estate District.

(b) **Building location**

1. Road Setback:

   A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

      i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

      ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Thirty (30) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations:** The regulations and exceptions of Section 3(i) apply.

(d) **Area Regulations**

1. Floor Area and Building Footprint:

   A. Minimum Floor Area required for Single-family Dwelling:

      i. First Floor: Eight hundred fifty (850) square feet.

      ii. Total: Eleven hundred (1,100) square feet.

   B. Maximum Building Footprint permitted: Ten (10) percent or eleven hundred (1,100) square feet, whichever is greater.

   C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot Size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

   A. Minimum area: One and one-half (1 1/2) acres

   B. Minimum average width: Two hundred (200) feet

(Ord. No. 141-44. § LIII. 7-22-1986)

SECTION 22 HG HIGH GROUNDWATER DISTRICT

(a) **Purpose and intent**

This District is intended to apply to those lands that are mapped as having hydric soil conditions (depth to groundwater of one foot or less) according to the Soil Survey of Milwaukee and Waukesha Counties published by the USDA Soil Conservation Service. Many of these lands contain Wetlands and Floodplains and, accordingly, are mapped with a C-1 Conservancy Overlay District designation. Other lands with such soil conditions are presently in Agricultural Use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and the presence of natural vegetation indicative of wet soils.

The intent of the District is to preserve and maintain agricultural or open space uses on lands suited for such purposes. These lands are generally poorly suited for urban or suburban Development, while lands outside of wetlands are typically better suited for some type of Agricultural Use. In this District, structures related to farm operations, including existing dwellings, are deemed consistent with the purpose and intent of this section where the location of buildings associated with the permitted agricultural operation are found to conform with health, sanitation and safety provisions of this and any other state regulation or local ordinance. The intent for mapping purposes is that lands within this District shall have exhibited Agricultural Uses in the past. It is not the intent of this section to promote or permit the conversion of wetlands. Lands mapped in this District are typically in the Planned "Other Open Lands to be Preserved" or “Environmental Corridor” Comprehensive Development Plan categories.

(b) **Use regulations: Permitted uses**

1. Any uses and structures permitted in the C-1 Conservancy District and if located in a Wetland or Floodplain, the provisions of Section 7(c)2 must be met.

2. Ordinary Farm Uses, including dairying, livestock, poultry raising, and truck farming.

3. Accessory uses within buildings normally associated with permitted agricultural operations including existing Single-family Dwellings, shelters for housing animals, except that no structure shall be located in a Floodplain or upon lands not suited due to soil limitations. Any existing structures within floodlands must conform to Section 8 of this Ordinance.

4. Nurseries, commercial greenhouses, and hatcheries limiting the retail sales of such 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.

5. Road side stands as outlined in Section 11(d)(2)(E) of this Ordinance.

6. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.

7. Any variance granted for structures located in the Floodplain shall meet the floodplain criteria specified in Section 38 of this Ordinance.

(c) **Conditional Uses**
Conditional Uses as provided in Section 4(g).

(d) **Building location**

1. Road Setback:

   A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

      i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

      ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Residential: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.

   B. Other: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

   C. Additional regulations and exceptions from Section 3(h)3 apply.

(e) **Height regulations:**

1. Principal Building: The regulations and exceptions of Section 3(i) apply.

2. Accessory Building: Twenty (20) feet maximum. The Structure shall comply with Section 3(i)2 if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

3. Additional regulations and exceptions from Section 3(i) apply.

(f) **Area regulations**

1. Minimum Floor Area required for Single-family Dwelling:

   A. First floor: Eight hundred fifty (850) square feet.

   B. Total: Eleven hundred (1,100) square feet.

2. Maximum Building Footprint permitted: Ten (10) percent or eleven hundred (1,100) square feet, whichever is greater.

3. Minimum parcel size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance: Five (5) acres, except that for HG lands that lie within a larger parcel or tract of land, the remainder of which is zoned in any other District, said parcel shall comply with the minimum (gross) parcel size requirement of that non HG district.

4. Additional regulations and exceptions from Section 3(j) apply.

(g) **Determination of boundaries**

Where on-site evaluation of soil conditions by a certified soil scientist reveals that soils mapped by the USDA as being hydric are found to be mis-mapped, the lands zoned HG District shall be immediately become subject to the district regulations of the zoning district that is mapped on the balance of the property. If no other zoning district has previously been established on another part of the parcel, the lands shall be zoned as used administratively by the Waukesha County Zoning Administrator. If any such lands are part of an environmental corridor, Wetland or Floodplain, the respective EC Environmental Corridor District Overlay or C-1 Conservancy Overlay shall continue to apply to said lands.

(Section 22 was created by Enrolled Ordinance 170-71, effective 12-31-2015.)

SECTION 23 R-1 RESIDENTIAL DISTRICT

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

1. Any use as permitted in the A-2 Rural Home District.

2. The keeping of usual household pets and hobby kennels but not including the operation of a commercial kennel unless a conditional use permit is obtained.

(b) **Building location**

1. Road Setback:

   A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

      i. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

      ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset*:*

   A. Twenty (20) feet minimum, unsewered.

   B. Fourteen (14) feet minimum, sewered.

   C. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations:** The regulations and exceptions of Section 3(i) apply. If a property is designated in the Farmland Preservation County Development Plan category and has been rezoned to the R-1 Residential District, the height of farm buildings located seventy-five (75) feet or more from the Ordinary High Water Mark of a Navigable Waterway is limited to a maximum height of sixty (60) feet.

(d) **Area regulations**

1. Floor Area and Building Footprint:

   A. Minimum Floor Area required for Single-family Dwelling:

      i. First floor: Eight hundred fifty (850) square feet.

      ii. Total: Eleven hundred (1,100) square feet.

   B. Maximum Building Footprint permitted*:* Seventeen and one half (17.5) percent or

eleven hundred (1,100) square feet, whichever is greater.

C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

A. Minimum area: One (1) acre, thirty percent (30%) reduction if sewered.

B. Minimum average width: One hundred fifty (150) feet, thirty percent (30%) reduction if sewered.

(Ord No. 141-44, § LIV, 7-22-1986)

(Section 23(a)1 was amended by Enrolled Ordinance 161-12, effective 07-13-2006.)
(Section 23(c) was amended by Enrolled Ordinance 160-02, effective 05-13-2005.)

SECTION 24 R-2 RESIDENTIAL DISTRICT

(a) **Use regulations: Permitted Uses**
Any use as permitted in the R-1 Residential District.

(b) **Building location**

1. Road Setback:

A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

A. Twenty (20) feet minimum, unsewered.

B. Fourteen (14) feet minimum, sewered.

C. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations:** The regulations and exceptions of Section 3(i) apply.

(d) **Area regulations**

1. Floor Area and Building Footprint:

A. Minimum Floor Area required for Single-family Dwelling:

i. First floor: Eight hundred fifty (850) square feet.

ii. Total: Eleven hundred (1,100) square feet.

B. Maximum Building Footprint permitted*:* Seventeen and one-half percent (17.5%) or eleven hundred (1,100) square feet, whichever is greater.

C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance)*:*

A. Minimum area: Thirty thousand (30,000) square feet, thirty percent (30%) reduction if sewered.

B. Minimum average width: One hundred twenty (120) feet, thirty percent (30%) reduction if sewered.

(Section 24(c) was amended by Enrolled Ordinance 160-02, effective 05-1-2005.)

SECTION 25 R-3 RESIDENTIAL DISTRICT

(a) **Use regulations: Permitted Uses**
Any use as permitted in the R-2 Residential District.

(b) **Building location**

1. Road Setback:

A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

A. Twenty (20) feet minimum, unsewered.

B. Fourteen (14) feet minimum, sewered.

C. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations:** The regulations and exceptions from Section 3(i) apply.

(d) **Area regulations**

1. Floor Area and Building Footprint:

A. Minimum floor area required for Single-family Dwelling:

i. First floor: Eight hundred fifty (850) square feet.

ii. Total: Eleven hundred (1,100) square feet.

B. Maximum Building Footprint permitted*:* Seventeen and one-half percent (17.5%) or eleven hundred (1,100) square feet, whichever is greater.

C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

A. Minimum area: Twenty thousand (20,000) square feet, thirty percent (30%) reduction if sewered.

B. Minimum average width: One hundred twenty (120) feet, thirty percent (30%)

reduction if sewered.

(Section 25(c) was amended by Enrolled Ordinance 160-02, effective 05-13-2005.)

SECTION 26 NLO North Lake Overlay District

(a) Purpose and Intent: This District is intended to protect life, health, and property or lands vulnerable to flooding pursuant to multiple documented floods of record that exceeded the FEMA regulated floodplain elevation.

(b) Applicability: This overlay district, as mapped or intended to be mapped, includes lands within the Town of Merton that are located at or below an elevation of 899.4 feet above mean sea level (amsl) NGVD 88 and that are adjacent to the FEMA regulated Floodplain of North Lake. A 1982 U.S. Army Corps of Engineers Report identified 899.4 feet amsl as a high flood of record.

(c) General Regulations: All use, location, area, height, and other general provision of the underlying zoning district and other general requirements of this Ordinance shall apply within the NLO North Lake Overlay District, unless more specifically prescribed within this section:

1. Structures that existed prior to October 1, 2016 and that do not comply with the standards of subsection 2 below are limited to interior and exterior remodeling and repair, with exterior remodeling and repair limited to less than fifty percent (50%) of the exterior structural members over the lifetime of the structure. Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or replacement of foundations, rafters, trusses, exterior walls, or similar structural members.

2. Proposed Structures and modifications to Structures that exceed fifty percent (50%) of the exterior structural members over the lifetime of the Structure are subject to the following provisions:

   A. The lowest floor of a principal or accessory Structure, including mechanicals, and private sewage system and well openings shall be placed at or above an elevation of 900.3 feet amsl NGVD 88.

   B. If a principal Structure has a Basement or Crawlspace, which is five (5) feet in height or less and which is not useable as living area, the floor of the Basement or Crawlspace shall be placed at or above an elevation of 899.4 feet amsl NGVD 88.

   C. Private sewage system and holding tanks shall be anchored to resist flotation, collapse, and lateral movement.

(d) Permitting Requirements: The following requirements shall be met as part of a Zoning Permit issued for structural improvements that meet the provisions of subsection (c)2:

1. The Applicant shall submit an as-built certification signed by a registered professional engineer, architect, or land surveyor that the lowest floor of a Structure, including mechanicals, and private sewage system and well openings comply with the above minimum elevation standards of subsection (c)2.A and B above.

2. A registered professional engineer or architect shall submit pre-construction and as-built certification that the private sewage system or holding tank is anchored according to subsection (c).2.C. above.

SECTION 27 P-I PUBLIC AND INSTITUTIONAL DISTRICT

(a) **Intent of District**

This District is intended to provide for those uses which serve a public need and are principally of an institutional, educational, medical, or governmental nature (whether public or privately owned and either "for profit" or "not for profit") and serving a public need, (but not including the operation of a bar, restaurant, or recreational facility as a commercial enterprise) unless authorized as a Conditional Use under Section 4(g)23 and 26. Group homes as regulated by Statute, shall not be included as they are either allowed in other Districts or regulated pursuant to Section 4.

(b) **Permitted Uses**

The following uses are permitted by right, subject to review and approval of the site plan and plan of operation by the Planning Commission and County Zoning Administrator:

1. Hospitals and clinics or rehabilitation facilities or centers.
2. Nursing home.
3. Schools.
4. Mental health or substance abuse treatment, training, or counseling or rehabilitation facilities.
5. Residential treatment, training or education facilities.
6. Municipal buildings.
7. Museums.
8. Police and fire stations.
9. Libraries.
10. Penal reform institutions.
11. Military installations.
12. Public service yards.
13. Publicly owned and operated parks, recreational uses, golf courses, and open space uses.
14. Other similar uses as determined by the County Zoning Administrator and Plan Commission.

(c) **Permitted Accessory Uses**

1. Garages and Buildings for storage of vehicles and/or equipment, which is used in conjunction with the operation of a permitted use.

2. Residential quarters used for other than a permitted use under Section 27(b) shall be occupied only by individuals employed full- time on the premises and their families.

3. Stables, barns, or poultry houses provided that no Building which houses said livestock or poultry is closer than one hundred (100) feet to any lot line.

4. Horticulture, including greenhouses and nurseries, and roadside stands to the extent associated with an otherwise permitted use. 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.

5. Signs displaying the name of the institution or facility provided they are no greater than fifty (50) square feet in area.

6. Parking in accordance with Section 3(k).

7. Satellite dishes or other communication equipment apparatus.

8. Temporary Uses: Lands and Buildings within the District may be used on a temporary basis for private and commercial uses usually not more than 1 week in duration. Such uses might consist of carnivals, rental of said Buildings for private gatherings, use of Buildings for temporary commercial displays or trade fairs and similar functions for the purpose of fundraising or other special and unique events in conjunction with the permitted use. Approval must be granted by the town board and the zoning administrator for such temporary use and subject to any condition that may be imposed.

(d) **Building Location**

1. Road Setback:

   A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

      i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

      ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Principal Building: Fifty (50) feet minimum.

   B. Accessory Building: Thirty (30) feet minimum.

C. Additional regulations and exceptions from Section 3(h)3 apply.

(e) **Height Regulations**

1. Principal Buildings: The regulations and exceptions of Section 3(i) apply, unless fire and emergency apparatus adequate to service a taller Building is available to service the Building on the subject parcel and verification of such apparatus' availability from the community providing fire and emergency services to or for the subject parcel is filed with the Town Building Inspector and the County Zoning Administrator prior to the issuance of a zoning permit, in which event the maximum height of a Principal Building on the subject parcel shall be the maximum height which such available apparatus can service (but such maximum height shall not be greater than sixty (60) feet). In no case, shall the structure exceed thirty-five (35) feet in height if located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway.

2. Farm Buildings: Sixty (60) feet maximum. The regulations of Section 3(i)2 regarding farm buildings located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway apply.

3. Accessory Buildings: Twenty (20) feet maximum. The regulations of Section 3(i)2 regarding Accessory Buildings located within seventy-five (75) feet of the Ordinary High Water Mark of a Navigable Waterway apply.

(f) **Area Regulations**

No minimum required. The use will dictate the size of the parcel. However, at least forty percent (40%) of the subject parcel shall consist of Green Space., If the property is considered a riparian lot or a non-riparian lot located entirely within three hundred (300) feet of a Navigable Waterway, the impervious surface regulations of Section 3(t) apply.

(Section 27(c)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 27(c)8, formerly Section 12.03(8), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 27(d)1 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Sections 27(d) and (e) were amended by Enrolled Ordinance 167-23, effective 08-08-12.)

SECTION 28 B-1 RESTRICTED BUSINESS DISTRICT

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

1. Any use as permitted in the R-3 Residential District.

2. The following retail or customer service establishments of a restrictive nature provided the location, Building and Site Plan and Plan of Operation have been submitted to, and approved by, the plan commission and zoning administrator as being in keeping with the character of the surrounding residential area.

   A. Boarding or lodging houses.
   B. Delicatessen.
   C. Florist shop.
   D. Funeral home.
   E. Gift shop.

F. Interior decorator.
G. Professional office or studio.
H. Tea room or restaurant provided no liquor is served.
I. Tourist home.
J. Any similar use subject to the approval of the plan commission and zoning administrator.

3. Signs subject to the following*:*

A. No sign shall exceed twenty (20) square feet in area.

B. No free standing signs shall exceed ten (10) feet in height from the ground.

C. Only one (1) sign shall be permitted for any such permitted use.

D. No sign shall include illuminating devices or be constructed of illuminated material or be specifically illuminated except by properly shielded cove or back lighting of a nonintermittent type on an opaque background, such source of light not to be more than two (2) feet from the vertical face to be illuminated.

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

(b) **Building location**

1. Road Setback:

A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

A. Twenty (20) feet minimum, unsewered.

B. Fourteen (14) feet minimum, sewered.

C. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations:** The regulations and exceptions of Section 3(i) apply.

(d) **Area regulations**

1. Floor Area and Building Footprint

A. Minimum Floor Area required for Single-family Dwelling:

i. First floor*:* Eight hundred fifty (850) square feet.

ii. Total: Eleven hundred (1,100) square feet.

B. Maximum Building Footprint permitted: Twenty (20) percent.

C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

A. Minimum area: Thirty thousand (30,000) square feet, thirty percent (30%) reduction if sewered.

B. Minimum average width*:* One hundred twenty (120) feet, thirty percent (30%) reduction if sewered.

(Section 28(a)2, formerly Section 13.01(1)(B), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 28(a)4 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 28(d)3 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 29 B-2 LOCAL BUSINESS DISTRICT

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

1. Any use permitted in the B-1 Restricted Business District.

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.

3. Garages for storage of vehicles used in conjunction with the operation of the business.

4. Signs, subject to the following conditions:

A. No sign shall exceed forty (40) square feet in area.

B. Illuminated signs shall not exceed twenty (20) square feet.

C. Signs shall be limited to one (1) sign per store side of Building.

D. No free standing sign shall exceed twenty (20) feet in height from the ground and no attached sign shall be higher than four (4) feet above the top of the roof line or in any case exceed thirty-five (35) feet in height.

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

(b) **Building location**

1. <u>Road Setback</u>:

A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

A. Buildings used solely for commercial purposes: Ten (10) feet minimum.

B. Buildings used in whole or part for residential purposes: Twenty (20) feet minimum, unsewered and fourteen (14) feet, sewered.

C. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations:** The regulations and exceptions of Section 3(i) apply.

(d) **Area regulations**

1. Floor Area and Building Footprint:

A. Minimum Floor Area required for Single-family Dwelling:

i. First floor: Eight hundred fifty (850) square feet.

ii. Total: Eleven hundred (1,100) square feet.

B. Maximum Building Footprint permitted: Fifty (50) percent.

C. Additional regulations and exceptions from Section 3(j) apply.

2. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

A. Minimum area: Thirty thousand (30,000) square feet, thirty percent (30%) reduction if sewered.

B. Minimum average width: One hundred twenty (120) feet, thirty percent (30%) reduction if sewered.

(Section 29(a)2, formerly Section 14.01(1)(B), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 29(a)2 was amended by Enrolled Ordinance 126-69, effective 12-23-2010.)
(Section 29(a)5 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 30 B-3 GENERAL BUSINESS DISTRICT

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

1. Any use as permitted in the B-2 Local Business District, except that residential use shall be permitted only in conjunction with or accessory to an otherwise permitted use.

2. The following business and trades of a more general nature, normally serving a larger trade area, providing the location, Building and Site Plan and Plan of Operation are submitted to and approved by the plan commission and zoning administrator:

   A. Wholesalers and distributors.
   B. Theaters, Dance Halls, Arcades, video game parlors and other amusement places.
   C. Used car lots.
   D. Dry cleaning and dying establishments.
   E. New and used automobile sales rooms and lots, sale of snowmobiles, personal watercraft, boats and marina equipment along with repair and service shops for such equipment, storage yards and garages for said equipment, vehicles and supplies, but not including the storage and/or sale of junked or wrecked equipment or parts.
   F. Printing and publishing houses.
   G. Dairies and bottling plants.
   H. Hotels, subject to the provisions of Section 4(g)19.
   I. Laundries.
   J. Lockers and cold storage plants.
   K. A Building, or portion thereof, or a Building designed with self-contained units, which is leased by the owner for storage.
   L. Any similar use subject to the approval of the plan commission and zoning administrator.

3. <u>Signs</u>

   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*:

      i. <u>Wall signs</u>: 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.

(b) **Building location**

1. Road Setback:

A. Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

i. Thirty-five (35) feet minimum if the Lot is part of a Subdivision recorded after October 1, 2016.

ii. Thirty-five (35) feet minimum if the Lot is served by sewer.

B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Buildings used solely for commercial purposes: Ten (10) feet minimum.

   B. Buildings used in whole or part for residence purposes: Twenty (20) feet minimum, unsewered and fourteen (14) feet minimum, sewered.

   C. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations:** The regulations and exceptions of Section 3(i) apply.

(d) **Area regulations**

1. Minimum Floor Area required for Single-family Dwelling:

   A. First Floor: Eight hundred fifty (850) square feet.

   B. Total: Eleven hundred (1,100) square feet.

2. Maximum Building Footprint permitted: Fifty (50) percent.

3. Additional regulations and exceptions from Section 3(j) apply.

4. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

   A. Minimum area: Thirty thousand (30,000) square feet, thirty percent (30%) reduction if sewered.

   B. Minimum average width: One hundred twenty (120) feet, thirty percent (30%) reduction if sewered.

(Section 30(a)2, formerly Section 15.01(1)(B), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 30(a)2 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 30(a)3 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 30(c), formerly Section 15.03, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

SECTION 31 B-4 COMMUNITY BUSINESS DISTRICT

(a) **Purpose and Intent**

This District is intended to provide for individual or large groups of retail and customer service retail in a "shopping center setting." The intent is to designate those uses on a predetermined land use plan. This District must be located within one (1) mile of a major highway interchange or at or near the intersection of two (2) major highways. The District is designed for convenience or one-stop shopping and is intended to service the entire community.

(b) **Review Process**

The plan commission and zoning administrator must review and approve building plans and a Site Plan and Plan of Operation for each building proposal or change in use in order to achieve a satisfactory relationship between the permitted use, its operating characteristics, the arterial highway system, and adjacent uses.

(c) **Permitted Principal Uses**

The following retail establishments, selling and storing only new merchandise.

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.

(d) **Permitted Accessory Uses**

1. Garages for storage of licensed vehicles used in conjunction with the operation of a business.

2. Off-street parking and loading areas.

(e) **Off-street Parking and Loading Areas**
Provided detailed site plans, including landscaping and buffering, are submitted to and approved by the plan commission and zoning administrator. Front, rear and side yard paved setbacks shall not be less than ten (10) feet. Shared drives and shared parking areas may be allowed among adjacent properties where appropriate and practical through the use of cross-easements or other internal linkages between the properties with approval of the plan commission and zoning administrator.

(f) **Signs**
Allowed by Conditional Use to evaluate size, orientation and compatibility with the entire site. Landscape and site plans for the signs must be submitted to, reviewed and approved by the plan commission and zoning agency.

(g) **Permitted Conditional Uses**
Any use similar in character to the permitted uses listed above conducted as a retail business on the premises, catering to the general public and compatible to the character of adjacent areas. Additionally, only the following uses are permitted Conditional Uses:

1. Fast food.

2. Service stations.

3. Home improvement stores.

4. Communications facilities, including antenna masts and satellite dish antennas located in the rear yard and roof-mounted satellite dish antennas and roof-mounted solar collectors on the roof of the principal structure, provided a registered engineer shall certify that the structure is adequate to support the load. All such facilities shall be screened from view with the facility and screening approved by the plan commission and zoning agency.

5. Entertainment facilities.

6. Hospitals and health care facilities.

7. All uses operated greater than 16 hours per day.

8. Limited outside storage or display.

(h) **Prohibited Uses**

1. Any new residential dwelling.

2. Car, truck and trailer sales lots - new and used.

3. Outside bulk sales, bulk storage or bulk display of materials or products.

4. Drive-in theaters.

(i) **Height Regulations:** The regulations and exceptions of Section 3(i) apply.

(j) **Lot Area** (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance)**, Frontage, and Yard Regulations**

1. Lot Size - Unsewered:

   A. Total site may not be less than ten (10) acres with outlots being created by a PUD.

   B. When an unsewered lot is created, the plan commission and zoning administrator may require the principal structure on the lot to be arranged and dimensioned so as to allow further division of the parcel at such time as sewer becomes available.

2. Lot Size – Sewered:
   Free-standing building sites shall have a minimum lot size of twenty thousand (20,000) square feet.

3. Lot Width (outlots):
   Free-standing building sites shall have a minimum average width of one hundred twenty (120) feet (sewered) and two hundred forty (240) feet (unsewered).

4. Road Setback:

   A. All Buildings shall be located no less than fifty (50) feet from any street or highway right-of-way.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

5. Side Yard Setback:

   A. Shall have a minimum offset of ten (10) feet; however, the plan commission and zoning administrator may require a greater offset to accommodate future expansion of the Building or future paved driveway access to the rear of the Building.

   B. Additional regulations and exceptions from Section 3(h)3 apply.

6. Rear Yard Setback:

   A. Shall have a minimum offset of twenty-five (25) feet.

   B. Additional regulations and exceptions from Section 3(h)3 apply.

7. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

8. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

9. Floor Area:
Initial construction proposed on each lot shall be a minimum of 5,000 square feet.

10. Building Footprint:

A. Maximum of thirty percent (30%), unsewered.

B. Maximum of fifty percent (50%), sewered.

11. Green Space: A minimum of thirty-five percent (35%), unsewered or thirty percent (30%), sewered of any Lot shall consist of Green Space. If the property is considered a riparian lot or a non-riparian lot located entirely within three hundred (300) feet of a Navigable Waterway, the impervious surface regulations of Section 3(t) apply.

(Section 31(b), formerly Section 15.12, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 31(c) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 31(e), formerly Section 15.13(C), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 31(f), formerly Section 15.13(D), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 31(g)4, formerly Section 15.14(1)(D), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 31(j)1, formerly Section 15.17(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 31(j)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 31(j)5, formerly Section 15.17(5), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

SECTION 32 B-P MIXED USE BUSINESS PARK DISTRICT

(a) Purpose and Intent

1. This District is to be used as an implementation tool for the municipalities' adopted Master Plan where it designates specific types of limited office, professional services, retail, business uses, and light industrial uses free of outside storage or display, serving the adjacent industrial and business uses in larger communities. These uses may occur on individual sites or as part of a planned larger Development. This District can only be located within one mile of a freeway interchange or at an intersection of two state trunk highways and be used only where specific types of uses are designated on a locally adopted Master Plan.

2. The plan commission and zoning administrator shall review and consider for approval a building plan and a Site Plan and Plan of Operation for each Building or use proposal to determine if the proposed Development complies with the locally adopted plan. The review shall be required to achieve a satisfactory relationship between the permitted use, its operating characteristics, the arterial highway system and adjacent uses such as retail, residential, customer service, business park and light industrial.

(b) **Permitted Principal Uses**

The following principal uses are permitted provided the building plan and a Site Plan and Plan of Operation have been submitted to and approved by the plan commission and zoning administrator. Development prior to sewers being installed in the area is contingent upon the ability of each use to obtain the necessary sanitary septic system approvals from the proper authorities.

1. Community and customer service establishments including eating and drinking establishments, overnight lodging, and indoor commercial recreational facilities such as bowling alleys, physical fitness salons and theaters. Such establishments may not be located adjacent to or opposite a residential district (as designated in the Master Plan) and must be within 1,000 feet of a state trunk highway except as identified by Section 32(d) of this Ordinance.

2. Offices for the professions, business and utilities, studios, health care facilities and clinics (not providing for overnight stay).

3. Automobile Drive-thru facilities such as financial services, fast food establishments, provided the service rendered or product sold is provided to each customer while they remain in or near their cars and provided to one or a few vehicles at a time (as contrasted with an outdoor theater where all cars are serviced at once). Such facilities must be located within 1,000 feet of a state trunk highway.

4. Laboratory, research and servicing operations. Servicing operations shall not be for general retail or public consumption but limited to the servicing of the specific product manufactured or assembled at that site.

5. Trades or light industrial operations of limited intensity, including manufacturing, assembly, fabrication, and processing operations, warehousing (on parcels greater than 3 acres), wholesaling, and distribution operations, except as otherwise prohibited.

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

(c) **Permitted Accessory Uses**

The following accessory uses are permitted provided the building or structure plan and a Site Plan and Plan of Operation have been submitted to and approved by the plan commission and zoning administrator.

1. Garages attached to the principal structure for storage of vehicles used in conjunction with operation of the business.

2. Off-street parking and loading areas, provided detailed site plans, including landscaping and buffering, are submitted to and approved by the plan commission and zoning administrator. Front, rear and side yard paved setbacks shall be not less than ten (10) feet. Shared drives and shared parking areas among adjacent properties where appropriate and practical are desirable through the use of cross-easements or other internal linkages between properties.

3. Communications facilities, including antenna masts and satellite dish antennas located in the rear yard and roof-mounted solar collectors on the roof of the principal structure, provided a registered engineer shall certify that the structure is adequate to support the load. All such facilities shall be screened from view with the facility and screening approved by the plan commission and zoning administrator. Screening shall be required for any satellite dish exceeding 24 inches in size and where more than one exists per property.

4. Bus or taxi shelters or waiting areas.

(d) **Permitted Conditional Uses**

Only the following Conditional Uses may be permitted provided the building plan and a Site Plan and Plan of Operation have been submitted to and approved by the plan commission and zoning agency:

1. Child care facilities not accessory to a principal office use.

2. Cooling towers, silos or other similar uses accessory to the permitted principal uses.

3. Automobile service and fuel stations.

4. Restaurants to be located within 1,000 feet of any residential area designated on the Master Plan.

5. Fuel or vehicle repair stations serving trucks other than company motor vehicles. Such facilities shall not be located within 1,000 feet of a residential area designated on the Master Plan unless having direct access to a state trunk highway.

6. Any outdoor recreation involving night operation with limitations on hours of operation.

7. Retail stores and shops located beyond 1,000 feet of a state trunk highway.

8. Retail uses operated more than 16 hours per day.

9. Health care facilities providing for overnight stays.

10. Commercial vehicle terminals with roadway access to a state trunk highway.

(e) **Prohibited Uses**

1. <u>Offensive Uses</u>:

   No uses shall be permitted or maintained which, when conducted under adequate conditions and safeguards in compliance with the provisions of this Chapter and any additional conditions or requirements prescribed by the plan commission and zoning administrator are or may become hazardous, noxious or offensive due to emission or odor, dust, smoke, cinders, gas, fumes noise, vibrations, beat frequency, refuse matter, water-carried waste or fugitive lighting.

2. <u>Specific Prohibited Uses</u>: The following uses are specifically prohibited:

   A. Truck or trailer sales

B. New and used car lots.
C. Car wash facilities.
D. Bulk sales, storage or display of lumber.
E. Outdoor displays or storage of materials.
F. Drive-in theaters.
G. Mobile home sales, service or Campgrounds.
H. Recreational vehicle, all terrain vehicle or outdoor recreational vehicle sales and service.
I. Junkyard or wrecking yards.
J. Refining of petroleum or its products.
K. Petroleum storage yards, not including petroleum storage accessory to a permitted Conditional Use.
L. Animal reduction facilities.
M. Forges.
N. Foundries.
O. Garbage or medical incinerators.
P. Rubbish storage or transfer station.
Q. Slaughterhouses.
R. Stockyards.
S. Tanneries.
T. Bulk storage of salt, fertilizer, or similar materials; explosives, gasoline or other petroleum products in excess of 50,000 gallons, and grease.
U. Storage of radioactive materials.
V. Manufacturing or processing of ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives, fertilizer, glue, gypsum, insecticides, poison, pulp, proxylin, radium and radioactive materials.
W. Outside product or equipment testing.
X. Mini-warehouses or multi-tenant storage.

3. Dwellings: No new dwellings and residences of any kind.

(f) **Height Regulations:** The regulations and exceptions of Section 3(i) apply.

(g) **Lot Area** (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance)**, Frontage, and Yard Regulations**

1. Lot Size – Unsewered:
   A. Building site shall have a minimum lot size of forty thousand (40,000) square feet.

   B. When an unsewered lot is created, the plan commission and zoning administrator may require the principal structure on the lot to be arranged and dimensioned so as to allow further division of the parcel at such time as sewer becomes available.

2. Lot Size – Sewered:
   Building sites shall have a minimum lot size of twenty thousand (20,000) square feet.

3. Lot Width:
   Building sites shall have a minimum average width of one hundred twenty (120) feet (sewered) and 240 feet (unsewered).

4. Road Setback:

A. All Buildings shall be located not less than fifty (50) feet from any street or highway right-of-way. Signs not less than twenty (20) feet from any street or highway right-of-way.

B. Additional regulations and exceptions from Section 3(h)1 apply.

5. Side Yard Setback:

A. Shall have a minimum offset of ten (10) feet; however, the plan commission and zoning administrator may require a greater offset to accommodate future expansion of the Building or future paved driveway access to the rear of the Building.

B. Additional regulations and exceptions from Section 3(h)3 apply.

6. Rear Yard Setback:

A. Shall have a minimum offset of twenty-five (25) feet.

B. Additional regulations and exceptions from Section 3(h)3 apply.

7. Shore and Wetland Setback:

A. Seventy-five (75) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

8. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

A. Thirty-five (35) feet minimum.

B. Additional regulations and exceptions from Section 3(h)2 apply.

9. Floor Area:
Initial construction proposed on each lot shall be a minimum of 5,000 square feet.

10. Building Footprint:

A. Maximum of thirty percent (30%), unsewered.

B. Maximum of fifty percent (50%), sewered.

11. Green Space: A minimum of thirty-five percent (35%) unsewered or thirty percent (30%) sewered of any Lot shall consist of Green Space. Upon installation of sanitary sewers, the total required Green Space shall consist of twenty-five percent (25%). If the property is considered a riparian lot or a non-riparian lot located entirely within three hundred (300) feet of a Navigable Waterway, the impervious surface regulations of Section 3(t) apply.

(h) **Signs**

1. Landscape and Site Plans for signs must be submitted to, reviewed and approved by the plan

commission and the zoning administrator.

2. Sign Regulations:

A. Wall sign:
Placed on or against the exterior wall of the Building or one projecting sign attached to the building front may be permitted and shall be subject to the following:

i. Single-use structure signs shall not exceed 0.5 square feet for each one (1) foot width of the Building.

ii. Multi-use structure signs shall not exceed 0.25 square feet for each one (1) foot in width per front foot per individual use.

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 150 feet from another free standing sign.

C. Signs used for identification of individual tenants in multi-tenant buildings must be uniform with regard to panel design, letter style and color. Said sign may contain painted metal surfaces with or without illumination or individual letters routed out of metal, plastic or wood surfaces.

D. Signs may be non-illuminated or internally illuminated.

E. The materials of the sign shall be compatible to the adjacent building materials.

(Section 32(a)2, formerly Section 15.21B, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 32(b)6 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 32(c), formerly Section 15.22(B), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 32(d), formerly Section 15.23, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 32(e)1, formerly Section 15.24(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 32(e)2.V was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 32(g)1, formerly Section 15.26(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 32(g)5, formerly Section 15.26(5), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 32(h)1, formerly Section 15.27(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 32(h)2.B was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 33 (Reserved)

SECTION 34 Q-1 QUARRYING DISTRICT

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

1. Any use as permitted in the A-1 Agricultural District.

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

1. Quarrying although permitted by right, shall be authorized as a Conditional Use under Section 4(g)25 of this Ordinance. 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.

2. The following operations shall be authorized as a Conditional Use under Section 4(g)25 of this Ordinance but only where accessory to 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.

(c) **Building location**

1. Road Setbacks:

   A. Quarrying operations: As required by Section 4(g)25.

   B. Other permitted uses: Fifty (50) feet minimum, unless served by sewer and measured from a Local Road, in which case, the setback is thirty-five (35) feet minimum.

   C. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offsets:

   A. Quarrying operations: As required by Section 4(g)25.

   B. Other permitted uses: Twenty (20) feet minimum.

   C. Additional regulations and exceptions from Section 3(h)3 apply.

(d) **Height regulations:** The regulations and exceptions of Section 3(i) apply, except that Buildings associated with quarrying operations are limited to a maximum height of sixty (60) feet if the

Buildings are located at least seventy-five (75) feet from a Navigable Waterway.

(e) **Area regulations**

1. Minimum Floor Area required for Single-family Dwelling:

   A. First floor: Eight hundred fifty (850) square feet.

   B. Total: Eleven hundred (1,100) square feet.
   .

2. Maximum Building Footprint permitted: Ten (10) percent or eleven hundred (1,100) square feet, whichever is greater.

3. Additional regulations and exceptions from Section 3(j) apply.

4. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

   A. Minimum area: Three (3) acres.

   B. Minimum average width: Two hundred (200) feet.

(Section 34(a) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 35 M-1 LIMITED INDUSTRIAL DISTRICT

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

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

2. Trades or industries of a restrictive character which are not detrimental to the District or to the adjoining residential areas by reason of appearance, noise, dust, smoke or odor, provided the location, building plan and a Site Plan and Plan of Operation have been submitted to and approved by the plan commission and zoning administrator, but not including any use enumerated under Section 36(a)3 or any of the following:

   A. Salvage yards.
   B. Drop forges, foundries, refineries, tanneries or any similar use, the normal operation of which causes objectionable noise, odor, dust or smoke.

(b) **Building location**

1. Road Setback:

   A. Fifty (50) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Ten (10) feet minimum, except where a Lot abuts on a district boundary line of a more restrictive district permitting residential use, the following regulations shall apply:

      i. Buildings or uses permitted in the more restrictive district shall comply with the offset requirements of the more restrictive district.

      ii. Buildings or uses not permitted in the more restrictive district shall provide a fifty (50) feet minimum offset and shall be screened from the more restrictive district by a planting screen at least six (6) feet high and fifteen (15) feet in width.

   B. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations**

1. Principal structures: Sixty (60) feet maximum. If the Structure is located within seventy-five (75) feet of a Navigable Waterway or on a Lot less than sixty-five (65) feet in width, the provisions of Section 3(i)1.A. apply.

2. Accessory structures: Sixty (60) feet maximum. If the Structure is located within seventy-five (75) feet of a Navigable Waterway, the provisions of Section 3(i)2.A. apply.

3. Additional regulations and exceptions from Section 3(i) apply.

(d) **Area regulations**

1. Minimum Floor Area required for Single-family Dwelling:

   A. First floor: Eight hundred fifty (850) square feet.

   B. Total: Eleven hundred (1,100) square feet.

2. Maximum Building Footprint permitted: Seventy (70) percent.

3. Additional regulations and exceptions from Section 3(j) apply.

4. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

   A. Minimum area: One (1) acre.

   B. Minimum average width: One hundred fifty (150) feet.

(Section 35(a)1 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 35(a)2, formerly Section 16.01a(1)(B), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 35(a)2.A was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 36 M-2 GENERAL INDUSTRIAL DISTRICT

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

1. Any use as permitted in the M-1 Limited Industrial District

2. Quarrying, subject to the regulations of Section 4(g)25.

3. Any other commercial or industrial use not otherwise prohibited by law, provided their location, building plan and a Site Plan and Plan of Operation have been submitted to and approved by the plan commission and zoning administrator, except the following:

   A. Cement, lime, gypsum, or plaster of paris manufacture.
   B. Acid manufacture.
   C. Manufacture of explosives, but not including the making of small arms ammunition.
   D. Storage of explosives, except as incidental to a permitted use.
   E. Fertilizer manufacture.
   F. Offal or dead animal reduction.
   G. Glue manufacture, fat rendering or distillation of bones.
   H. Stockyards or commercial slaughter of animals.

(b) **Building location**

1. Road Setback:

   A. Fifty (50) feet minimum. Where the opposite road frontage is in a residential or agricultural district, a one hundred (100) feet minimum Road Setback shall be required.

   B. Additional regulations and exceptions from Section 3(h)1 apply.

2. Shore and Wetland Setback:

   A. Seventy-five (75) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

3. Floodplain Setback (within the two tenths percent (0.2%) floodplain per FEMA):

   A. Thirty-five (35) feet minimum.

   B. Additional regulations and exceptions from Section 3(h)2 apply.

4. Offset:

   A. Ten (10) feet minimum, except that where a lot abuts on a District boundary line of a more restrictive district permitting residence use, the following regulations shall apply:

      i. Buildings or uses permitted in the more restrictive district shall comply with offset requirements of the more restrictive district.

      ii. Buildings or uses not permitted in the more restrictive district shall provide a one hundred (100) feet minimum offset from a restricted or local business district and a two hundred (200) feet minimum offset from a residential or agricultural district and shall be screened from the more restrictive district by a planting screen at least six (6) feet high and fifteen (15) feet in width.

   B. Additional regulations and exceptions from Section 3(h)3 apply.

(c) **Height regulations**

1. Principal structures: Sixty (60) feet maximum. If the Structure is located within seventy-five (75) feet of a Navigable Waterway or on a Lot less than sixty-five (65) feet in width, the provisions of Section 3(i)1.A. apply.

2. Accessory structures: Sixty (60) feet maximum. If the Structure is located within seventy-five (75) feet of a Navigable Waterway, the provisions of Section 3(i)2.A. apply.

3. Additional regulations and exceptions from Section 3(i) apply.

(d) **Area regulations**

1. Minimum Floor Area required for Single-family Dwelling:

   A. First Floor: Eight hundred fifty (850) square feet.

   B. Total: Eleven hundred (1,100) square feet.

2. Maximum Building Footprint permitted: Seventy (70) Percent.

3. Additional regulations and exceptions from Section 3(j) apply.

4. Lot size (per the Waukesha County Shoreland and Floodland Subdivision Control Ordinance):

   A. Minimum area: One (1) acre.

   B. Minimum average width: One hundred fifty (150) feet.

(Section 36(a)3, formerly Section 17.01a(1)C), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

SECTION 37 DSO Delafield Shoreland Overlay District

(a) Applicability: This overlay district, as mapped or intended to be mapped, includes properties within Shorelands located in the Town of Delafield.

(b) General regulations: All use, location, area, height and other general provisions of the underlying zoning district and other general requirements of this Ordinance shall apply within the DSO District, unless more specifically prescribed within Section 37(c) or 37(d) below:

(c) Shore Setback (also see Section3(h)2): A Shore Setback greater than seventy-five (75) feet from the Ordinary High Water Mark of a Navigable Waterway, but no more than one hundred fifty (150) feet, is required as measured from Pewaukee Lake as determined below:

1. Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the Ordinary High Water Mark provided all of the following are met:

   A. Both of the existing principal structures are located on an adjacent lot to the proposed principal structure.

   B. Both of the existing principal structures are located within two hundred (200) feet of the proposed principal structure.

   C. Both of the existing principal structures are located greater than seventy-five (75) feet from the Ordinary High Water Mark.

   D. Both of the existing principal structures were required to be located at a Setback greater than seventy-five (75) feet from the Ordinary High Water Mark.

   E. The increased setback does not apply if the resulting setback limits the placement to an area on the property on which the Structure cannot be built.

2. Where subsection (c)1 above does not apply, all other provisions of Section 3(h)2 apply.

(d) Separation Between Buildings: The separation requirements listed below shall be met unless excepted or modified by the Plan Commission per procedures and standards adopted by the Town of Delafield.

1. No Principal Building shall be hereafter erected, converted, relocated, enlarged, structurally altered or moved from one location to another so that the Building is closer than twenty (20) feet to any other Building on an adjoining Lot measured from the outward-most points of the two Buildings.

2. No Accessory Building shall be hereafter erected, converted, relocated, enlarged, structurally altered or moved from one location to another so that the Building is closer than ten (10) feet to any other Principal or Accessory Building measured on the subject Lot from the outward-

most points of the two (2) Buildings.

(Section 37 was created by Enrolled Ordinance 169-26, effective 07-10-2014.)

SECTION 38 BOARD OF ADJUSTMENT

(a) **Establishment**

1. Authority: There is hereby created a Board of Adjustment pursuant to Section 59.694 of the Wisconsin Statutes, to consist of five (5) members and two (2) alternates to be appointed by the County Executive and confirmed by the County Board. The first appointments shall be for a term of one (1), two (2), and three (3) years respectively, and thereafter on July 1 of each year the new appointment shall be for three (3) year terms.

2. General: All members of the board shall reside within the county and outside the limits of incorporated areas, provided however, that no two (2) members shall reside in the same town. A vacancy shall be filled for the unexpired term of any member whose term becomes vacant, by appointment of the county executive and confirmation by the county board. The actual and necessary expenses incurred by the board in performance of its duties shall be paid and allowed as cases of other claims against the county. The members of the board shall also receive per diem compensation as provided for by the county board. The board shall appoint a chairman, a vice-chairman and shall adopt such bylaws as the board deems necessary.

(b) **Rules**

1. General: The board shall elect its own chairman to hold office for one (1) year and until his successor is elected. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

   The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent, of failing to vote indicating such fact, and shall keep records of its examinations, and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

2. Meetings: Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine and shall be open to the public.

3. Procedural: The board shall adopt other rules governing its procedure as are necessary, consistent with this Ordinance. The Zoning Administrator shall not be the secretary of the board.

4. Cooperation with zoning agency: The board shall keep the County Zoning Agency informed as to any matters brought before it and shall call upon the zoning agency for such information as is pertinent to the matters under consideration.

5. The WDNR shall be notified of any decision of the board within ten (10) days from the date of the decision.

(c) **Powers**

1. Defined: The board of adjustment shall have the following powers as defined by statute:

   A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of Section 59.69 Wisconsin Statutes, or of this Ordinance.

   B. To hear and decide disputes concerning the C-1 Conservancy or EFD Existing Floodplain Development Overlay District boundaries in regards to Floodplains as shown on the official zoning map.

      i. If the District boundary is established by approximate or detailed floodplain studies approved by the WDNR or FEMA, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

      ii. The person contesting the District boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board; and

      iii. If a District boundary is incorrectly mapped, the Board should inform the zoning agency, Zoning Administrator, or the person contesting the district boundary location to petition for a map amendment according to Section 39.

   C. To hear and decide special exceptions to the terms of this Ordinance upon which such board is required to pass under this Ordinance.

   D. To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest, unique property conditions exist not common to adjacent lots or premises, where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

   E. To grant special exceptions and variances for renewable energy resource systems if said system cannot meet normal location requirements of this Ordinance for accessory structures. If the board denies an application for a special exception or variance for a renewable energy resource system, the board shall provide a written statement of its reasons for denying the application. In this paragraph, "renewable energy resource systems" means a solar energy system, a waste conversion energy system, a wind energy system or any other energy system which relies on a renewable energy resource.

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.

Any variance granted on a property located in the Floodplain shall meet the following additional criteria:

A. Shall not cause any increase in the Regional Flood Elevation.

B. Shall not increase the amount of obstruction to flood flows.

C. The variance shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this Ordinance.

D. The board of adjustment shall comply with the Insurance Notice requirement of Section 38(d)5.

E. To qualify for a variance from the FEMA regulations, the lot must be less than one-half acre in size and be Contiguous to existing structures constructed below the Regional Flood Elevation.

F. In a Floodway, any modification or addition to a Nonconforming Structure or any structure with a Nonconforming Use may only be allowed with approval by the Waukesha County board of adjustment as a variance and pursuant to the above additional requirements for variances in the Floodplain. If the board of adjustment grants a variance, the board of adjustment must require conformance with the above standards and an addition to the existing structure must be Floodproofed, pursuant to Section 8(c), by means other than the use of fill, to the Flood Protection Elevation; and

   If any part of the foundation below the Flood Protection Elevation is enclosed, the enclosed structure may only be used for parking, building access, and limited storage. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade and the parts of the foundation below the Flood Protection Elevation must be constructed of flood-resistant materials. Mechanical and utility equipment must be elevated or Floodproofed to or above the Flood Protection Elevation.

G. A nonconforming accessory structure or an accessory structure with a Nonconforming Use located in the Floodfringe may be granted a variance for modifications or additions which are protected to elevations lower than the Flood Protection Elevation, provided the structure will not be used for human habitation or be associated with a high flood damage potential; human lives will not be

endangered; public facilities such as water and sewer shall not be installed; flood depths shall not exceed 2 ft.; flood velocities shall not exceed 2 ft. per second; and the structure shall not be used for the storage of materials as described in Section 8(b)2.H.

3. Performance standards: In order to reach a fair and objective decision, the Board may utilize and give recognition to appropriate performance standards which are available in model codes or ordinances, or which have been developed by planning, manufacturing, health, architectural and engineering research organizations.

4. Enforcement of decision: In exercising the above-mentioned powers, such board may in conformity with the provisions of this Ordinance, grant or deny the variance application, dismiss the appeal for lack of jurisdiction, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken; and may issue or direct the issue of a permit provided that no such action shall have the effect of permitting in any District a use prohibited in that District; of rezoning; of allowing a use or variance which would have the effect of intensifying a use in a manner contrary to what a similarly situated property would be allowed; of permitting, without the approval of the County Zoning Agency, any Building within the base setback area as established by Section 3(h)1 of this Ordinance, or of granting exceptions to chapters SPS 383, NR115 or NR116 of the Wisconsin Administrative Code, FEMA regulations, the Waukesha County Sanitary Ordinance and any other federal, state, or local ordinance.

5. Required vote: The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the Applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation therefrom. The grounds of every such determination shall be stated including the facts which are the basis for the board's decision and the reasons for granting an appeal, describing the hardship demonstrated by the Applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

6. Further appeal: Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may appeal from a decision of the board of adjustment within thirty (30) days after the filing of the decision in the office of the board of adjustment in the manner provided in Sections 59.692(4)(b), 59.693(4)(b), 59.694(4) and 59.694(10) of the Wisconsin Statutes.

(d) **Appeals**

1. How filed: Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any such decision of the zoning administrator or other Administrative Officer. Such appeal shall be taken within twenty (20) days from the date of the decision of the zoning administrator or other Administrative Officer appealed from by filing with the officer from whom the appeal is taken, and with the board of adjustment, a notice of appeal specifying the grounds thereof and together with the proper fee as established under Section 41(b)5 of this Ordinance. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

2. Stay: An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whose decision the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

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.

4. Decision: The decision on any appeal, variance, special exception or interpretation shall be made within fifteen (15) days after completion of the hearing thereon unless such time is extended with the mutual consent of the board and the petitioner. At such time as a decision is made, the petitioner and the WDNR shall be notified in writing within ten (10) days of the date of the decision. The written decision shall be signed by the chairman or secretary of the board.

5. Insurance notice: When a Floodplain variance is granted, the board shall notify the Applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to $25.00 per $100.00 of coverage. A copy of said notification shall be maintained with the variance record.

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.

(e) **Special exceptions**

Requests for Special Exceptions upon which the board of adjustment is required to pass by the terms of this Ordinance shall be presented by petition and a public hearing held thereon as provided for appeals.

(Ord. No. 141-44, § LVII, 7-22-1986)
(Ord. No. 141-44, § LVIII, 7-22-1986)

(Ord. No. 141-44, §§ LVIII, LIX, 7-22-1986)
(Ord. No. 141-44, § LXI, 7-22-1986)

(Section 38(a)1, formerly Section 17.01(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 38(a)2, formerly Section 17.01(2), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 38(b)2, formerly Section 17.02(2), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 38(b)3 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 38(b)5 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 38(c)1.A, formerly Section 17.02(2), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 38(c)1.B.ii was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 38(c)1.B. was amended by Enrolled Ordinance 170-71, Effective 12-31-15.)
(Section 38(c)2 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 38(c)2 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 38(c)2 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 38(c)4, formerly Section 17.03(4), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 38(c)4 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 38(c)4 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 38(c)5 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 38(c)6, formerly Section 17.03(6), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 38(d)3 was amended by Enrolled Ordinance 162-47, effective 10-09-2007.)
(Section 38(d)3 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 38(d)3 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 38(d)4 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 38(d)4 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 38(d)5 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 38(d)5 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 38(d)6 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 39 CHANGES AND AMENDMENTS

(a) **Authority**

Pursuant to the provisions of 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.

(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.

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 appropriate regional 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)4.A 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.

6. 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. Copies of any decisions made by the county board shall be submitted to the appropriate regional office of the WDNR within ten (10) days of the decision. 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.

(c) **Zoning of county owned lands**

1. The county board may by ordinance zone and rezone any lands owned by the county without necessity of securing the approval of the town boards of the towns wherein such lands are situated, and without following the procedure outlined in Section 59.69 of the Wisconsin Statutes, provided that the county board shall give written notice to the town board of the town wherein such lands are situated of its intent to so rezone and shall hold a public hearing on the proposed rezoning ordinance and give notice of such hearing by posting in five (5) public places in the town.

2. This subsection does not apply to land subject to a town zoning ordinance which is purchased by the county for use as a solid or hazardous waste disposal facility or hazardous waste storage or treatment facility, as these terms are defined under Chapter 291 of the Wisconsin Statutes.

(d) **Zoning in annexed areas**

1. Removal from map: When any lands previously under the jurisdiction of a county zoning ordinance 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 the Wisconsin Statutes regarding street and highway width.

2. Continued Effect of Ordinance*:* This Ordinance is not effective in annexed or incorporated areas. Said areas are subject to Sections 61.353 and 62.233, Wis. Stats..

   Waukesha County's Floodplain provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch.NR 116, Wisconsin Administrative Code and 44 CFR 59-72, *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 Floodway location.

   In the event an ordinance 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.

(e) **Shoreland/wetland rezoning procedure**

1. For all proposed text and map amendments to the shoreland/wetland provisions of this Ordinance, the appropriate district office of the WDNR shall be provided with the following:

   A. A copy of every petition for a text or map amendment to the shoreland/wetland provisions of this Ordinance, within five (5) days of the filing of such petition with the county clerk. Such petition shall include a copy of the Final Wisconsin Wetland Inventory Map adopted as part of this Ordinance describing any proposed rezoning of a shoreland/wetland.

   B. Written notice of the public hearing to be held on a proposed amendment at least ten (10) days prior to such hearing.

   C. A copy of the County Zoning Agency's findings and recommendations on each

proposed amendment within ten (10) days after the submission of those findings and recommendations to the county board; and

D. Written notice of the county board's decision on the proposed amendment within ten (10) days after it is issued.

2. In order to ensure that the shoreland protection objectives found in Section 281.31 of the Wisconsin Statutes will be accomplished by this Ordinance, a Wetland, or a portion thereof, in the C-1 Conservancy District (Shoreland-Wetland Zoning District) shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

A. Storm and flood water storage capacity,

B. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland,

C. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters,

D. Shoreline protection against soil erosion,

E. Fish spawning, breeding, nursery or feeding grounds,

F. Wildlife habitat, or

G. Wetlands both within the boundary of designated areas of special natural resource interest and those Wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in Section NR 103.04, Wis. Admin. Code, which can be accessed at the following web site: http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf.

3. If the WDNR determines that the proposed rezoning may have a significant adverse impact upon any of the criteria listed in subsection 2 above, the WDNR shall notify the County Zoning Agency of its determination either prior to or during the public hearing held on the proposed amendment. If the WDNR notifies the County Zoning Agency that a proposed text or map amendment to the wetlands governed by this Ordinance may have a significant adverse impact upon any of the criteria listed in subsection (2) above, that amendment, if approved by the County Board, shall contain the following provision: "This amendment shall not take effect until more than thirty (30) days have elapsed after written notice of the county board's approval of this amendment is mailed to the WDNR. During that thirty-day period the WDNR may notify the county board that it will adopt a superseding shoreland ordinance for the county under Section 59.692(6) Wisconsin Statutes. If the WDNR does so notify the county board, the effect of this amendment shall be stayed until the Section 59.692(6) adoption procedure is completed or otherwise terminated."

4. If the county board approves of a rezoning and the WDNR determines, after review as required by Section NR 115.06(2)(c), Wis. Admin. Code that the county's shoreland zoning ordinance no longer complies with the requirements of Section 59.692 of the Wisconsin Statutes and Chapter NR 115 Wisconsin Administrative Code, the WDNR shall, after notice and public hearing, adopt a complying ordinance for the county, under Section 59.692(6), Wis Stats.

5. Where a wetland alteration has been approved as outlined above and results in an enlarged wetland area, the jurisdictional requirements of this Ordinance including the Conservancy District requirements remain in effect within the subject area. Where a wetland alteration results in a smaller wetland, the zoning category of Contiguous lands shall apply.

6. Waukesha County is required to review and adopt amendments to the Wisconsin Wetland Inventory Map in accordance with Section NR 115.04(2), Wis. Admin. Code. The Wisconsin Wetland Inventory Map is also illustrated on the Department of Natural Resources Surface Water Data Viewer and the Waukesha County GIS.

(f) **Floodplain rezoning procedure**

1. The county may change or amend the zoning district boundaries in areas involving Floodplains and this Ordinance in the manner outlined in Section 39(f)2. below. Actions which require an amendment to this Ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

   A. Any fill or Floodway encroachment that obstructs flow causing any increase in the regional flood height.

   B. Correction of discrepancies between the water surface profiles and official zoning maps.

   C. Any fill, excavation, or land altering activities in the Floodplain which are not a permitted use in Section 3(d)5.A., Preservation of Topography in Floodlands; Section 7, C-1 Conservancy District; Section 8, Existing Floodplain Development Overlay District; or Section 10, Exclusive Agricultural Conservancy District of this Ordinance.

   D. Any fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is Contiguous to land lying outside the Floodplain.

   E. Any amendment to the text of this Ordinance recommended by the County, required by NR 116.05, Wisconsin Administrative Code, or otherwise required by law.

   F. Any changes to the maps to alter Floodplains (including channel relocations, Floodway line modifications, or removing an area from the Floodway or Floodfringe) that is based on a Base Flood Elevation from a Flood Insurance Rate Map (requires prior approval by FEMA) or Regional Flood Elevation from any other officially adopted Floodplain map listed in Section 6(b)1.B. of this Ordinance.

   G. Any change to the Floodplain boundaries and/or watercourse alterations on the Flood Insurance Rate Map.

2. The following Floodplain rezoning procedures must be followed:

   A. Rezone petitions shall include all necessary data required by Section 3(c)2 of this Ordinance.

   B. Rezone petitions must not adversely impact the purpose and intent of this Ordinance.

C. Obstructions or increases in Flood heights may only be permitted if amendments are made to this Ordinance, the official Floodplain zoning maps, Floodway lines and water surface profiles in accordance with this Section.

D. In AE Zones with a mapped Floodway, no obstructions or increases shall be permitted unless the Applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Ordinance, the official Floodplain zoning maps, Floodway lines and water surface profiles, in accordance with this Section. Any such alterations must be reviewed and approved by FEMA and the WDNR.

E. In A Zones, increases equal to or greater than 1.0 foot may only be permitted if the Applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Ordinance, the official Floodplain maps, Floodway lines, and water surface profiles, in accordance with this Section.

F. No amendments to rezone areas identified on the WDNR Flood Storage Maps are permissible unless the entire area of the waterway in question is removed from the WDNR Flood Storage Maps, which would require a revision to the Floodplain study and map for the waterway to revert to the higher regional flood discharge calculated without Floodplain storage unless otherwise approved by the WDNR.

G. No amendments to rezone areas that involve Floodplains based on a Base Flood Elevation from a Flood Insurance Rate Map shall become effective by the county until approved by FEMA and the WDNR and not until a Letter of Map Revision is issued by FEMA for the proposed changes. No amendments to rezone areas that involve Floodplains based on a Regional Flood Elevation shall become effective until reviewed and approved by the WDNR. Required technical data submitted to the Zoning Administrator shall be sent to the WDNR regional office by the Zoning Administrator. WDNR will review the effect of the proposed amendment on the height of the Regional Flood Elevation, assure no increase in the Regional Flood Elevation will result and assure that the proposed amendments meet the purpose of the Wisconsin Administrative Code.

H. If the county amends the zoning district boundary to modify the zoning map, it shall submit these amendments and the plans for fill or alteration of the subject area to WDNR for approval pursuant to Section NR 116. Prior to WDNR approval, the Applicant shall submit a final map to be certified by an engineer, that the fill or alteration as approved by the county has been accomplished to the specifications set forth by the amendment approved by the county.

I. For rezones in areas involving the Floodplain with no water surface profiles, the county board shall consider data submitted by the WDNR, the Zoning Administrator's on-site inspections and other available information.

J. No area in the Floodplain may be removed from the Floodplain unless it can be shown that the area has been filled to the Flood Protection Elevation and is Contiguous to other lands lying outside the Floodplain.

K. The effect of rezoning, filling and altering any Floodplain shall be calculated by comparing the Regional Flood profile determined by the hydraulic Floodway lines to the Regional Flood profile determined by assuming that the entire shallow depth

flooding area (Regional Flood) is not available to convey flood flows. Calculations shall conform to the standards contained in Section NR116 of the Wisconsin Administrative Code.

3. Where a Floodplain amendment has been approved as outlined in this section, the jurisdiction and requirements of this Ordinance remain in effect within the subject area, with the exception of the District requirements the lands are being removed from. Floodplain dimensional setbacks shall remain in effect from the newly established floodplain boundary.

4. All persons petitioning for a map amendment that obstructs flow causing any increase in the Regional Flood height, shall obtain Flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(Ord. No. 141-44, §§ LXII-LXIV, 7-22-1986)
(Ord. No. 141-44. § LXVI. 7-22-1986.)

(Section 39(a), formerly Section 18.01, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 39(a) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 39(b) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 39(b)2 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 39(b)9, formerly Section 18.02(9), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 39(b)9 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 39(c)1, formerly Section 18.03(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 39(c)2, formerly Section 18.03(2), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 39(d)1, formerly Section 18.04(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 39(d)1 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 39(d)2 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 39(d)2 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 39(d)2 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 39(e)1 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 39(e)3, formerly Section 18.05(3), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 39(e)3 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 39(e)4 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 39(f) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 39(f) was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 39(f)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 39(f)5 was repealed by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 40 PUBLIC HEARINGS

(a) **Notice**

In order that the owners of property involved and other legitimately interested parties may have fair opportunity to be heard, adequate notice shall be given of any public hearing required by the provision of this Ordinance stating the time and place of such hearing and the purpose for which the hearing is being held.

(b) **Procedure**

1. <u>Posting and publishing</u>

A. Except as may be otherwise herein specifically provided, notice of public hearing shall be given by publication once a week for two (2) consecutive weeks in the official newspaper of the county, or in the newspaper of general circulation in the area of the proposed change or Conditional Use.

B. 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.

C. When the hearing involves an amendment to the zoning ordinance, a copy of such notice shall be sent without delay by first class mail to the town clerk of each town which would be affected by the amendment, and in no case less than seven (7) days prior to the date of such hearing. The town clerk shall in turn notify the plan commission without delay.

D. A notice of public hearing shall be sent to the county board supervisor representing the subject area, the appropriate regional office of the WDNR at least ten (10) days prior to any hearing, and, where appropriate, the U. S. Army Corps of Engineers and Federal Emergency Management Agency.

2. 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.

(Section 40(b)1.B was amended by Enrolled Ordinance 162-47, effective 10-09-2007.)
(Section 40(b)1.B was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 40(b)1.C was amended by Enrolled Ordinance 162-47, effective 10-09-2007.)
(Section 40(b)1.D was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 40(b)2 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 41 GENERAL ADMINISTRATION

(a) **Zoning Agency**

1. Park and planning commission designated: The Waukesha County Park and Planning Commission is hereby designated as the County Zoning Agency pursuant to Section 59.69(2)(a) of the Wisconsin Statutes.

2. Responsibilities: The County Zoning Agency shall oversee the administration of this Ordinance, hold the necessary public hearings, and make recommendations to the county board relative to all zoning matters. The County Zoning Agency shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be public record.

3. Approvals required: Where, in the interest of preserving the maximum degree of local administration, the determination of the town plan commission or town board is required by the provisions of this Ordinance for Conditional Uses and other special approvals, such determination shall be subject in all cases to final approval by the County Zoning Agency before it shall be effective. It shall be the responsibility of the local determining body to notify the County Zoning Agency of any petitions or requests in such cases, and of any hearings to be held, and to transmit the final determination to the County Zoning Agency within ten (10) days in order that they may act promptly upon its ratification.

4. Appeal: Any person or persons, jointly or severally, aggrieved by any decision of the zoning agency, or any taxpayer, or any officer, department, board or bureau of the municipality, may appeal from a decision of the zoning agency within thirty (30) days after the filing of the decision in the office of the zoning agency by seeking the remedy available by certiorari. No appeal shall be taken from a decision of the zoning agency to the board of adjustment.

(b) **Zoning Administrator**

1. Designation: The Director of the Waukesha County Department of Parks and Land Use is designated as "zoning administrator" for the administration and enforcement of the provisions of this Ordinance and the zoning administrator has the authority to designate staff under his or her direction or the local building inspector to perform delegated tasks and duties.

2. Duties: In the administration and enforcement of this Ordinance the zoning administrator shall perform the following duties:

   A. Advise Applicants of the Ordinance provisions, provide permit applications and appeals forms and assure that all necessary information is provided on the application.

   B. Issue the necessary zoning and occupancy and use permits provided the provisions of the Ordinance and of any applicable building code have been complied with. Issue Floodplain certificates of compliance where appropriate.

   C. Inspect and assess structures and uses as necessary including the inspection of all damaged Floodplain structures to determine if Substantial damage to the structures has occurred.

   D. Keep an accurate record of all zoning and use permits issued, inspections made and work approved; including all required Floodplain data when applicable, such as

documentation of certified lowest floor and regional flood elevations for Floodplain development; Floodproofing certificates, records of water surface profiles; a list of Nonconforming Uses and Structures including changes, appeals, variances and amendments; and all Substantial damage assessment reports for Floodplain structures.

E. Keep accurate records and maps of the zoning ordinance and any amendments or changes thereto.

F. Submit copies of the following items to the WDNR regional office regarding Floodplain matters:

i. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

ii. Copies of case-by-case Floodplain analyses, and other required information including an annual summary of Floodplain zoning actions taken.

iii. Copies of Substantial damage assessments performed and all related correspondence concerning the assessments.

iv. Copies of violation reports.

G. Submit copies of amendments relating to Floodplain matters to the FEMA Regional office.

H. Inspect and process any reported violation of this Ordinance in accordance with Section 41(c) and submit copies of any reports related to Floodplain matters to the WDNR Regional office.

3. Authority: In the enforcement of this Ordinance, the zoning administrator shall have the power and authority for the following:

A. At any reasonable time, and for any proper purpose, to enter upon any public or private premises and make inspection thereof.

B. Upon reasonable cause or question as to proper compliance, to revoke any zoning or occupancy and use permit and issue cease and desist orders requiring the cessation of any Building, moving, alteration or use which is in violation of the provisions of this Ordinance, such revocation to be in effect until reinstated by the zoning administrator or the zoning board of adjustment.

C. To refer to the Office of Corporation Counsel for commencement of any legal proceedings necessary to enforce the provisions of this Ordinance. The collection of forfeitures provided for herein shall occur through the established procedures of the Waukesha County Clerk of Courts and Waukesha County Department of Administration, Collection Division. The issuance of citations provided for under this Ordinance shall not require such referral and may be issued by the Zoning Administrator directly.

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(c)3.B of this Ordinance before an occupancy and use permit shall be issued.

5. Fee schedule: The fees referred to in other sections of this Ordinance shall be established by the annual Waukesha County Budget adopted by the Waukesha County Board and may from time to time be modified. The processing fees are related to costs involved in handling zoning permit applications, Site Plan and Plan of Operation review, conditional use petitions, appeals to the board of adjustment, and zoning amendments.

6. Public Information: The Zoning Administrator shall provide the following Floodplain information, if available:

   A. Where useful, marks on bridges or Buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the Floodplain.

   B. All available information in the form of maps, engineering data and regulations shall be readily available and should be widely distributed.

   C. Real estate transfers should show what Floodplain district any real property is in.

(c) **Violations**

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 one thousand dollars ($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.

2. Enforcement by injunction: Compliance with the provisions of this Ordinance may also be enforced by injunctional order at the suit of the county or one (1) or more owners of real estate situated within an area affected by regulations of this Ordinance. It shall not be necessary to prosecute for fine or imprisonment before resorting to injunctional proceedings.

3. Declared nuisances*:* Any Building erected, structurally altered, or placed on a lot, or any use carried on in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se, and the County may apply to any court of competent jurisdiction to restrain or abate such nuisance.

4. Enforcement by Citation*:* The County elects to use the citation method of enforcement under Section 66.0113 of the Wisconsin Statutes for violations of this Code of Ordinances, including those for which a statutory counterpart exists.

   A. In addition to all law enforcement officers, the issuance of citations is expressly

limited to the zoning administrator. The authority delegated to such official or employees to issue citations may only be granted or revoked by the County Board.

B. The citation shall contain the following information:

i. The name and address of the alleged violator.
ii. The factual allegations describing the alleged violation.
iii. The time and place of the offense.
iv. The section of the Ordinance violated.
v. A designation of the offense in such a manner as can be reasonably understood by a person making a reasonable effort to do so.
vi. The time at which the alleged violator may appear in court.
vii. A statement which, in essence, informs the alleged violator:

a. That a cash deposit based on the schedule established by the County Board, from time to time, and on file in the office of the County Clerk, be made to and deposited with the Clerk of the Waukesha County Circuit Court or the Sheriff's Department prior to the time of the scheduled court appearance.

b. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned or the citation requests a court appearance.

c. That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment crime lab assessment and drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments of, if the court does not accept the plea of no contest, a summons will be issued commanding him or her to appear in court to answer the complaint.

d. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment or an action may be commenced to collect the forfeiture, penalty assessment, jail assessment, crime lab assessment and drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments.

e. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered.

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

ix. Such other information as the County deems necessary.

C. The schedule of cash deposits including penalty assessment, jail assessment, crime lab assessment and drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments for use with citations issued under this section shall be as adopted by the County Board from time to time and such schedule shall be on file in the Offices of the Sheriff, Zoning Administrator, County Clerk and Clerk of Court and receipts shall be given for cash deposits.

D. The procedures contained in Section 66.0113(3) of the Wisconsin Statutes, relating to the options of an alleged violator and default are adopted and incorporated herein by reference.

E. This section does not preclude the County or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance regulation or order.

(Ord. No. 141-44, § LXVIII, 7-22-1986)

(Section 41(a)1, formerly Section 20.01(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 41(a)4, formerly Section 20.01(4), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 41(b)1, formerly Section 20.02(1), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 41(b)1 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 41(b)2 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 41(b)2.C was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 41(b)2.D was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 41(b)2.F was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 41(b)2.G was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 41(b)2.H was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
(Section 41(b)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 41(b)5 was created by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 41(b)6 was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 41(b)6.C was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 41(c)1 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
(Section 41(c)4, formerly Section 20.03(4), was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 41(c)4.B.viii was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 42 VALIDITY

(a) **Abrogation and greater restrictions**

It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern. 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. If an existing town ordinance relating to Shorelands is more restrictive than this Ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise. 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.

(b) **Interpretation**

The provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be construed to be a limitation or repeal of any other powers granted by the Wisconsin Statutes and those now possessed by Waukesha County. If a provision of this Ordinance, required by statute, ch. NR 115, or ch. NR 116, Wisconsin Administrative Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Ordinance or in effect on the date of the most recent text amendment to this Ordinance.

(c) **Severability and non-liability**

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

The Flood Protection standards in this Ordinance are based on engineering experience, research and the best information available. Larger Floods may occur or the Flood height may be increased by man-made or natural causes. This Ordinance does not imply or guarantee that non-Floodplain areas or permitted Floodplain uses will be free from Flooding and flood damages. Nor does this Ordinance create liability on the part of, or a cause of action against, the county or any officer or employee thereof for any flood damage that may result from reliance on this Ordinance.

(d) **Repeal**

All ordinances or parts of ordinances of the county inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed. All other ordinances enacted by the county under Section 59.69 of the Wisconsin Statutes relating to floodlands and shorelands are hereby superseded.

(e) **Title**

This Ordinance shall be known as, referred to, and cited as the "Shoreland and Floodland Protection Ordinance, Waukesha County, Wisconsin" and is herein referred to as the "Ordinance".

(f) **Effective date**

This Ordinance shall be effective after a public hearing and recommendation by the county park and planning commission, adoption by the county board, and a duplicate copy submitted by the county clerk by registered mail to each town clerk, in accordance with Section 59.692 of the Wisconsin Statutes.

Regulations contained herein shall not require approval or be subject to the disapproval of any town in accordance with Section 59.692(2)(a) of the Wisconsin Statutes.

(g) **Adoption**

Passed and approved by the County Board of Supervisors of Waukesha County, Wisconsin, this 23rd day of June 1970.

(h) **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, make changes to the numbering sequence, lettering, organization, or formatting or capitalization of words of an enrolled ordinance 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.

(Ord. No. 141-44, § LXIX, 7-22-1986)

(Section 42(a) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 42(a) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 42(b) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 42(c) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
(Section 42(c) was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 42(d), formerly Section 21.04, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 42(f), formerly Section 21.06, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 42(h) was created by Enrolled Ordinance 159-70, effective 12-12-2004.)
(Section 42(h) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

Editor's Notes: Comprehensive Text Amendments:
Shoreland Regulations June 30, 1970
Floodland Regulations July 30, 1970
Amended Approval January 18, 1982
Amended effective July 22, 1986, Enrolled Ordinance 141-44.
Amended effective August 21, 2003, Enrolled Ordinance 155-21 and 155-22.
Amended effective December 12, 2004, Enrolled Ordinance 159-70.
Amended effective May 13, 2005, Enrolled Ordinance 160-02.
Amended effective July 13, 2006, Enrolled Ordinance 161-12.
Amended effective November 13, 2008, Enrolled Ordinance 163-55.
Amended effective December 23, 2010, Enrolled Ordinance 165-69.

TABLES TO THE SHORELAND AND FLOODLAND PROTECTION ORDINANCE

Table 3(d)9.B Protection of Priority Trees within 300 feet of the Ordinary High Water Mark in accordance with Section 3(d)9.B
Basswood Beech Blue Ash Butternut Elm (Red, Rock) Hackberry Hickory (Bitternut, Shagbark) Ironwood Kentucky Coffeetree Maple (Red, Silver, Sugar) Oak (all types including White, Bur, Red, Black, Swamp White, Pin) Red Cedar Tamarack Yellow Birch

Table 6(b)1.B.i. Official Maps
Official Maps (Based on the FIS) **Waukesha County Flood Insurance Rate Map (FIRM), panel numbers** 55133C0016G, 55133C0017G, 55133C0018G, 55133C0019G, 55133C0029G, 55133C0033G, 55133C0034G, 55133C0036G, 55133C0037G, 55133C0038G, 55133C0039G, 55133C0041G,55133C0042G, 55133C0043G, 55133C0044G, 55133C0053G, 55133C0054G, 55133C0059H, 55133C0061G, 55133C0062H, 55133C0063G, 55133C0064H, 55133C0066H, 55133C0067H, 55133C0068H, 55133C0069H, 55133C0078H, 55133C0083G, 55133C0086H, 55133C0087H, 55133C0088G, 55133C0089G, 55133C0091G, 55133C0093G, 55133C0131G, 55133C0132G, 55133C0143H, 55133C0144H, 55133C0151G, 55133C0152G, 55133C0156G, 55133C0157H, 55133C0163H, 55133C0164H, 55133C0166H, 55133C0167H, 55133C0168G, 55133C0169G, 55133C0176H, 55133C0177H, 55133C0178H, 55133C0179H, 55133C0181G, 55133C0182G, 55133C0183G, 55133C0186G, 55133C0187G, 55133C0188G, 55133C0189G, 55133C0191G, 55133C0193G, 55133C0194G, 55133C0201G, 55133C0202G, 55133C0206G, 55133C0207G, 55133C0208G, 55133C0214G, 55133C0216G, 55133C0217G, 55133C0218G, 55133C0219G, 55133C0256H, 55133C0257H, 55133C0259G, 55133C0270G, 55133C0276H, 55133C0277H, 55133C0280H, 55133C0290G, 55133C0291G, 55133C0292G, 55133C0293G, 55133C0294G, 55133C0301G, 55133C0302G, 55133C0303G, 55133C0304G, 55133C0306G, 55133C0307G, 55133C0308G, 55133C0309G, 55133C0311G, 55133C0312G, 55133C0314G, 55133C0316G, 55133C0317G, 55133C0318G, 55133C0319G, 55133C0326G, 55133C0327G, 55133C0328G, 55133C0329G, 55133C0331G, 55133C0336G, 55133C0338G, 55133C0339G, 55133C0385G, 55133C0402G, 55133C0404G, 55133C0405G, 55133C0406G, 55133C0407G, 55133C0408G, 55133C0409G, 55133C0426G, 55133C0427G, 55133C0431G, 55133C0432G, 55133C0451G, 55133C0452G, 55133C0453G, 55133C0454G**, dated November 05, 2014; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated November 5, 2014, volume numbers** 55133CV001C, 55133CV002C, 55133CV003C**.**

Table 6(b)1.B.i. (continued) Official Maps
Revisions to the Waukesha County Flood Insurance Rate Map (FIRM) Panel Numbers: 1. (Reserved.)

Table 6(b)1.B.ii. List of Official Maps Based Upon Other Studies to be Used in Conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is as follows:
1. Dam Failure Analysis and Emergency Action Plan for Wambold and Kroll Dams on Eagle Spring Lake, prepared by Graef, Anhalt, Schloemer & Associates, Inc., revised April 2002. Approved by the WDNR in April of 2002 and adopted by the Waukesha County Board on April 13, 2004. 2. Dam Failure Analysis and Proposed Dam Capacity Analysis-Monches Dam, Hey and Associates, Inc., April 17, 2006; amended on October 13, 2006 by Hey and Associates, Inc.; further amended on May 17, 2011 by the Waukesha County Department of Public Works; and further amended by R.A. Smith National on January 19, 2012. Approved by the WDNR on January 24, 2012 and adopted by the Waukesha County Board on March 27, 2012. 3. Dam Failure Analysis – Monterey Dam, prepared by Kunkel Engineering Group, LLC on September 2, 2011. Approved by the WDNR and adopted by the Waukesha County Board on December 18, 2012. 4. Dam Failure Analysis – Mukwonago Dam, prepared by Mead & Hunt, June 2012. Approved by the WDNR on July 11, 2012 and adopted by the Waukesha County Board on November, 26, 2013. 5. Waukesha County Flood Storage District Maps, Panels 1, 2, 3, 4, 5, 6, 7, 8, 11, 12. Dated November 05, 2014. Prepared by the WDNR. Approved by the WDNR. 6. Saylesville Dam Failure Analysis and Assessment, prepared by Bloom Companies, Inc. on July 9, 2014. Approved by the WDNR on July 14, 2014 and adopted by the Waukesha County Board on July 28, 2015.

(The Tables were created by Enrolled Ordinance 168-3, effective 05-14-13.)

(Table 6(b)1.B.i was amended by Enrolled Ordinance 168-68, effective 01-10-14.)

(Table 6(b)1.B.i was amended by Enrolled Ordinance 168-94, effective 04-05-14.)
(Table 6(b)1.B.i was amended by Enrolled Ordinance 169-54, effective 10-08-14.)

(Table 6(b)1.B.ii was amended by Enrolled Ordinance 168-57, effective 12-11-13.)
(Table 6(b)1.B.ii was amended by Enrolled Ordinance 168-68, effective 01-10-14.)
(Table 6(b)1.B.ii was amended by Enrolled Ordinance 169-54, effective 10-08-14.)
(Table 6(b)1.B.ii was amended by Enrolled Ordinance 170-33, effective 08-14-15.)