DRAFT ORDINANCE 9/7/16

The version of the underlying code has been updated through enrolled Ordinance 171-1, effective 6-10-16.

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

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Editor's Note: Updated for changes made through Enrolled Ordinance 171-xx, effective 05-xx-2016.

SECTION 1 INTERPRETATION AND PURPOSES

l.0l **Purpose.**

The provisions of this Ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the County of Waukesha. Among other purposes, such provisions are intended to provide for adequate light, air, sanitation, drainage, convenience of access, conservation of wetlands, and safety from fire and other dangers; to promote the safety and efficiency of the public streets and highways; to aid in conserving and stabilizing the economic values of the community; to preserve and promote the general attractiveness and character of the community environment; to guide the proper distribution and location of population and of the various land uses; and otherwise provide for the healthy and prosperous growth of the community.

1.02 **General interpretation.**

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants or agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this Ordinance shall govern.

SECTION 2. DEFINITIONS

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

(Section 2.02 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

2.02 **Specific words and phrases.**

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

(1) 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.

(2) Adult Arcade means 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".

(3) Adult Bathhouse means a commercial establishment which provides a bath as a service and which provides to its patrons an opportunity for engaging in "Special Sexual Activities."

(4) Adult Body Painting Studio means 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.

(5) Adult Bookstore means 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.

(6) Adult Cabaret means 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."

(7) Adult Entertainment means 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;

(8) Adult Massage Parlor means 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."

(9) Adult Motel means 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.

(10) 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.

(11) Adult Theater means an enclosed building such as theater, concert hall, auditorium or other similar commercial establishment which is used for presenting "Adult Entertainment."

(12) 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.

(The definition of Agricultural Accessory Use was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(13) Agricultural or Farm Use: Any of the following uses:

(A) Any of the following activities:
1. Crop or forage production.
2. Keeping livestock, horses and poultry.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production.
5. Floriculture.
6. Aquaculture.
7. Fur farming.
8. Forest management.
9. 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.

(The definition of Agricultural or Farm Use was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(14) 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.

(The definition of Agriculture-Related Use was created by Enrolled Ordinance 170-72, effective 12/31/15.)

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

(16) Apartment House: See "dwelling, multiple."

(17) 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 applicant 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 161-13, effective 09/04/06.)

(18) 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.

(19) Base Setback Line: The ultimate street line as established by the building location provisions of this ordinance, and from which all required setbacks shall be computed.

(Amended by Enrolled Ordinance 159-69, effective 1-17-05.)

(20) Basement: A level of a building that is more than one-half below the finished grade on at least one side.

(Amended by Enrolled Ordinance 159-69, effective 1-17-05.)

(21) 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.

(22) Boarding House: A house or building where regular meals are generally furnished or served to three (3) or more persons at a stipulated amount for definite periods of one (1) month or less.

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.

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

(25) Building, Accessory: A Building or portion of a Building subordinate to the principal

building and used for a purpose customarily incident to the permitted use of the principal building.

Building Footprint: The 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

(26) 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 159-69, effective 1-17-05.)
(Amended by Enrolled Ordinance 160-03, effective 05-03-05.)

(27) 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 3.20.

(28) 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.

(The definition of Contiguous was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(29) 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 159-69, effective 1-17-05.)

(30) 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.

(31) 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 similar methods.

(32) 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.

(The definition of Development Right was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(33) District: A Section of the County of Waukesha for which the regulations governing the height, area, and the use of building and premises are the same.

(34)

(35) Dwelling, Multiple family: A Building or portion thereof designed for and occupied by more than one (1) family, including duplexes, row houses, town houses and Apartments.

(Amended by Enrolled Ordinance 159-69, effective 1-17-05.)

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

(36) 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 169-46, effective 09/09/2014.)

(37) Environmentally Significant Areas: Environmentally significant areas are lands which are zoned as C-1 Conservancy District, A-E Exclusive Agricultural Conservancy District, or EC Environmental Corridor District, or 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 161-13, effective 09/04/06.)
(Amended by Enrolled Ordinance 169-46, effective 09/09/2014.)

(38) Family: The body of persons who live together in one (1) dwelling unit as a single housekeeping entity.

(39) Farm: All contiguous land under common ownership that is primarily devoted to Agricultural Use.

(The definition of Farm was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(40) Farm Acreage: The size of a farm in acres.

(The definition of Farm Acreage was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(41) 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.

(The definition of Farm Consolidation was created by Enrolled Ordinance 170-72, effective 12/31/15.)

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

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

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

(45) 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:

1. An owner or operator of the Farm.

2. A parent or child of an owner or operator of the Farm.

3. An individual who earns more than 50 percent of his or her gross income from the Farm.

4. A migrant labor camp that is certified under s. 103.92.

(The definition of Farm Residence was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(46) 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.

(The definition of Farm Tracking Unit was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(47) 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.

(The definition of Farmland Preservation Area was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(48) 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.

(The definition of Farmland Preservation Plan was created by Enrolled Ordinance 170-72, effective 12/31/15.)

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.

(50) Fur-bearing Animals: Animals which 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 159-69, effective 1-17-05.)

(51) Garage, Private: A private garage is one 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.

(52) Garage, Public or Commercial: Any Building or premises, other than a private or a storage garage where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored for monetary gain as a business.

(53) 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.

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

(Created by Enrolled Ordinance 159-69, effective 1-17-05.)

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

(56) Highway: A right-of-way, designated by the Waukesha County Established Street and Highway Width Map or any other comprehensive system, for the principal purpose of providing vehicular thoroughfare and not necessarily affording direct access to abutting property.

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

(Amended by Enrolled Ordinance 159-69, effective 1-17-05.)

(58) Horticulture: The culture of growing and cultivating fruits, flowers and related plant material.

(59) Hotel: See Motel.

(Amended by Enrolled Ordinance 159-69, effective 1-17-05.)

(60) 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.

(61) 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.

(62) 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.

(Created by Enrolled Ordinance 159-69, effective 1-17-05.)

(63) 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.

(64) 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 161-13, effective 09/04/06.)

(65) Kennel, Commercial: An establishment, structure or premises where dogs are raised and sold, bred, boarded, trained or groomed for commercial purposes. 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.

(66) 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.

(The definition of Kennel, hobby was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

(67) 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 3.04(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.

(Created by Enrolled Ordinance 159-69, effective 1-17-05.)

(68) 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.

(Amended by Enrolled Ordinance 159-69, effective 1-17-05.)
(Amended by Enrolled Ordinance 170-75, effective 12-31-15.)

(69) Lodging House: A Building where lodging only is provided for compensation and having not more than five (5) sleeping rooms for this purpose.

(70) 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 3.11 to determine how area regulations are applied to a Lot.

(71) 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.

(72) Lot Depth: The mean horizontal distance measured between the street line and the opposing rear line or lines of the lot.

(73) 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 159-69, effective 1-17-05.)

(74) Lot Lines: The lines bounding a Lot as defined herein.

(75) Lot Line, Side: A Lot Line extending from a street line towards the interior of the block and separating adjoining Lots.

(76) 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

(February 26, 1959). (Created by Enrolled Ordinance 159-69, effective 1-17-05.)

(77) Lot Width, Minimum Average: The average horizontal distance measured between Side Lot Lines at the established Base Setback Line and the rear lot line. 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.

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.

(78) 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.

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

(Created by Enrolled Ordinance 159-69, effective 1-17-05.)

(80) Modular 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 a “pre-fabricated” or “pre-cut” homes or “double-wide” units) meeting the requirements of all applicable state and local building codes.

(81) 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 person or groups of persons as a residence as such uses are considered Apartments with each unit serving as a single Housekeeping Entity.

(82) Motor Vehicle: 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 161-13, effective 09/04/06.)

(83) 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 Section 281.31(2(d), Wis. State Statutes, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Section 59.692 Wis. Stats. (2013) and Chapter NR 115, Wis. Adm. Code, 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.

(Created by Enrolled Ordinance 159-69, effective 1-17-05.)

(84) Nonfarm Residence: A single-family or multi-family residence other than a Farm Residence.

(The definition of Nonfarm Residence was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(85) 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 a roof overhang, as defined herein, of twenty-four (24") inches or less.

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

(Created by Enrolled Ordinance 159-69, effective 1-17-05.)

(87) 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 159-69, effective 1-17-05.)

(88) Open Space, Public: Lands which 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 159-69, effective 1-17-05.)

(89) 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.

(Created by Enrolled Ordinance 159-69, effective 1-17-05.)

(90) 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 open 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.

(91) 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.

(92) 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.

(The definition of Parent Parcel was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(93) 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 159-69, effective 1-17-05.)

(94) 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.

(The definition of Permitted Use was created by Enrolled Ordinance 170-72, effective 12/31/15.)

(95) Planned Unit Development (PUD): 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 within 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.

(96) 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 159-69, effective 1-17-05.)

(97) Planting Screen: An area landscaped with natural growing plant material which effectively screens from vision the objects it is intended to hide from view.

(98) 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.

(99) Poultry: Poultry means domesticated birds kept for eggs or meat or as pets.

(Created by Enrolled Ordinance 161-13, effective 09/04/06.)

(100) Private Club: A Building or grounds used for regular or periodic meetings or gatherings of a group of persons organized for a non-profit purpose, but not groups organized to render a

service customarily carried on as a business.

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

(102) Public and Semi-public Building: 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, public and private utilities, and other services; but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

(103) Pyramiding: The act of obtaining or providing access to public bodies of water across private lots or lands in a manner which increases the number of families which 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 of residences via a narrow parcel of land to provide access to the water. Publicly owned access points shall not fall within this definition.

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

(105) Recreational Vehicle: Motorized vehicles that include a cabin for living accommodations and are commonly used for recreational travel and touring. 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.

(106) 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 foundry sand, dirt, gravel, concrete or other forms of clean fill material shall not be required to conform to the provisions of Section 3.08(7)(T).

Residence: See Dwelling(s)

(107) Restaurant: "Restaurant" means and 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, which occasionally 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 159-69, effective 1-17-05.)

(108) Retaining Wall: A structure more than 18 inches in height from grade or a combination or series of multiple structures more than 24 inches in height from grade, constructed of man-made or natural materials for the purpose of retaining land or stone and resisting the lateral pressure of the land or stone.

(Created by Enrolled Ordinance 159-69, effective 1-17-05.)

(109) 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.

(110) 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 the farm products raised on said Farm.

(111) Sand or Gravel Pits: See quarrying.

(112) 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 159-69, effective 1-17-05.)

(Created by Enrolled Ordinance 159-69, effective 1-17-05.)

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.

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

(115) 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.

(Created by Enrolled Ordinance 161-13, effective 09/04/06.)

(116) Specified Anatomical Areas means:

(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.

(117) Specified Sexual Activities: means and 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.

(118) 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 159-69, effective 1-17-05.)

(119) 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 159-69, effective 1-17-05.)

(120) 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.

(121) Street: Same as "Road."

(122) 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 161-13, effective 09/04/06.)

(123) 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 161-13, effective 09/04/06.)

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

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

(126) 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 161-13, effective 09/04/06.)

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

(128) 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, Porches and gazebos), signs, swimming pools, hot tubs, Patios, Decks, sidewalks, walkways, 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 159-69, effective 1-17-05.)

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

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

(131) Swimming Pool: A Structure, designed to hold water more than thirty (30) inches deep for the purpose of swimming.

(132) Temporary Structure: A movable Structure not designed for Human Habitation or occupancy, but for the temporary protection of goods or chattels during a period of construction, but not to exceed one (1) year; for the enclosure or screening of goods or property; or for the display of Signs and advertising.

(133) 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.

(134) Traffic Artery: Same as "highway."

(135) 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.

(136) Use, Legal Nonconforming: 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 of this Ordinance.

(137) 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.

(138) 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. (Created by Enrolled Ordinance 161-13, effective 09/04/06.)

(139) Vision Setback: An unoccupied triangular space, at the street corner of a corner Lot, as established by Section 3.09(1)(B).

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.

(140) 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.

SECTION 3 GENERAL PROVISIONS

3.01 **Compliance**.

Except as may be otherwise specifically provided, the use, size, height and location of Buildings now existing or hereafter erected, converted, enlarged or structurally altered, the provisions of Open Spaces, and the use of land, shall be in compliance with the regulations established herein for the District in which such land or Building is located.

3.02 **Building permit.**

(1) Required: No Building shall be erected, structurally altered, or relocated until a building permit has been issued by the building inspector, certifying that such Building, as proposed, would be in compliance with the provisions of this Ordinance and with the building code of the town.

(2) Application for: An application for a building permit shall be made to the proper Town in which the proposed Building is to be located.

(3) Issuance: No building permit shall be issued by the Town, until a zoning permit has been issued by the county zoning administrator.

3.03 **Zoning and occupancy and use permits.**

(1) Required: No vacant land shall be occupied or used except for agricultural purposes and no Building shall be hereafter erected, structurally altered, relocated, used, or occupied until zoning and occupancy use permits have been issued certifying that any such Building, use, or occupancy complies with the provisions of this Ordinance; like 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 3.17(5).

(2) Application for: Such permits shall be applied for from the county zoning administrator or from the local building inspector where he has been designated as a deputy to the zoning

administrator as provided by Section 22.02(4). 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. Application shall be 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 Buildings thereon.

(B) An accurate map of the property, in triplicate, drawn to a reasonable scale and properly dimensioned showing:

1. The boundaries of the property involved.

2. The location of the centerline of any abutting streets.

3. The location on the Lot of any existing Buildings, proposed additions, or proposed new Buildings, including the measured distances between such Buildings and from the Lot Lines and from the centerline of any abutting street to the nearest portion of such Building.

4. The proposed floor elevation of any proposed Buildings in relation to the existing and/or Established Grade of any abutting streets.

5. The high water line of any stream or lake on which the property abuts.

6. The location of any existing and proposed septic system and well, including those within fifty (50) feet of the property lines.

7. The location and results of any percolation tests and soil borings of the involved property.

(C) Where the use involves human occupancy, a plan of the proposed sewage disposal system, if not connected to an approved municipal sewerage system, shall require the certification of the building inspector or plumbing inspector that it conforms to all county and town Ordinances and other governmental laws or regulations then applicable to sewage disposal systems.

(D) 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.

(E) A fee, as may be established and periodically modified under Section 22.02(5), shall accompany each application. Such fee shall be paid by cash, check or money order to the Waukesha County Park and Planning Commission.

(F) 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.

(G) <u>Accommodations for persons with disabilities</u>: 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 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 occupancy.

(B) Occupancy and use permit: Within ten (10) days after the notification of the completion of the erection, alteration or relocation of a Building, or of intent to commence a use, the zoning administrator or his deputy shall make an inspection of the premises and any Buildings thereon, and if such Building, use, or occupancy comply with the requirements of this Ordinance an occupancy and use permit shall be issued.

(4) Expiration: If within six (6) months of the date of issuance of a zoning permit, the proposed construction or preparation of land for use has not commenced, or if within eighteen (18) months an occupancy and use permit has not been issued, if required by the Town, or the construction has not been completed, said zoning permit shall expire, except that upon showing of valid cause, the zoning administrator may grant an extension of such permit for a period not to exceed six (6) months. Said permit extension shall be issued for the full fee and based upon full conformance with the Ordinance at the time of issuance for the new permit. If the construction has not commenced or is not completed after a total of twenty-four (24) months, a new permit must be applied for and received subject to all fees 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.

(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.

(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. A Site Plan and Plan of Operation shall include the following information, as well as any other specific information requested by the plan commission, zoning agency or zoning administrator to review the plans and determine compliance with the regulations of this Ordinance:

(A) A Plan of Operation is a statement of operations, signed by the property owner and tenant or operator of the business or use, including a detailed description of the request, number of employees, hours of operation, and types of uses, products or services offered.

(B) A Site Plan and/or Plat of Survey of the property (in standard engineering or mapping scale which permits a clear representation of the property to a scale not to exceed two hundred (200) feet to one (1) inch), in quadruplicate, showing the location and dimensions of all existing and proposed Buildings and Structures and other attributes on the site, the location, number and arrangement of parking spaces or loading areas, lighting fixtures, easements, dumpsters, Signs, landscaping and screening, and any other factors affecting the development of the site.

(C) A stormwater management and erosion control plan consistent with the requirements of the Waukesha County Construction Site Erosion Control and Stormwater Management 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.

(Sections 3.03(4) and (6) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

(Section 3.03(2) was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

3.04 **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 in this Ordinance. 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. 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 on parcels of thirty-five (35) acres or more, 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 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) Junk and Undesirable Buildings or Structures

(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.

1. 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.

2. 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.

3. 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.

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

5. 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 Undesirable Structures: 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 building inspector 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 and safe vehicular access.

(5) Preservation of topography: In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than three (3) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the abutting property owner and with the approval of the plan commission; or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved and all slopes shall be protected against erosion.

(A) 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 County Zoning Agency and on agreement made between the Plan Commission, County Zoning Agency and Applicant stating the method and purpose of construction and will not in any way adversely affect drainage or the 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 (Minor Grading Permit) and an agreement being made between the owner and the Town Planning Commission and the County Zoning Administrator which will serve to promote the purpose and intent as stated in this Ordinance.

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.

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) without benefit of a Conditional Use Permit unless the quantities and the area of fill exceeds three thousand (3,000) square feet and fifteen (15) cubic yards. This provision excludes the area normally associated with septic system installation, backfilling and grading around the foundation, as above, 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 effect of the project on either the property owner, adjacent owners or the general public, said question shall be submitted to the County Board of Adjustment pursuant to the procedures for appeal as enumerated in Section 19. 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.

(B) Land Altering Activities such as the placement of fill, excavation, and other earth moving activities in excess of the above may be allowed subject to issuance of a conditional use permit as long as said fill, excavation or earth moving activities do not occur in a wetland as indicated on the Final Wisconsin Wetlands Inventory Maps for Waukesha County or subsequently revised by hydraulic analysis and approved by the Army Corps of Engineers and/or the Department of Natural Resources. The performance of such earth altering must not impede drainage or reduce the floodwater storage capacity of any floodland.

(6) Site Protection: Any property disturbed with Land Altering Activities as may be authorized thru 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 in any case, shall be required to conform with the provisions of the Waukesha County Construction Site Erosion Control and Stormwater Management Ordinance and Uniform Dwelling Code for one and two family dwellings. 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 Land Resources Division of the Waukesha County Department of Parks and Land Use.

(Sections 3.04(1) and (5)(C) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)
(Section 3.04(3) was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

3.05 **Drainage regulations**

(1) Building Construction: In no case may a Principal Building be located in an area zoned conservancy or field identified as Wetland. 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 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.

(A) 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.

(2) 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.

(3) Obstruction to drainage prohibited: The damming, filling, relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with approval of the plan commission, county zoning agency and the department of natural resources pursuant to chapter 30 of the Wisconsin Statutes.

(4) Building restricted adjacent to non-navigable drainage channels and water courses: No Structure other than a water dependent structure, bridge, culvert, walkway, dam, or revetment, subject to the aforesaid approval shall be erected, structurally altered or relocated within thirty-five (35) feet of the Ordinary High Water Mark of a non-navigable surface water drainage channel and water courses.

(Section 3.05(3) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

3.06 **Sanitation and water supply**

(1) Safe sewage disposal possible: No Principal Building shall be erected, structurally altered, or relocated unless it has been certified by the building inspector or plumbing inspector that it conforms to all town Ordinances, county Ordinances, and other governmental laws or regulations then applicable to sewage disposal systems, and that satisfactory evidence has been submitted to show that suitable provision for disposal of sewage, based on the proposed use, is possible on said Lot if it is not served by an approved municipal or other

state approved sewage disposal system.

(*Explanatory note*: While every attempt has been made, through control of minimum lot size, building location and plumbing standards, to insure that proper disposal of sewage will be provided on any lot, it is recognized that no such standard will completely insure adequate disposal in every situation. This Section has been written for the purpose of giving the community the authority to require whatever additional provisions are necessary to prevent a sanitary problem from developing in a situation where the normal requirements will not insure proper sewage disposal.)

(2) Approved septic system: No Principal Building shall be erected, structurally altered or relocated unless a sewer is installed running to a septic tank designed and located in accordance with the town Ordinances and other governmental laws or regulations then applicable to sewage disposal systems, or to an approved municipal or other state approved sewage disposal system.

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

(4) Water supply required: No occupancy and use permit shall be issued for a Building used for residential purposes unless provision is made for a safe and adequate supply of water in or within three hundred (300) feet of said dwelling or connection is to be made to an approved municipal or community water system.

3.07 **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 or a new use of a Building or premises is proposed in any Business, Industrial District or Public and Institutional District or at the site of a Legal Nonconforming Use or a conditional use, a Site Plan and Plan of Operation shall be prepared for review and approval pursuant to Section 3.03(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 3.03(6) of this Ordinance.

(2) Accessory Uses: In District, Accessory Buildings and uses customarily incident to the Permitted Uses in that District shall be permitted 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 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 3.08(7)(X) of this Ordinance.

(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 shall be removed pursuant to the procedures outlined by the Wisconsin Statutes.

(Section 3.07(1) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)
(Section 3.07(3) was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

3.08 **Conditional uses**

(1) Approval required: Certain uses and situations which are of such 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 specific standards, regulation, or conditions which would permit such determination in each individual situation, may be permitted as conditional.

(2) Application: Applications for conditional use permits shall be made in triplicate to the county on forms furnished by the county zoning administrator, and shall include the following where pertinent and necessary for proper review by the county zoning agency and the town plan commission:

(A) 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 land in question; and the proposed location and use of any Buildings, sanitary sewer systems and wells on such land and within one hundred (100) feet of such land in question.

(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) Additional information as may be required by the county zoning agency, the county health department or the town plan commission.

(D) A fee, as may be established and periodically modified under Section 22.02(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.

(E) Where necessary, to comply with certain Wisconsin Statutes, an application will be submitted to the department of natural resources.

(3) 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 first class 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.

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 first class mail not less than ten (10) days prior to the date of the hearing. Testimony of all interested parties will be recorded at the public hearing and the Town Plan Commission shall take action within thirty (30) days, to either recommend approval or disapproval of the application along with any recommended conditions of approval or reasons for recommending denial. If additional time is necessary beyond the thirty (30) days referred to above, unless time is extended, such time may be extended with the consent of the petitioner.

(4) Final review and approval: The county zoning agency shall review the proposal as submitted along with any requirements as may be required by the department of natural resources. Any conditions deemed necessary by the town plan commission or county zoning agency shall be made an integral part of the permit. These conditions shall be complied with by the Applicant and any deviation or alteration of those 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 use permits shall be sent to the department of natural resources where applicable.

(5) Application for change of conditional use permit: 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 detailed herein.

(6) Expiration of conditional use status: Conditional use status will terminate when, after public hearing, the plan commission and county zoning agency determine any of the following:

(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 in a three-year period. A business of a seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e., summer camps, snowmobile courses, ski areas, marinas, quarries, etc.). Upon such determination, the owner of the premises shall be required to bring all such land and Buildings into conformity with the district regulations of the District in which such former conditional use is located, and all other provisions of

this Ordinance within ninety (90) days from such determination.

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

(7) Conditional use 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 by the approving body before approval for any such conditional use is granted:

(A) Airports, Landing Fields and Take off Strips: In all agricultural, AD-10, RRD-5 Districts, HG High Groundwater District and non-wetland C-1 Conservancy Districts, 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 6.1, subject to the approval of:

1. 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.

2. 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.

(AA) Land Altering Activities*:* Land Altering Activities may be permitted as a conditional use in any District, except the Conservancy District unless rezoned to allow such activity.

Highway construction which may be exempted by a written Memorandum of Understanding between the Wisconsin Department of Natural Resources 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 3.04(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.

Land Altering Activities permitted as a conditional use shall be subject to the following:

1. Detailed plans, at a scale of not less than 1" = 100', of the project including areas to be graded, filled or otherwise altered along with seeding and/or vegetation plans and planting schedule and erosion and sedimentation practices to be employed shall be submitted for review and approval.

2. No such use shall create flooding, concentrated runoff, inadequate drainage, unfavorable topography, excessive erosion and sedimentation or restrict navigability in any state water.

3. Such use shall comply with the conditions established by the plan

commission, the zoning agency, and where applicable, the State pursuant to Chapter 87 and Chapter 281 of the Wisconsin Statutes and any federal regulations.

4. 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.

5. The proposed grading and Land Altering Activities shall conform to the Waukesha County Construction Site Erosion Control and Stormwater Management 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.

(B) Antique Shops, Gift Shops, Art Studios and Similar Uses: Such uses are permitted by right in business districts. In addition, such uses are permitted conditionally in all other Districts except the FLP, FLC, HG and C-l Districts subject to the following:

1. The location, site plans and plan of operation have been submitted to and approved by the Plan Commission and County Zoning Agency.

2. Such use is compatible with surrounding land uses.

(BB) 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 or 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:

1. The Town and County Plan Commissions must review and approve all existing and proposed uses and the Plan of Operation.

2. The economic practicality of the proposed use.

3. The proposed use shall be served by adequate off-street parking, loading and service facilities.

4. The proposed use shall not create an adverse effect upon the general traffic patterns, circulation or adjoining property.

5. The architecture, landscape, lighting and general site development shall be compatible with the surrounding neighborhood and uses.

6. The use may be granted with any reasonable conditions deemed necessary by the Town and County Plan Commissions.

7. The proposed development shall have adequate drainage and stormwater retention facilities, sewage and water facilities. Restrictions may be placed on uses without public sewer.

8. The intended use complies with the locally adopted Land Use Plan.

(C) Automobile Service Station, Gasoline Sales and Convenience Stores Associated with Gasoline Sales: In B-2 and B-3 Business Districts and any Industrial District, subject to the following:

1. The location, building and site plans and plan of operations shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. 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 above ground storage tanks shall conform with state standards.

1. No lighting installation shall be permitted which creates a hazard to traffic or a nuisance to surrounding property and shall be shielded, baffled or shaded to effectuate and avoid such hazard or nuisance.

(D) 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 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 Sections 6 and 6.1. No Structures are allowed in the FLC or HG District. The following requirements shall be met:

1. 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.

2. 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.

3. No Building other than one used only for residential 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.

(E) Churches, Synagogues and other Buildings for Religious Assembly: In any District, except in the C-1, HG, FLC and EC Environmental Corridor Districts subject to the

following requirements:

1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. A Building Footprint of no more than fifty percent (50%) be allowed.

3. Off-street parking be provided for one (1) automobile for each four (4) seats provided in the main assembly of the Building.

4. Such use shall conform to the setback, height, and double the offset requirements of the District in which it is located.

5. 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.

(F) Cemeteries and Mausoleums for the Burial of Human Remains only: In any District, except C-1, FLC or EC Environmental Corridor Districts subject to the approval of the Town Board following recommendation 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 6.1.

(G) Commercial fish or bait ponds or hatcheries: Such uses are considered Permitted Uses by right within the FLP and FLC Districts. In all other Districts such uses are permitted conditionally, subject to the following:

1. The location, building and site plans, and plan of operation shall be submitted to and approved by the plan commission.

2. No such use shall be permitted on a Lot less than five (5) acres in area.

3. No Building other than one used only for residential purposes shall be closer than fifty (50) feet to the Lot Line of an adjoining Lot in a District permitting residential uses.

(H) 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:

1. The minimum Lot Area shall be at least five (5) acres.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

(I) Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations, Poultry and/or Egg Production: In the A-1, A-B, A-5, AD-10, FLP, FLC, A-T, and RRD-5 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 all other of the above agricultural districts. The following minimum requirements shall be complied with in the granting of conditional uses under this Section:

1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. No Building other than one used only for residential purposes shall be located closer than one hundred (100) feet of 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.

3. Although the Ordinance does not prescribe exactly how a plan of operation is to be put together, of particular interest to the plan commission will be the method by which animal waste will be handled in a safe and healthful manner. No such consideration or approval will be granted on a Lot of less than five (5) acres in size.

(J) Testing Laboratories (Experimental or Analytical): Agricultural, medical, biological, food processing and industrial design and manufacturing uses are Permitted Uses by right in the B-3 General Business and Industrial Districts subject to the site plan and plan of operation provisions of those review Districts and conditional uses in the A-B Agricultural Business, A-1 Agricultural and A-la Agricultural Districts, subject to the following standards:

1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. The minimum lot size shall be three (3) acres.

3. The minimum Offset for a Building housing such uses shall be fifty (50) feet where the zoning upon the adjoining Lot permits residential use.

4. Off-street dedicated parking at a rate of one (1) space for each three hundred (300) square feet of Floor Area.

5. Approvals of any other applicable state or federal agencies.

(K) Legal Nonconforming Uses: In any District as provided by Section 3.17.

(KK) 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 Environmental Corridor District and FLC District. Within the FLP District, such uses must comply with the terms of Section 6.1.

1. 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.

2. All employees, except one full-time equivalent, shall be members of the Family residing on the premises.

3. 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.

4. The limited family business is restricted to a service oriented business or home occupation business and is prohibited from manufacturing or assembling products. The sale of products on the premises which are not produced by the limited family business is prohibited. The sale of products available for sale as accessories to the business may be permitted or limited by specific conditions in the conditional use permit (i.e. hair care products such as shampoo and conditioners normally associated with a business that cuts or styles hair).

5. 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.

6. 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.

7. 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.

8. 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 effect on adjacent residential zoned properties, additional requirements regarding location and site standards (i.e. screening) may be required as conditions of the use.

(L) Mobile Home Parks and Camps: In the B-1 and B-2 Business Districts, subject to the following:

1. The location, building and site plans and plan of operation shall be submitted for review and approval by the Plan Commission and the County Zoning Agency.

2. The provision of all county, state and local regulations upon trailer Mobile Homes and Mobile Home Parks shall be met.

3. No such use shall be allowed unless served by municipal sewage disposal facilities and the density of the project shall not exceed that which may be authorized by applying the provisions of Section 3.06(5) of this Ordinance.

(M) Motels and Hotels: In the B-1 Restricted Business District and B-2 Local Business District only, subject to the following:

1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. No such use shall be permitted on a Lot less than three (3) acres in area.

3. Off-street parking shall be required in accordance with Section 3.12(1)(J) of this Ordinance.

4. No Building shall be closer than fifty (50) feet to the Lot Line of an adjoining Lot in a District permitting residential use.

5. All provisions of the motel Ordinance of the town shall be complied with.

(N) Multiple Family Units: In the R-3 Residential District, B-1 Restricted Business District, B-2 Local Business District, AD-10 Agricultural Density District, RRD-5 Rural Residential Density District, A-5 Mini Farm District or in a Planned Unit Development which may be allowed pursuant to Section 3.08(7)(P) of this Ordinance subject to the following:

1. 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 Residential Density District.

2. A duplex (2-family residential use) may be allowed in an 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 (February 26, 1959).

3. 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.

4. 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 or Floodplain or lands zoned C-1. Where the use will be served by municipal sewerage, the density requirements can be reduced 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.

5. The manner in which the units are to be serviced with sewerage disposal is subject to approval by the State Department of Commerce and the Waukesha County Department of Parks and Laud Use, Environmental Health Division prior to any approval of the proposed conditional use by the plan commission and zoning agency.

6. The minimum Floor Area per unit shall comply with Section 3.11(1) of this Ordinance.

7. The plan commission or zoning agency may require architectural review of the project.

8. There shall be at least two (2) off-street parking spaces for each dwelling unit. The location and arrangement of these spaces is subject to the approval of the plan commission and the zoning agency.

9. The offset, setback and landscaping requirements are subject to approval of the plan commission and the zoning agency. However, the offset, setback and height requirements shall at minimum comply with the standards of the R-3 Residential District.

(O) Outdoor theater: In local and general business and industrial districts subject to the following:

1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. 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 of an adjoining Lot in a District permitting residential use.

3. 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.

4. 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.

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

An overall development plan showing how the above objectives are to be achieved must be submitted to the Plan Commission and the County Zoning Agency for review and approval. This use is permitted in any District except A-B, FLP, FLC, A-T, A-B, AD-10 and RRD-5 Districts except that no portions of any building lots or Structures shall be allowed in the C-1 or HG Districts, subject to the following:

1. 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:

   a. That all sanitary provisions are approved by the Waukesha County Department of Parks and Land Use, Environmental Health Division.

   b. That the proposed development is in conformity with the County and town comprehensive plans or County Land Use Plan and 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.

   c. 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.

d. That all other requirements of the Planned Unit Development are met as set forth in this Section.

2. Residential Planned Unit Development:

a. The following table may be utilized to compute the maximum dwelling unit density requirements of the PUD, except that areas which are Primary or Secondary Environmental Corridors are also subject to (b) 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 Corridors	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**

* Calculations for Environmental Corridors shall occur as established in (b) 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.

b. If all of the 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 their 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.

c. 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.

d. 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 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 thirty percent (30%) of the entire development, while no more than ten percent (10%) of the entire acreage of the development included in the required thirty percent (30%) 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.

e. 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.

f. 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.

g. 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 Resource Areas, as depicted on the Waukesha County Comprehensive Development Plan, except as provided in (e) for limited trail or recreational related development.

h. 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.

i. 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.

3. 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.

a. The proposed PUD shall be served by adequate off-street parking, loading and service facilities.

b. The PUD shall not create an adverse effect upon the general traffic pattern or adjoining property values.

c. Architecture, landscaping, lighting and general site development shall be compatible with the surrounding neighborhood.

d. The aforementioned requirements shall be certified by the Town and County as having been fully met.

4. 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.

a. The proposed mixture of commercial, industrial, residential, and other uses shall produce a unified composite which is comparable both within itself and with the surrounding neighborhood.

b. The mixed uses shall conform to the general requirements applicable to each of them as here-in-before set forth.

c. 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 ot and only the remaining area shall be used in the density computation for the remaining residential units.

5. After all conditions of a planned unit development project are certified by the town and county as being completed, the conditional use status of such completed development shall be changed to a Permitted Use in the District in which it is located.

6. 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 proposed for commercial uses but not zoned for business.

The following computations demonstrate the method of determining how many residential units will be allowed in the project.

a.	Gross acreage	l00 acres
b.	Less ten (10) acres zoned C-1	- 10 acres 90 acres
c.	Less ten (10) acres zoned for B-2 Business use	- 10 acres 80 acres
d.	Total residential acreage in sq. ft.	3,484,800 square feet (80 acres x 43,560)
e.	Divide by square feet per dwelling unit requirement for R-1 Residential Districts 3,484,800 divided by 41,000)	85 units

f. The 10 acres zoned for commercial use cannot be included in the PUD as it is not zoned for business uses and must be rezoned to be considered.

(Q) Private Clubs and Resorts: Without limitation because of enumeration, this category includes resorts and Private Clubs such as indoor/outdoor recreational and athletic facilities (i.e., tennis, racquet ball, volleyball, basketball, driving ranges, baseball batting cages, tanning booths, campgrounds, golf courses, beaches, yacht clubs, Boarding Stables, etc.) are permitted in any District except that Buildings and Structures 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 6.1. Such uses shall be subject to the following:

1. The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.

2. 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.

3. No Building, other than one used only for residential purposes, shall be closer than fifty (50) feet to the Lot Line of an adjoining Lot in a District permitting residential use.

4. Off-street parking shall be provided as required by the plan commission adequate to meet the particular needs of the proposed use.

5. 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.

(R) Public and Semi-public Buildings and uses: In any District, except the C-1 Conservancy District. Such uses within the FLP and FLC shall comply with all terms of Section6.1. No Structures are permitted within the HG or FLC Districts. Such uses shall be subject to the following:

1. The location, building and site plans and plan of operation shall be submitted to and approved by the plan commission.

2. Such use shall conform to the setback, height, and double the offset requirements of the District in which it is located.

3. 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.

(S) Quarrying as defined in this Ordinance: In any District, except the EC Environmental Corridor, AD-10, RRD-5, A-2, A-3, A-4, 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 and FLC Districts. New quarries are prohibited in the C-1, HG and FLC Districts. Quarries within the FLP or FLC Districts shall comply with all terms of Section 6.1. All quarries are subject to the following:

1. Procedure for application:

a. 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 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 to exceed three (3) years provided application therefore 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.

b. Application: Application for a conditional use permit shall be made on forms supplied by the Waukesha County Park and Planning Commission and shall be accompanied by a fee as may be established and periodically modified under Section 22.02(5) of this Ordinance. Such fee shall be paid by cash, check or money order to the Waukesha County Park and Planning Commission.

i. 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.

ii. 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.

iii. 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.

iv. A restoration plan as required by Section 3.08(7)(S) 3(e).

2. Procedure for action on applications:

a. Referral to plan commission*:* The application and all data and information pertaining thereto shall be referred to the plan commission for public hearing and report and recommendation back to the town board within thirty (30) days after the public hearing.

b. Public hearing: Within thirty (30) days after an application has been filed, a public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing, notices also shall be sent through the mail or otherwise placed in the hands of all land owners within a half-mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed or delivered at least ten (10) days prior to the date of hearing. Substantial compliance with the notice requirements of this Section shall be deemed sufficient. No hearing shall be required precedent to issuing a permit in a quarrying district.

c. Action by town board: The town board shall, within ten (10) 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:

i. The effect of the proposed operation on existing Roads and traffic movement in terms of adequacy, safety, and efficiency.

ii. The effect of the proposed operation on drainage and water supply.

iii. The possibility of soil erosion as a result of the proposed operation.

iv. The degree and effect of dust and noise as a result of the proposed operation.

v. The practical possibility of restoration of the site.

vi. The effect of the proposed operation on the natural beauty, character, tax base, land value, and land uses in the area.

vii. The most suitable land use for the area with particular consideration for future residential value.

d. 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.

e. 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.

f. Renewals: The procedure as designated in Sections (a), (b), (c), (d) and (e) above shall apply to applications for 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.

3. Requirements*:*

a. General requirements*:*

i. No part of the quarrying operation 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 rural home or residential at the time of the grant of permit except

with the written consent of the owners of all rural home or residentially zoned properties within one thousand (1,000) feet, except in a quarrying or general industrial district, but in no case shall such operation be permitted closer than two hundred (200) feet to a residential district.

ii. No quarrying operation shall be permitted except in a quarrying, limited industrial or general industrial district, if thirty (30) or more families reside within a band one-half mile wide around the perimeter of the proposed operation.

b. 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.

c. 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 permitted closer than fifty (50) feet to any property line except with the written consent of the owner of the adjoining property, or except where said line is abutting a quarrying, limited industrial, or general industrial district, or abutting an existing quarrying operation, but in no case shall such operation be closer than twenty (20) feet to any property line except by agreement between abutting quarrying operations, or be in conflict with the provisions of Section 3.04(5) relating to preservation of topography.

d. 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 permit, or as otherwise provided in a quarrying or industrial district.

iv. In stone quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stock-piling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be otherwise specifically authorized under the terms of the grant of permit, or as otherwise provided in a quarrying or 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 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 for 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 country-side. Such planting shall be started as soon as practicable, but no later than one (1) year after quarrying operations have begun, and shall be done according to the recommendations of the Waukesha County Park and Planning Commission.

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, time 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-day intervals.

e. <u>Restorative Requirements:</u>

i. In order to insure that the area of quarrying operation shall

be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the town board a plan for such restoration in the form of the following:

(a) An agreement with the town whereby the Applicant contracts to restore the premises to a condition and within a time satisfactory to the town.

(b) A physical restoration plan showing the contours of the restoration, plantings and other special features of restoration, the method by which such restoration is to be accomplished and documentation that the plan complies with the Waukesha County Code of Ordinances – Non-metallic Municipal Mining Restoration Ordinance or other ordinances adopted pursuant to Section 295.14, Wisconsin Statutes and Section NR 135.32(2), Wisconsin Administrative Code.

(c) A bond, written by a licensed survey company, a certified check, or other financial guarantee satisfactory to the town, in an amount sufficient in the opinion of the town engineer to secure the performance of the restoration agreement.

(d) Such agreement and financial guarantee shall be in a form approved by the town attorney.

ii. In the event of the Applicant's failure to fulfill this agreement, such bond, check, or other financial guarantee shall be deemed forfeit for the purpose of enabling the town to perform the restoration.

iii. Restoration shall proceed as soon as practicable and at the order and direction of the town engineer. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two (2) years.

iv. At any stage during the restoration the plan may be modified by mutual agreement between the town and the owner or operator.

v. Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility, or unsightliness. In any case the finished

grade of the restored area except for rock faces, out-croppings, water bodies, or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.

vi. Within one (1) year after the cessation of the operation, all Temporary Structures (excepting fences), equipment, stock piles, rubble heaps, or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.

vii. In any restoration procedure which takes place in Sand or Gravel Pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of one and one-half (1 ½) horizontal to one (1) vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.

f. Exceptions:

i. The provisions of this Section 3.08(7)(S) shall not apply to the removal of sod.

ii. When the operation is limited to the removal of topsoil, the plan commission may, consistent with the intent of these regulations, modify any or all of the provisions of this Section 3.08(7)(S) provided, however, that in no case shall such operation be permitted closer than ten (10) feet from any property line, or to a depth in excess of eighteen (18) inches or so as to adversely affect the drainage of the area.

iii. The provisions of this Section 3.08(7)(S) shall not apply to an operation which is incident to legitimate use of the premises, provided, however, where such operation involves the commercial disposal of the material removed, the approval of the plan commission shall be required and such operation shall be limited to a maximum period of six (6) months.

iv. In a quarrying or general industrial district, the plan commission may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation; and where the character of terrain, surrounding development, or other special conditions would justify, such modification may permit a reduction in the required setback or Offset; provided, however, that in no case shall the setback be less than one hundred (100) feet, or the Offset be less than one hundred (100) feet for quarrying operations or twenty (20) feet for any accessory access road, parking area, or office building except as may be otherwise provided by Section 3.08(7)(S)3(c).

4. Application to existing operations:

a. 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 3.08(7)(S) 3.d. of this Ordinance where they can reasonably be applied under existing circumstances.

b. Plans for restoration: There shall be required within one (1) year after adoption of this Ordinance, the submission of a plan for restoration of the site of any existing quarrying operation as provided by Section 3.08(7)(S) 3.e. The plan for restoration 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.

c. 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 reapplication in the case of a new operation under this Ordinance, except in a quarrying or general industrial district.

(T) Refuse Disposal Sites, public and commercial*:* In any District, other than R-1, R-2, R-3 residential, C-1, HG FLP and FLC Districts subject to the following:

1. The location, Building, site plan and plan of restoration shall be submitted to and approved by the Plan Commission, the Zoning Agency, the Waukesha County Department of Parks and Land Use by the Environmental Health Division and Land Resources Division, and the State Department of Natural Resources pursuant to the State solid waste disposal standards.

2. Such plans shall be approved or disapproved upon consideration of the effects on topography, drainage, water supply, soil conditions, Roads and traffic, and present and ultimate land development and use.

3. Only sanitary landfill refuse disposal methods, subject to the standards established and enforced by the Waukesha County Department of Parks and Land Use, Environmental Health Division, the Department of Natural Resources and the State Board of Health shall be used. Permission to burn refuse before covering must be specifically included in the zoning permit and may be separately withdrawn at any time the smoke or smell constitutes a health or safety hazard. All garbage must be covered to the specified depth prior to the end of the day during which disposal takes place.

4. A responsible person shall be in attendance during the hours of operation, which hours shall be subject to the approval of the town board. No refuse

disposal shall take place except during the specified hours of operation, and with the attendant present.

a. A non-flammable fence, with a gate which can be locked, must be erected to encompass the disposal site to prevent refuse disposal and scavenging during non-operating hours, and the attendant shall retain the key.

b. Such fence, and additional auxiliary portable fence, such as snow fence, that will minimize the nuisance of blowing paper, shall be approved by the Town Board.

5. Requirements:

a. Setback: No refuse disposal shall take place, nor shall Structures pertinent thereto be constructed closer than two hundred (200) feet to the Base Setback Line.

b. Offset: No refuse disposal shall take place closer than two hundred (200) feet to any Lot Line, nor shall refuse disposal take place closer than five hundred (500) feet to any existing dwelling or the site of a dwelling for which a building permit has been issued prior to the application date for the conditional use permit; nor closer than five hundred (500) feet to a District zoned R-1, R-1a, R-2 or R-3 Residential, at the time of the grant of the permit. No refuse disposal shall take place closer than five hundred (500) feet to a permanent business or industrial structure without the written consent of the owner of that adjacent property and the written approval of the Waukesha County Department of Parks and Land Use, Environmental Health Division and the State Department of Natural Resources.

c. Additional Requirements: Restrictions as to the types and sources of refuse, if needed, shall be the responsibility of the Town Board under the advisement of the Waukesha County Department of Parks and Land Use, Environmental Health Division. A planting plan as approved by the Zoning Agency shall be included in the plan of operation.

6. All existing refuse disposal operations shall be registered by the operator within sixty (60) days after the adoption of this Ordinance with the town clerk, submitting pertinent data relative to present operation, including the boundaries of the actual operation and ownership. A permit shall be granted to such existing operation subject to compliance with a plan of operation satisfactory to the approving bodies. A plan of restoration shall be submitted to the town by the operator within one (1) year of the adoption of this Ordinance, together with a surety bond to insure such restoration. Such operation and restoration plans shall not impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this Ordinance.

(U) Restaurants, Supper Clubs, 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 C-1, A-T, FLP, FLC, HG, A-B, A-5, P-1 and EC Environmental Corridor Districts, the above uses shall be considered conditional uses, subject to the following:

1. 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.

2. The minimum Lot Area shall be two (2) acres with at least two hundred (200) feet in minimum average width.

3. 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 Section 3.12(1)(C).

4. A Planting Screen of at least six (6) feet in initial height shall be provided between any abutting residential district and the proposed use. Additional Planting Screens may be requested by the plan commission or county zoning agency.

5. The proposed Building shall be Offset at least fifty (50) feet from any abutting residential district and one hundred (100) feet from any navigable body of water.

(V) Salvage yards: Sites used for the storage or sale of salvageable materials, or for the purpose of salvage, wrecking, dismantling, or demolition of salvageable materials, in M-2 Industrial Districts, subject to the following:

1. The location, building and site plans and plan of operation are submitted to and approved by the plan commission and the county zoning agency.

2. All requirements of the Wisconsin Administrative Code applicable to salvage yards shall be complied with.

(W) Commercial Truck Parking: Such uses are uses permitted by right in B-3 Industrial 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, subject to the following:

1. 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.

2. 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) trailers may be allowed, but in no case may there be more than one (1) semi tractor or "cab" unit.

3. 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 (l00) 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.

4. In determining whether or not the proposed Conditional Use Permit should be issued, a determination of compatibility with adjacent land uses shall be made to 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 represents an adverse effect or nuisance to adjacent land uses, the Conditional Use Permit shall not be issued.

5. 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.

(X) 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 3.07(3) and in the judgment of the plan commission and county zoning agency meet the intent of a conditional use as set forth in Section 3.08(1). Any such uses within the FLP or FLC Districts shall comply with all terms of Section 6.1.

(Y) Bed and Breakfast Facility: In all Districts, except the HG High Groundwater, C-1 Conservancy, FLP Farmland Preservation and FLC Farmland Conservancy Districts. The intent is to provide travelers 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:

1. The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.

2. 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 Buildings with significant architectural or historic 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.

3. Off-street parking shall be provided at the rate of one (l) parking space for each room rented. 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.

4. 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. Those 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.

5. 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.

6. All necessary State and County permits, certifications, or requirements shall be obtained as a condition of approval of a bed and breakfast service.

7. Room rentals to families or individuals shall not exceed fourteen (14) consecutive days.

8. 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.

9. 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.

10. The Waukesha County Department of Parks and Land Use, Division of Environmental Health, 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 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 receiving a determination, in writing, by the Department 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. The results of that test shall be submitted to the Department with a copy to the Zoning Administrator. All requirements must be incorporated into the terms of the conditional use permit.

(Z) <u>In-Law Unit</u>: In any Residential, Agricultural, B-1 or B-2 zoning district, except FLC, subject to the following. Such uses in the FLP District shall comply with all

density provisions of Section 6.1, in addition to the below requirements:

1. 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.

2. The Waukesha County Department of Parks and Land Use, Division of Environmental Health, shall certify that the septic system will accommodate the proposed use and is in accordance with COMM 83, County and State Sanitary Codes.

3. 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.

4. 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 principle 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.

5. The Plan Commission and the County Zoning Agency shall determine if it is appropriate to have an interior door between the In-law Unit and the principal Residence.

6. 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 County Zoning Agency without necessity of a public hearing and that the unit will be used as intended.

(Sections 3.08(7)(AA), (7)(N), (7)(S)3(e)(1)(b), (7)(S)3(f)(4), (7)(U)(1), (7)(Y)(10), (7)(Z)2 were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

(Sections 3.08(7)(H) and (KK) were created by Enrolled Ordinance 159-69, effective 1-17-05.)

(Sections 3.08(7)(E)2, 3.08(7)(P)1(a), 3.08(7)(P)2, 3.08(7)(T)1, 3.08(7)(T)3, 3.08(7)(T)5(b), 3.08(7)(T)5(c) and 3.08(7)(W)1 were amended by Enrolled Ordinance 161-13, effective 09/04/06.)

(Section 3.08(3) was amended by Enrolled Ordinance 162-48, effective 10-9-07.)
(Section 3.08(7) (B) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)
(Section 3.08(7) (KK) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)
(Section 3.08(7) (N) was amended by Enrolled Ordinance 167-24, effective 07-24-12.)
(Section 3.08(7) (P)(2)(a) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)
(Section 3.08(7) (P)(2)(b) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)
(Section 3.08(7) (P)(2)(g) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

(Sections 3.08(7)(A), (B), (D), (E), (F), (G), (I), (KK), (P), (Q), (R), (S), (T), (U), (W), (X), (Y) and (Z) were amended by Enrolled Ordinance 170-72, effective 12/31/15.)

3.09 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:

1. 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 center line equal to one-half such established width as designated on the Established Street and Highway Width Map of Waukesha County.

2. On all other streets, which shall be designated as "local streets," the Base Setback Line shall be thirty-three (33) feet from the center line 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.

3. When a Lot abuts a frontage road, the Base Setback Line shall be located at a distance from the center line equal to one-half the right-of-way width of said frontage road.

4. Such setback lines shall be parallel to and measured at right angles to the centerline of the Street or Highway.

5. There shall be a required setback equal to the offset requirements 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.

(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:

1. 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.

2. Across each sector between intersecting treets 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.

3. 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:

1. 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.

2. Buildings within Road Setback on both sides. If there are two 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 fifty (250) feet of the proposed Building and are located on the same side of the Road.

3. 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.

4. If the above exceptions do not apply and an improvement or addition is proposed to an existing Nonconforming Structure, the provisions of Section 3.17 apply.

5. 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.

6. 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.

(D) 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.

(E) Additions to and replacements of existing Structures may be made within the established road right-of-way as set forth by Section 3.09(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.

(F) 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.

(2) Wetland Setback: Every Structure shall have a setback of at least seventy-five (75) feet from a wetland boundary, except for the following:

(A) A Retaining Wall shall be located outside of the wetland boundary.

(B) A single stairway or walkway may be permitted within the Wetland Setback. If the

walkway is proposed in an area designated as Wetland, the walkway shall be constructed on pilings.

(C) Where there is an existing pattern of development with Principal Buildings having setbacks less than seventy-five (75) feet from the wetland boundary line, the setback requirements for new Principal Buildings or additions to Principal Buildings shall be allowed to be reduced in accordance with the following setback averaging formula, however, in no case shall the required minimum Wetland Setback be reduced to less than thirty-five (35) feet:

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

(D) The effect of the 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 wetland setback and road setback averaging formulas, the zoning administrator shall have the authority to modify the road setback and wetland setback provisions to the extent necessary to minimize the encroachment on the road setback and wetland setback standards while maintaining the thirty (30) foot depth.

(E) 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 provided there is no other conforming location available and no other accessory Structures located on the Lot.

(F) If the above exceptions do not apply and an improvement or addition is proposed to an existing Legal Nonconforming Structure, the provisions of Section 3.17 apply.

(3) Offsets:

(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:

1. In the case of a Lot of Record, which has a minimum average width of 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.

2. 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.

3. 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 Lots.

4. One detached accessory Building on any Lot which is less than two hundred (200) square feet in area may be located five (5) feet to the Side Lot Line unless otherwise excepted under any other provision.

5. Offsets on Decks and Patios 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.

6. Stairways or walkways, five (5) feet in width or less, 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 5 above. Existing stairways or walkways may be replaced in-kind within five (5) feet of a Lot Line.

7. Retaining Walls do not need to meet the offset requirements of the individual zoning districts if they comply with the provisions of Section 3.04(5).

8. If the above exceptions do not apply and an improvement or addition is proposed to an existing Legal Nonconforming Structure, the provisions of Section 3.17 apply.

(B) Where a Lot abuts a District boundary line, the Offset from such line in the District of less restricted 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:

1. 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.

2. 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 or a Lot so that any roofed or enclosed portion thereof is closer than ten (10) feet to the Principal Building on said Lot.

(Sections 3.09(1)(A)4, (1)(D), (1)(H), (1)(K), and (2)(A) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)
(Section 3.09(2)(A)4 was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

3.10 **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 on a Lot with an average width less than sixty-five (65) feet.

(B) Overall maximum height (lowest exposure to highest peak), forty-four (44) feet, for Structures located 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 (C) below does not apply.

(C) Maximum height from lowest exposure to highest eave, thirty-two (32) feet, for Structures on Lots with an average width of at least sixty-five (65) feet.

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

(B) 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 on a Lot that 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 Lots 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, water towers, ornamental towers, spires, wireless or broadcasting towers, masts, aerials, and necessary mechanical appurtenances.

(Section 3.10 was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

3.11 **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:

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

2. 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 this 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) 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 regulations of the District in which such Building is located except as may be provided in Sections 3.11 (2) (E), 3.08 (7) (N) and 3.08(7)(P) of this Ordinance.

(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 or so that the existing- Offsets, Setbacks, Open Space, or Lot Area would be reduced below that required by the regulations for the District in which such Lot is located.

(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 (February 26, 1959), such Lot shall be used for any purpose permitted in any such District and the maximum Building Footprint regulations shall comply with requirements of 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:

1. 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.

2. 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.

3. 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 or parcel 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:

1. The substandard Lot or parcel 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.

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

3. The substandard Lot or parcel 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: The total Building Footprint of all Accessory Buildings on a Lot in any zoning district may not exceed the accessory building footprint limitations specified in the following table, with the exceptions listed below the table:

(A) Accessory Building Footprint Table:

Lot Area	**Maximum Building 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

(B) On Lots of fifteen (15) acres or more in area, the accessory building footprint may be greater than the two percent (2%) limit when used solely for the pursuit of agriculture and where the Accessory Buildings will house equipment as regulated in Section 3.12(3)(A), and when consistent with the maximum overall Building Footprint requirements of this Ordinance.

(C) 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 6.19.

(D) Temporary Structures and attached Garages shall not be included in calculating allowable accessory Building Footprint.

(E) 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:

1. On Lots 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 3.12(3), and when consistent with the maximum overall Building Footprint requirements of this Ordinance.

2. 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.

3. On Lots 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.

(F) All Accessory Buildings shall be constructed in such a way that the exterior appearance is compatible with the design, style, architecture and appearance of the principal Structures on the parcel. This determination shall be made by the local building inspector and the Zoning Administrator. In case of dispute, such questions shall be submitted to the Plan Committee and the Zoning Agency for review and approval in accordance with Section 3.04(3). This requirement does not apply to farming operations on more than thirty-five (35) acres.

(G) In no case shall any Accessory Building be used for purposes not allowed in the underlying zoning district or as may be authorized by a conditional use permit.

(5) Building Footprint (as defined in this Ordinance):

(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 Wetland Setback relief only. The administratively approved Building Footprint shall not extend into the established road right-of-way or within Wetland.

(B) Maximum Building Footprint: The maximum Building Footprint shall not exceed the footprint standards specified by the regulations for the District in which such Building is located, unless the provisions of Section 3.11(2)(E) are met.

(Sections 3.11(2)(E) and (4)3 were amended by Enrolled Ordinance 159-69, effective 1-17-05.)
(Section 3.11(2)(E) was amended by Enrolled Ordinance 160-03, effective 05-13-05.)
(Section 3.11(4) was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

3.12 **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 per four (4) seats;

(C) Retail business establishments, resorts, 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 employee during any work shift;

(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 employee during any work shift;

(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 employee 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.

(3) Parking of trucks and equipment: No other vehicular equipment of a commercial or industrial nature, except as in subsection (2) above, shall be parked or stored for more than two (2) consecutive hours and four (4) cumulative hours during any twenty-four (24) hour period on any Lot in any zoning district except business and industrial districts or as follows:

(A) Agricultural equipment (such as farm tractors, plows, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of his Farm, etc.) used in a farm operation.

(B) One (1) panel, van, or pick-up truck used in the conduct of a conforming business activity being carried on in a residential or agricultural district. The Board of Adjustment may, if the need is evident, permit more than one (1) such vehicle if the Town Board and Planning Commission indicate 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 noncommercial recreational purposes.

(C) A conditional use permit pursuant to Section 3.08(7)(W) may be granted to permit the parking of commercial or industrial type vehicles in any zoning district except C-1 conservancy. In business and industrial districts where such vehicles are necessary to an otherwise permitted business or commercial 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.

(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 reasonable dustless condition.

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

(6) Offset: In any off-street parking area, other than that provided for a Residence, which abuts a residential district, no vehicle shall be allowed to park closer than ten (10) feet to the abutting residential Lot Line.

(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.

(Section 3.12(3)(C) was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

3.13 **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 areas, 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.

3.14 **Signs**

(1) Use restricted: In any District, no Signs shall be permitted except as is hereinafter specified by the regulations for that District.

(2) Setbacks and Offsets: In any District, no Sign other than those permitted in a residential 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.

3.15 **Airport safety zone**

(1) Maximum height: No Buildings or objects of natural growth located within two (2) miles of the boundaries of any airport, landing field, or landing and take-off strip and within a band five hundred (500) feet on each side of the center line extended of any runway, shall hereafter be erected, altered or permitted to grow to a height above the elevation of the nearest point of such runway greater than one-fifteenth (1/15) of the distance from said point.

(2) Control of use: No Building or land located within two (2) miles of the boundary of any airport, landing field, or landing and take-off strip shall be so used that by reason of the emission of smoke, gas or other emanation, it shall produce a hazard to the operation of aircraft.

(3) Exceptions: The aforesaid regulation shall neither apply to growing field crops which are harvested at least once a year nor to fences not over five (5) feet high.
[Cross reference - Waukesha County Airport Zoning Ordinance, App. C.]

3.16 **Mobile homes and trailers**

(1) Human habitation prohibited: Except within an approved Mobile Home Park or camp, no trailer or Mobile Home shall be used for the purpose of human habitation. Human habitation is defined in this subsection as entering the mobile home for any purpose other than Maintenance.

(2) A permit for one (1) continuous six-month period allowing the human habitation of a Mobile Home 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 the 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.

(3) Storage prohibited: No Mobile Home in excess of twenty-five (25) feet in length shall be located or stored on any Lot 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 3.08(7)(L).

(Section 3.16(2)B was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

3.17 **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.

(2) 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 (F) below, the requirements of all applicable subsections must be complied with.

(A) Nonconforming to Wetland Setback:

1. Structures within thirty-five (35) feet of a 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.

2. 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 Building 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 Building 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 this 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 closer to the Wetland than the closest point of the existing Structure.

e. All other provisions of this Ordinance shall be met.

(B) Nonconforming to Road Setback:

1. Structures within twenty (20) feet of a Base Setback Line (as established in Section 3.09(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.

2. Structures twenty (20) feet to within thirty-five (35) feet of a Base Setback Line (as established in Section 3.09(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 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 Building 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 this 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 this Ordinance shall be met.

3. Structures thirty-five (35) feet or greater from a Base Setback Line (as established in Section 3.09(1)(A). All standards of subsection 2 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.

(C) Nonconforming to Offset:

1. 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.

2. 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 fifty percent (50%) of the Building 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 this Ordinance shall be met.

3. 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 this Ordinance shall be met.

(D) Nonconforming to Building Footprint:

1. 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.

2. If the Structure, or a combination of Structures, exceeds the maximum allowable Building Footprint, no lateral expansions are permitted.

3. 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.

4. 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.

5. All other provisions of this Ordinance shall be met.

(E) Nonconforming to Height:

1. 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.

2. Any vertical expansion to a Structure nonconforming to height shall comply with the height requirements of this Ordinance.

(F) 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 and Wetland Setback relief only. The Building Footprint shall not extend into the established road right-of-way or within the floodplain or Wetland.

(3) Regulation of Legal <u>Nonconforming Use of Structures and land</u>*:*

(A) No such use shall be expanded or enlarged.

(B) Upon petition to and approval of the County Zoning Agency, such use may be changed to another use provided the Zoning Agency determines that the new use would not result in a greater degree of non-conformity than the current use.

(C) When any such use 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.

(D) Total structural repairs or alterations to a Structure housing a 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.

(4) Legal 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.

(5) Conditional use status: Subject to the provisions of Section 3.08, 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 this 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 following a joint public hearing in the manner provided in Section 21.02(2).

3.18 **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.

3.19 **Swimming Pools, as defined in Section 2.02**

(1) Use permitted: Above and below ground Swimming Pools are permitted in any District other than A-E or C-1 Districts, 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. 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 3.03 of this Ordinance.

(The Title to Section 3.19 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

3.20 **Guesthouses**

(1) Use 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 (1) 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 ot 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 with 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 thirty-three (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.

SECTION 4 DISTRICTS

4.01 **Establishment of districts**

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

C-1	Conservancy District.
C-1	Conservancy Overlay District.
FLC	Farmland Conservancy District.
FLP	Farmland Preservation District.
A-B	Agricultural Business District.
A-T	Agricultural Transition District.
AD-10	Agricultural Density District.
A-5	Mini-farm District.
EC	Environmental Corridor District.
EC	Environmental Corridor Overlay District.
A-1	Agricultural District.
A-la	Agricultural District.
HG	High Groundwater District.
A-2	Rural Home District.
A-3	Suburban Estate District.
RRD-5	Rural Residential Density District
R-1	Residential District.
R-la	Residential District.
R-2	Residential District.
R-3	Residential District.
P-I	Public and Institutional 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.
Q-1	Quarrying District.
M-1	Limited Industrial District.
M-2	General Industrial District.

(Section 4.01 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

4.02 **Zoning map**

(1) Districts mapped: The boundaries of said Districts are shown upon Sectional zoning maps of each of the towns of Waukesha County under the County Zoning Ordinance, which maps are made part of this Ordinance, and 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 the copies attached hereto are correct only as of the date of publication and are for general informational purposes only. For the purpose of local administration, a copy of the appropriate Section map shall also be kept on file in the office of each Town.

(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 Agency shall interpret the map according to the reasonable intent of this Ordinance.

(A) 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 center lines of Streets, Highways, railways or alleys.

(B) The boundaries of the C-1 Conservancy and the FLC Districts, as drawn, are intended to represent the edge of swamp, marsh, and floodland or the high water line along a stream or watercourse, and shall be finally determined by the actual conditions in each specific situation, provided, however, that along a stream or watercourse, such line shall not be less than one hundred (100) feet from the center of such stream or watercourse.

(Section 4.02(2)(B) was amended by Enrolled Ordinance 170-72, effective 12/31/15).

4.03 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:

1. any residential district line, playground Lot Line, or public park Lot Line;

2. 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;

3. any other Structure housing an Adult-Oriented Establishment;

4. 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 subsection (2)(B)2 through 4 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 subsection (B), above, within one thousand (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.

SECTION 5 C-1 CONSERVANCY DISTRICT

5.01 **Use regulations**

(1) Permitted Uses:

(A) Grazing.

(B) The harvesting of any wild crops such as marsh hay, ferns, moss, berries, tree fruits, and tree seeds.

(C) Hunting and fishing unless prohibited by other ordinances or laws.

(D) Sustained Yield Forestry.

(E) Dams and hydro-electric power stations. Said uses must comply with the requirements of Section 6.14(5) if located within the FLC District.

(F) Telephone, telegraph and power transmission lines. Said uses must comply with the requirements of Section 6.14(5) if located within the FLC District.

(G) Non-residential buildings used solely in conjunction with the raising of waterfowl, minnows, and other similar animals or fish.

(2) Specific prohibition: Filling or drainage of Wetlands, removal of topsoil or peat, or damming or relocating of any watercourse shall not be permitted except with approval of the plan commission and zoning agency.

(3) Area Regulations:

There are no specific minimum lot size requirements although conservancy/wetland 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 required in that non-conservancy district.

(Section 5.01(1)(E) was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

(Section 5.01(1)(F) was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

(Section 5.01(1)(G) was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

(Section 5.01(2) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

SECTION 5a C-1 CONSERVANCY OVERLAY DISTRICT

All parameters and requirements of Section 5 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 5a was created by Enrolled Ordinance 170-72, effective 12/31/15.)

SECTION 6 FLC FARMLAND CONSERVANCY DISTRICT

6.01 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.

6.02 Use regulations: Permitted Uses

(1) Any uses and Structures permitted in the C-1 Conservancy District and if located in a Wetland, the provisions of Section 5 shall apply.

(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 6 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 2.02 (12) of this Ordinance or permitted as an appurtenance to a Farm Residence, except that no Structure shall be located in a Wetland or upon lands not suited due to soil limitations.

(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 3.03(6) of this Ordinance.

(5) Roadside Stands, subject to the provisions of Section 6.14(2)(E).

(6) Signs not to exceed forty (40) feet in area displaying the name of the Farm or farm organization.

6.03 Conditional uses

Conditional uses, as provided in Section 3.08(7) and listed below, and in accordance with the procedural requirements of Section 3.08(7) and the provisions of Section 6.15:

(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 3.08(7)(AA), 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 3.08(7)(KK). Said uses must comply with the Farm Family Business provisions of ATCP 49.

(9) In-law Units, pursuant to Section 3.08(7)(Z), provided that the density requirements of the Farmland Preservation Plan are complied with.

(10) Other uses, situations, or nonfarm type businesses not specifically provided for in this conditional use section and which may be determined to be acceptable under the provisions of Section 6.15 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 3.08(1) and comply with the Farm Family Business provisions of ATCP 49, also referred to as an Unspecified Conditional Use in this Ordinance.

6.04 **Building location**

(1) Road Setback:

(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 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) 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 3.09(3) apply.

6.05 **Height regulations**

(1) Residential buildings:

(A) Residential Use Structure: The regulations and exceptions of Section 3.10(1) apply.

(B) Accessory Building: Twenty (20) feet maximum.

(2) Farm buildings:

(A) Sixty (60) feet maximum.

(B) Farm buildings may be increased to not more than one hundred (100) feet where the Road, and Wetland Setbacks and Offset all equal or exceed the height of the Structure.

(3) Additional regulations and exceptions from Section 3.10 apply.

6.06 **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:
Parcel Size must comply with the parameters of Section 6.19.

(C) Maximum Building Footprint permitted: Ten percent (10%), or eleven hundred (1,100) square feet, whichever is greater.

(D) Additional regulations and exceptions from Section 3.11 apply.

6.07 **Rezoning lands out of the FLC District**

(1) Except as provided in Section 6.07(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 Waukesha 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 6.07(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.

(Section 6 was renamed as FLC Farmland Conservancy District and amended by Enrolled Ordinance 170-72, effective 12/31/15.)

SECTION 6.1 FLP FARMLAND PRESERVATION DISTRICT

(Section 6.1 was renamed to FLP Farmland Preservation District by Enrolled Ordinance 170-752, effective 12/31/15.)

6.11 **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.

(Section 6.11 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.12 **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.

(Section 6.12 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.13 **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 6.14 as a Permitted Use.

(2) Uses allowed under Section 6.15 with a Conditional Use Permit.

(3) Legal Nonconforming Uses, subject to Wisconsin State Statutes.

(Section 6.13 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.14 **Use Regulations: Permitted Uses**

(1) Agricultural Uses as defined in this Ordinance except Fur and Pig Farms and Poultry and/or egg production which require Conditional Use authorization pursuant to Section 6.15(3)(F)

(2) Agricultural Accessory Uses as defined in this Ordinance and subject to the following requirements:

(A) Caretaker's quarters/living unit Farm Residence 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 and provides a living unit or quarters for hired employees of the farming operation and their immediate Family. Only one Farm Residence is permitted on a Lot. An In-law Unit requires a conditional use permit.

(B) Home Occupations as regulated in Section 7.01(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 7.01(9) of this Ordinance if said particular use complies with the farm family business provisions as specified by rule by DATCP.

(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) Roadside Stands.

1. Temporary Roadside Stand structures shall be no more than 100 square feet in size.
2. 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.
3. 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.
4. Only produce and farm products can be displayed for sale.
5. Roadside Stands with a permanent Building shall require Site Plan and Plan of Operation approval in accordance with Section 3.03(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. Commercial or wholesale nurseries must obtain Site Plan/Plan of Operation in accordance with the requirements of Section 3.03(6).

(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 3.03(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 6.15(3)(C) below.

(6) Legal Nonconforming 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.

(Section 6.14 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.15 **Use Regulations: Conditional Uses**

(1) Conditional uses as provided for in Section 3.08 and Section 6.15(3) and pursuant to the procedural requirements of Section 3.08, 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 Open 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 3.08(7)(S) 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 3.08(7), in Section 6.15 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 6.14(5) above and in accordance with Chapter 91 of the Wisconsin Statutes.

(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 3.08(7)(AA), provided such activities do not negatively affect the long-term suitability of the lands for agricultural purposes.

(J) Limited Family Businesses, as provided for and in accordance with all parameters of Section 3.08(7)(KK). Said uses must comply with the Farm Family Business provisions of ATCP 49.

(K) In-law Units, pursuant to Section 3.08(7)(Z), provided that the density requirements of the Farmland Preservation Plan are complied with.

(L) Other uses, situations, or nonfarm type businesses not specifically provided for in this conditional use section and which may be determined to be acceptable under the provisions of Section 6.15 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

3.08(1) and comply with the Farm Family Business provisions of ATCP 49, also referred to as an Unspecified Conditional Use in this Ordinance.

(Section 6.15 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.16 Building Location

Residential use structures must comply with the requirements of Section 6.19 and Structures are subject to the following locational requirements:

(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 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) 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 3.09(3) apply.

(Section 6.16 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.17 Height Regulations

(1) Residential buildings:

(A) Residence: The regulations and exceptions of Section 3.10(1) apply.

(B) Accessory: Twenty (20) feet maximum.

(2) Farm buildings:

(A) Sixty (60) feet maximum.

(B) Farm buildings may be increased to not more than one hundred (100) feet where the Road Setback, Wetland Setback, and Offset all equal or exceed the height of the Structure.

(3) Additional regulations and exceptions from Section 3.10 apply.

(Section 6.17 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.18 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 percent (10%) t, or eleven hundred (1,100) square feet, whichever is greater.

(3) Additional regulations and exceptions from Section 3.11 apply.

(Section 6.18 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.19 New Residences and Lots

New Residences and new Lots or parcels of less than thirty-five (35) acres shall be prohibited on lands 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 thirty-five (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 thirty-five (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 Nonfarm 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 6.19(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 nonfarm buildings.

New Nonfarm Residences must also comply with the standards set forth in Chapter 91of 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 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 6.19(B)(4).

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 available 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 6.19 (2)(A) & (B).

Each time that a new dwelling unit or Lot is created in the future, in accordance with the standards of Section 6.19, 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 Residences or Lots shall be located on uncultivated lands to the greatest extent practicable.

(B) New Residences or Lots shall be clustered together to the greatest extent practicable.

(C) New Residences or Lots shall be located on non-prime (non-Class I and II) soils to the greatest extent practicable.

(D) New 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

(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 6.19(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

(A) Minimum parcel size, one (1) acre.

(B) Minimum average width: One hundred and fifty (150) feet.

(C) Maximum parcel size, five (5) acres.

(Section 6.19 was created by Enrolled Ordinance 170-72, effective 12/31/15.)

6.19a. **Rezoning Land Out of the FLP District**

(1) Except as provided in Section 6.19a(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 6.19a(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.

(Section 6.19a was created by Enrolled Ordinance 170-72, effective 12/31/15.)

SECTION 6.2 A-B AGRICULTURAL BUSINESS DISTRICT

6.21 **Purpose**

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, with the plan commission making a determination as to compatibility with the existing site and the surrounding or adjacent uses.

6.22 **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.

(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 plan commission and zoning administrator.

(Section 6.22 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

6.23 **Conditional uses**

Conditional uses as provided in Sections 3.08(7)(A), 3.08(7)(D), 3.08(7)(E), 3.08(7)(F), 3.08(7)(G), 3.08(7)(I), 3.08(7)(J), 3.08(7)(K), 3.08(7)(Q), 3.08(7)(R), 3.08(7)(S), 3.08(7)(T), 3.08(7)(W), and 3.08(7)(X).

6.24 **Building location**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) 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 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 3.09(3) apply.

(Section 6.24(2)(A) was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.25 **Height regulations**

(1) Principal Building: The regulations and exceptions of Section 3.10(1) apply.

(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 and Wetland Setbacks and Offset equals or exceeds the height of the Structure.

(3) Additional regulations and exceptions from Section 3.10 apply.

6.26 **Area regulations**

(1) Floor Area and Building Footprint: Minimum required.

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. Total: Eleven hundred (1,100) square feet.

(B) Maximum Building Footprint: Fifty percent (50%) of the site, or eleven hundred (1,100) square feet, whichever is greater.

(C) Additional regulations and exceptions from Section 3.11 apply.

(2) Lot size:

(A) Minimum area: Five (5) acres, unless the plan commission determines that an existing use or a smaller parcel is appropriate and consistent with Section 6.21.

(B) Minimum average width, three hundred (300) feet.

SECTION 6.3 (Reserved)

(Section 6.31 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

SECTION 6.4 A-T AGRICULTURAL TRANSITION DISTRICT

6.41 **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.

(Section 6.41 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.42 **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.

(Section 6.42 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.43 **Use regulations: Permitted Uses**

Any Permitted Use as described in the A-1 Agricultural District.

(Section 6.43 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.44 **Conditional uses**

Conditional uses as provided in Sections 3.08(7) A, AA, B, D, E, F, G, I, K, KK, Q, R, S, T W, X, Y and Z.

(Section 6.44 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.45 **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 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) 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 3.09(3) apply.

(Section 6.45 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.46 **Height regulations**

(1) Residential buildings:

(A) Residence: The regulations and exceptions of Section 3.10(1) apply.

(B) Accessory: Twenty (20) feet maximum.

(2) Farm buildings:

(A) Sixty (60) feet maximum.

(B) Farm buildings may be increased to not more than one hundred (100) feet where the Road and Wetland Setbacks and Offset all equal or exceed the height of the Structure.

(3) Additional regulations and exceptions from Section 3.10 apply.

(Section 6.46 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.47 **Area regulations**

(1) Minimum Floor Area 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 percent (10%), or eleven hundred (1,100) square feet, whichever is greater.

(3) Additional regulations and exceptions from Section 3.11 apply.

(Section 6.47 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

6.48 **Lot size**

(1) Minimum parcel size: Twenty (20) acres.

(2) Minimum average width: Three hundred (300) feet.

(Section 6.48 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

SECTION 6.5 AD-10 AGRICULTURAL DENSITY-10

6.51 General regulations

(1) Purpose and Intent**:** 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) 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".

(2) 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:

(A) 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.

(B) 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.

(C) The preserved lands shall be retained in one of the following manners:

1. 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.

2. 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.

3. 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.

(D) On a Lot which is zoned AD-10, the development density shall not exceed ten (10) acres for each dwelling unit.

(E) 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.

(F) 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.

(G) 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.

(3) Use Regulations: Permitted Uses:

(A) Residential:

1. Single-family uses.

2. Duplexes pursuant to issuance of a conditional use permit as required by Section 3.08(7)(N) and compliance with the minimum Floor Area and Building Footprint requirements contained herein.

(B) 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.

(C) 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.

(D) Signs:

1. Sign not to exceed twelve (12) square feet in area displaying the name of the Farm or farm organization.

2. Subdivision signs in accordance with the sign provisions of this Ordinance.

(E) 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 3.03(6) of this Ordinance.

(F) Roadside Stands subject to the following:

1. Off-street parking for a minimum of five (5) vehicles must be provided.

2. 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.

(G) Home Occupation and Professional Offices as regulated herein.

(H) Hobby Kennels as regulated in Section 7.01(9).

(Section 6.51(A)3 was amended by Enrolled Ordinance 170-72, effective 12-31-15.)

(Section 6.51(A)4 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)
(Section 6.51(A)4 was amended by Enrolled Ordinance 170-72, effective 12-31-15.)

(Section 6.51(B)2 was amended by Enrolled Ordinance 170-72, effective 12-31-15.)

(Section 6.51(B)4 was amended by Enrolled Ordinance 170-72, effective 12-31-15.)

(Section 6.51(C)(1)A was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

6.52 **Building location**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Twenty (20) feet minimum

(B) Additional regulations and exceptions from Section 3.09(3) apply.

6.53 **Height Regulations:** The regulations and exceptions of Section 3.10 apply.

6.54 **Area Regulations**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. Total: Eleven hundred (1,100) square feet.

(B) Two family: Minimum required Floor Area per Family - Eight hundred fifty (850) square feet per unit.

(C) Maximum Building Footprint: Fifteen percent (15%), or eleven hundred (1,100) square feet, whichever is greater.

(D) Additional regulations and exceptions from Section 3.11 apply.

(2) Lot size:

(A) Minimum required area - one (1) acre.

(B) Minimum average width - one hundred and fifty (150) feet.

(3) Density Division Standards: Development shall not exceed one (1) dwelling unit per ten (10) acres.

(Section 6.54(B)1 was amended by Enrolled Ordinance 170-72, effective 12-31-15.)

SECTION 6.6 A-5 MINI-FARM DISTRICT

6.61 **Intent and Purpose**

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".

6.62 **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 (February 26, 1959) subject to issuance of a Conditional Use Permit contained in Section 3.08(7)(N).

(2) Permitted Accessory Uses:

Any of those Accessory Uses in the EC Environmental Corridor District.

6.63 **Building Location**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions for setbacks when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) 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 3.09(3) apply.

(Section 6.63(2)(B) was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

6.64 **Height Limitations:** The regulations and exceptions of Section 3.10 apply.

(Section 6.64(1) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

6.65 **Area Regulations**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. Total: Eleven hundred (1,100) square feet.

(B) Maximum Building Footprint permitted: Ten percent (10%), or eleven (1,100) square feet, whichever is greater.

(C) Additional regulations and exceptions from Section 3.11 apply.

(2) Lot Size:

(A) Minimum area: Five (5) acres.

(B) Minimum average width: Three hundred (300) feet.

SECTION 6.7 EC ENVIRONMENTAL CORRIDOR DISTRICT

6.71 **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 Zoning Code indicating that such a determination has been made for future reference and map amendment purposes.

6.72 **Use Regulations**

(1) Permitted Uses:

(A) Any uses permitted in the C-1 Conservancy District except that, whenever possible, pasturing and grazing of Livestock shall be located outside of the Environmental Corridor.

(B) Single family dwellings.

(C) Keeping of Poultry and Livestock on not less than five (5) acres of land where there shall be no more than one (1) head of Livestock or twenty (20) Poultry for the first three (3) acres of land, and one (1) 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.

(D) The following Accessory Buildings and uses, subject to the conditions specified:

1. 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.

2. 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.

3. Stables, barns, or poultry houses, which house Livestock or Poultry, shall not be less than fifty (50) feet from an adjacent property line.

(E) A Sign in accordance with Section 7.01(1)(G).

(F) Hobby Kennel in accordance with Section 7.01(1)(I).

(G) Guesthouses are prohibited in the EC Environmental Corridor District.

(H) 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 County 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.

6.73 **Building Location**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Section 3.09(1) for additional regulations and exceptions.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Section 3.09(2) for additional regulations and exceptions.

(3) Offset:

(A) Thirty-five (35) feet minimum. In the case of existing legal nonconforming 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 6.7 of this Ordinance be met as applicable.

(B) Section 3.09(3) for additional regulations and exceptions.

6.74 **Height Regulations.** The regulations and exceptions of Section 3.10 apply.

6.75 **Area Regulations**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area Required for Single-family Dwelling:

1. First floor: Eight hundred and fifty (850) square feet.

2. 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 (1,100) square feet, whichever is greater, unless preservation of Green Space limitations are more restrictive.

(C) Additional regulations and exceptions from Section 3.11 apply.

(2) Lot size and Density:

(A) Minimum area: The overall density of parcels lying entirely within the Environmental Corridor shall be no greater 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) 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 fifteen thousand (15,000) square feet or fifteen percent (15%) of a parcel's area, up to a maximum of thirty-two thousand six hundred seventy (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 the 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 fifteen thousand (15,000) square feet or is less than the area that is equal to fifteen percent (15%) of the area of a parcel, up to a maximum of thirty-two thousand six hundred seventy (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 the greater of a fifteen thousand (15,000) square foot developable area or a developable area of fifteen percent (15%) 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 fifteen thousand (15,000) square foot or fifteen percent (15%) threshold.

(4) Tree and Vegetation Cutting and Removal:

(A) All tree and native brush and understory vegetation cutting and removal within the EC Environmental Corridor District shall require a Zoning Permit, in accordance with Section 3.03 of this Ordinance, prior to said activities commencing, with the following exceptions:

The cutting or removal of four (4) or fewer dead, dying or diseased trees from a single property within a one-year time period, the removal of invasive species, or the removal of vegetation necessitated by extension of utilities to public or private property shall not require a Zoning Permit. In addition, 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) Tree and vegetation cutting or removal is regulated in order to protect natural beauty and wildlife habitat and to prevent erosion. Except for those activities conducted in accordance with the provisions of Section 6.75(3) above, tree and vegetation cutting and removal 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. 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 6.7 was amended by Enrolled Ordinance 169-46, effective 09-09-2014.)

(Section 6.75(2)(B) was amended by Enrolled Ordinance 170-72, effective 12-31-15.)

SECTION 6.8 EC ENVIRONMENTAL CORRIDOR OVERLAY DISTRICT

All parameters and requirements of Section 6.7 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 6.19(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 6.8 was created by Enrolled Ordinance 170-72, effective 12-31-15.)

SECTION 7 A-1 AGRICULTURAL DISTRICT

7.01 **Permitted Uses**

(1) Any use permitted in the HG High Groundwater District.

(2) Single-family Dwelling.

(3) General farming on not less than five (5) acres of land, including the keeping of Poultry and Livestock, except that the keeping of hogs, male goats or Fur-bearing Animals shall not be permitted on less than twenty (20) acres. The Zoning Administrator, upon recommendation of the Town Plan Commission, may grant a waiver for the cultivation of lands on parcels smaller than five (5) acres if a determination is made that said use will not negatively affect surrounding property owners.

(4) Horticulture, including greenhouses and nurseries.

(5) The following Accessory Buildings, subject to the conditions specified:

(A) Private Garages when located on the same lot, and not involving the conduct of a business. No Garage shall be erected until its Principal Building is present or under construction.

(B) Quarters for household or farm employees, provided, however, that such quarters shall be occupied only by those individuals employed by the Farm or household.

(C) 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 percent (20%) of the Floor Area of the dwelling.

(C) Such Home Occupation shall not employ more than one (1) person not a resident on such Lot.

(D) Adequate off-street parking facilities are provided adjacent to the Building housing such occupation or office.

(E) Such Permitted Use shall not include the conduct of any retail or wholesale business on the premises, nor the removal of sand, gravel or stone for commercial purposes.

(F) Such use shall not include the use of any machinery, tools or appliances which can reasonably be construed as creating a nuisance to 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 3.08(7)(KK) of this Ordinance.

(7) Signs pertaining to the lease or sale of a Building or land provided such Signs do not exceed twenty (20) square feet in area. Signs displaying the name of the owner or occupant and trespass warning signs are permitted provided they are no greater than six (6) square feet in area.

(8) (Repealed by Enrolled Ordinance 159-69, effective 1-17-05.)

(9) 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 19 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.

(Section 7.01(A) was amended by Enrolled Ordinance 170-72, effective 12-31-15.)
(Section 7.01(H) was repealed by Enrolled Ordinance 159-69, effective 1-17-05.)
(Sections 7.01(C) and 7.01(E)4 were amended by Enrolled Ordinance 161-13, effective 09/04/06.)
(Section 7.01(C) was amended by Enrolled Ordinance 170-72, effective 12-31-15.)
(Section 7.01(I) was amended by Enrolled Ordinance 162-48, effective 10-9-07.)

7.02 **Building location**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Twenty (20) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(3) apply.

7.03 **Height regulations:** The regulations and exceptions of Section 3.10 apply.

7.04 **Area regulations**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. 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 3.11 apply.

(2) Lot size:

(A) Minimum area: Three (3) acres.

(B) Minimum average width: Two hundred (200) feet.

SECTION 7a A-la AGRICULTURAL DISTRICT

7a.01 **Use regulations**

Permitted Uses: Any use as permitted and regulated in A-1 District.

7a.02 **Building location**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

.

(3) Offset:

(A) Twenty (20) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(3) apply.

7a.03. **Height regulations:** The regulations and exceptions of Section 3.10 apply.

7a.04 **Area regulations**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. Total: Eleven hundred (1,100) square feet.

(B) Maximum Building Footprint permitted: Ten percent (10%), or eleven (1,100) square feet, whichever is greater.

(C) Additional regulations and exceptions from Section 3.11 apply.

(2) Lot size:

(A) Minimum area: One (1) acre.

(B) Minimum average width: One hundred fifty (150) feet.

SECTION 7b HG HIGH GROUNDWATER DISTRICT

7b.01 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.

7b.02 Use regulations: Permitted Uses

(1) Any uses and Structures permitted in the C-1 Conservancy District and, if located in a Wetland, the provisions of Section 5 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 upon lands not suited due to soil limitations.

(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 3.03(6) of this Ordinance.

(5) Roadside Stands as outlined in Section 6.14(B)(5) of this Ordinance.

(6) Signs not to exceed forty (40) feet in area displaying the name of the Farm or farm organization.

7b.03 **Conditional uses**

Conditional uses as provided in Section 3.08(7)(A), (AA), (D), (G), (K), (Q), (R), (W), (X), (Z).

7b.04 **Building location**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) 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 3.09(3) apply.

7b.05 **Height regulations**

(1) Principal Building: The regulations and exceptions of Section 3.10(1) apply.

(2) Accessory Building: Twenty (20) feet maximum.

(3) Additional regulations and exceptions from Section 3.10 apply.

7b.06 **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 percent (10%), or eleven hundred (1,100) square feet, whichever is greater.

(3) Minimum parcel size: 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 3.11 apply.

7b.07 **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 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 7b was created by Enrolled Ordinance 170-72, effective 12-31-15.)

SECTION 8 A-2 RURAL HOME DISTRICT

8.01 **Use regulations**

(1) Permitted Uses:

(A) 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. There shall be no more than one (1) head of Livestock or twenty (20) Poultry for the first three (3) acres of land. There may be one (1) 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 nonconforming use as regulated in Section 3.17(2)(B) of this Ordinance.

(B) Nurseries and greenhouses for the private and exclusive use of the dwelling occupant are permitted.

(Section 8.01(1)(A) was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

8.02 **Building location**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Thirty (30) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(3) apply.

8.03 **Height regulations**: The regulations and exceptions of Section 3.10 apply.

8.04 **Area regulations**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. 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 3.11 apply.

(2) Lot size:

(A) Minimum area: Three (3) acres.

(B) Minimum average width: Two hundred (200) feet.

SECTION 8a A-3 SUBURBAN ESTATE DISTRICT

8a.01 **Use Regulations – Permitted Uses**

Any use as permitted in the A-2 Rural Home District.

(Section 8a.01 was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

8a.02 **Building location**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Twenty-five (25) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(3) apply.

8a.03 **Height regulations:** The regulations and exceptions of Section 3.10 apply.

8a.04 **Area regulations**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. 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 3.11 apply.

(2) Lot size:

(A) Minimum area: Two (2) acres.

(B) Minimum average width: One hundred seventy-five (175) feet.

SECTION 8b RRD-5 RURAL RESIDENTIAL DENSITY DISTRICT 5

8b.01 General Regulations

(1) Purpose and intent: The purpose of this five (5) -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) 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".

(2) 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:

(A) 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.

(B) 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.

(C) The preserved lands shall be retained in one of the following manners:

1. 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.

2. 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.

3. 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.

(D) On a parcel which is zoned RRD-5, the development density shall not exceed five (5) acres for each dwelling unit.

(E) 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.

(F) 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.

(G) 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.

(3) Use Regulations: Permitted Uses:

(A) Residential:

1. Single-family uses.

2. Duplexes pursuant to issuance of a conditional use permit as required by Section 3.08(7)(N) and compliance with the minimum Floor Area and Building Footprint requirements contained herein.

(B) Agricultural or Farm Uses on parcels having a minimum of five (5) acres, except on parcels having less than five (5) acres one (1) 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.

(C) 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.

(D) Signs:

1. Sign not to exceed twelve (12) square feet in area displaying the name of the Farm or farm organization.

2. Subdivision signs in accordance with the sign provisions of this Ordinance.

(E) 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 3.03(6) of this Ordinance.

(F) Roadside Stands subject to the following:

1. Off-street parking for a minimum of five (5) vehicles must be provided.

2. 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.

(G) Home Occupation and Professional Offices as regulated herein.

(H) Hobby Kennels as regulated in Section 7.01(9).

(Sections 8b.01(1), (2)(B), (2)(G), (3)(1)(G) and (3)(1)(H) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

(Section 8b.01(1) was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

(Section 8b.01(1) was amended by Enrolled Ordinance 171-xx, effective 05/xx/16.)

(Section 8b.01(2)(B) was amended by Enrolled Ordinance 170-72, effective 12/31/15.)
(Section 8b.01(2)(G) was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

8b.02 **Building Location**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Twenty (20) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(3) apply.

8b.03 **Height Regulations:** The regulations and exceptions of Section 3.10 apply.

8b.04 **Area Regulations**

(1) Floor Area and Building Footprint:

(A) Minimum required Floor Area for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. 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 3.11 apply.

(2) Lot size:

(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 8b.04(4)(B)1 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

(Section 8b.04(4)(B)1 was amended by Enrolled Ordinance 170-72, effective 12/31/15.)

SECTION 9 R-1 RESIDENTIAL DISTRICT

9.01 Use regulations

(1) Permitted Uses:

(A) Any use as permitted in the A-2 Rural Home District.

(B) 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.

(Section 9.01(1)(A) was amended by Enrolled Ordinance 161-13, effective 09/04/06.)

9.02 Building location

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Twenty (20) feet minimum, unsewered.

(B) Fourteen (14) feet minimum, sewered.

(C) Additional regulations and exceptions from Section 3.09(3) apply.

9.03 **Height regulations:** The regulations and exceptions of Section 3.10 apply**.**

(Section 9.03 was amended by Enrolled Ordinance 160-03, effective 05/13/05.)

9.04 **Area regulations**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. 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 3.11 apply.

(2) Lot size:

(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.

(Section 9.04(1)(B) was amended by Enrolled Ordinance 169-46, effective 09/09/14.)

SECTION 9a R-1a RESIDENTIAL DISTRICT

9a.01 **Use regulations**

Any use as permitted and regulated in the R-1 District.

9a.02 **Building location.**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Twenty (20) feet minimum, unsewered.

(B) Fourteen (14) feet minimum, sewered.

(C) Additional regulations and exceptions from Section 3.09(3) apply.

9a.03 **Height regulations:** The regulations and exceptions of Section 3.10 apply.

(Section 9a.03 was amended by Enrolled Ordinance 160-03, effective 05/13/05.)

9a.04 **Area regulations.**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. 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) Section 3.11 for additional regulations and exceptions.

(2) Lot size:

(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.

(Section 9a.04(1)(B) was amended by Enrolled Ordinance 169-46, effective 09/09/2014.)

SECTION 10 R-2 RESIDENTIAL DISTRICT

10.01 **Use regulations.**

Permitted Uses: Any use as permitted in the R-1 Residential District.

10.02 **Building location.**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions for setbacks when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Twenty (20) feet minimum, unsewered.

(B) Fourteen (14) feet minimum, sewered.

(C) Additional regulations and exceptions from Section 3.09(3) apply.

10.03 **Height regulations:** The regulations and exceptions of Section 3.10 apply.

(Section 10.03 was amended by Enrolled Ordinance 160-03, effective 05/13/05.)

10.04 **Area regulations.**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. 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 3.11 apply.

(2) Lot size:

(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 11 R-3 RESIDENTIAL DISTRICT

11.01 **Use regulations.**

(1) Permitted Uses:

(A) Any use as permitted in the R-2 Residential District.

(B) Multiple family dwellings, pursuant to Section 3.08(7)(N).

11.02 **Building location.**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Section 3.09(2) for additional regulations and exceptions.

(3) Offset:

(A) Twenty (20) feet minimum, unsewered.

(B) Fourteen (14) feet minimum, sewered.

(C) Additional regulations and exceptions from Section 3.09(3) apply.

11.03 **Height regulations:** The regulations and exceptions of Section 3.10 apply.

(Section 11.03 was amended by Enrolled Ordinance 160-03, effective 05/13/05.)

11.04 **Area regulations.**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. 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 3.11 apply.

(2) Lot size:

(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 12 P-I PUBLIC AND INSTITUTIONAL DISTRICT

12.01 **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 3.08(7)(Q) and 3.08(7)(U). Group homes as regulated by Statute, shall not be included as they are either allowed in other Districts or regulated pursuant to Section 3.08.

12.02 **Permitted Uses.**

The following uses are permitted by right subject to review and approval of the Site Plan and Plan of Operation by the plan commission and the 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 plan commission and zoning administrator.

(Section 12.02 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

12.03 **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 12.02 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 to the extent associated with an otherwise Permitted Use, retail fruit and vegetable stands.

(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 3.12.

(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.

(Section 12.03 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

12.04 **Building Location:**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Principal Building -Fifty (50) feet minimum.

(B) Accessory Building - Thirty (30) feet minimum.

(C) Additional regulations and exceptions from Section 3.09(3) apply.

(Section 12.04 was amended by Enrolled Ordinance 167-24, Section 1, effective 07-24-2012.)

12.05 **Height Regulations.**

(1) Principal Buildings: The regulations and exceptions of Section 3.10(1) 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 each apparatus' availability from the community providing the 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).

(2) Farm Buildings – Sixty (60) feet maximum.

(3) Accessory Buildings – Twenty (20) feet maximum.

(4) Additional regulations and exceptions from Section 3.10 apply.

(Section 12.05 was amended by Enrolled Ordinance 167-24, Section 2, effective 07-24-2012.)

12.06 **Area Regulations.**

No minimum required. The use will dictate the size of the parcel. However, no more than sixty percent (60%) of the subject parcel shall be of Impervious Surfaces, consisting of roof tops, paved or gravel surface parking or service areas, and forty percent (40%) of the subject parcel shall be in vegetative cover or tillable soil.

SECTION 13 B-1 RESTRICTED BUSINESS DISTRICT

13.01 **Use regulations.**

(1) Permitted Uses:

(A) Any use as permitted in the R-3 Residential District.

(B) 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.

1. Boarding or Lodging Houses.
2. Delicatessen.
3. Florist shop.
4. Funeral home.
5. Gift shop.
6. Interior decorator.
7. Professional Office or studio.
8. Tea room or Restaurant provided no liquor is served.
9. Tourist Home.
10. Any similar use subject to the approval of the plan commission and zoning administrator.

(C) Signs, subject to the following conditions:

1. No Sign shall exceed twelve (12) square feet in area.

2. No free standing Sign shall exceed ten (10) feet in height from the ground, and no Sign attached to a building shall project above an eave, cornice, or top parapet line of said building.

3. Only one (1) Sign shall be permitted for any such Permitted Use.

4. No Sign shall include illuminating devices or be constructed of illuminated material, or be specifically illuminated, except by properly shielded cover 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.

(Section 13.01(1)(B) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

13.02 **Building location.**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Twenty (20) feet minimum, unsewered.

(B) Fourteen (14) feet minimum, sewered.

(C) Additional regulations and exceptions from Section 3.09(3) apply.

13.03 **Height regulations:** The regulations and exceptions of Section 3.10 apply.

13.04 **Area regulations.**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. Total: Eleven hundred (1,100) square feet.

(B) Maximum Building Footprint permitted: Twenty percent (20%), or eleven hundred (1,100) square feet, whichever is greater.

(C) Additional regulations and exceptions from Section 3.11 apply.

(2) Lot size:

(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 14 B-2 LOCAL BUSINESS DISTRICT

14.01 **Use regulations.**

(1) Permitted Uses:

(A) Any use as permitted in the B-1 Restricted Business District.

(B) 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:

1. Art shop.
2. Appliance store.
3. Bakery (not over ten (10) employees).
4. Barber shop.
5. Beauty shop.
6. Bank or savings and loan office.
7. Clinic.
8. Clothing or dry goods store.
9. Confectionery store.
10. Drug store.
11. Furniture store.
12. Book or stationery store.
13. Fruit and vegetable market.
14. Grocery or other food products store.

15. Hardware store.
16. Ice cream store.
17. Jewelry store.
18. Meat and fish market.
19. Music and radio store.
20. News-stand.
21. Notion or variety shop.
22. Parking lot.
23. Pharmacy.
24. Radio and television sales and repair shop.
25. Photographer.
26. Restaurant.
27. Shoe store.
28. Soda fountain.
29. Tailor or dressmaking shop.
30. Telegraph and telephone office and telephone exchange.
31. Utility company office.
32. Any similar use subject to the approval of the plan commission and zoning administrator.

(C) Garages for storage of vehicles used in conjunction with the operation of the business.

(D) Signs, subject to the following conditions:

1. No Sign shall exceed forty (40) square feet in area.
2. Illuminated Signs shall not exceed twenty (20) square feet.
3. Signs shall be limited to one (1) Sign per store side of building.
4. 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.

(Section 14.01(1)(B) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

14.02 **Building location.**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) 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 3.09(3) apply.

14.03 **Height regulations:** The regulations and exceptions of Section 3.10 apply.

14.04 **Area regulations.**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

(1) First floor: Eight hundred fifty (850) square feet.

(2) Total: Eleven hundred (1,100) square feet.

(B) Maximum Building Footprint permitted: Fifty percent (50%).

(C) Additional regulations and exceptions from Section 3.11 apply.

(2) Lot size:

(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 15 B-3 GENERAL BUSINESS DISTRICT

15.01 **Use regulations.**

(1) Permitted Uses:

(A) 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.

(B) 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:

1. Wholesalers and distributors.
2. Theaters, Dance Halls, Arcades, video game parlors and other amusement places.
3. Used car lots.
4. Dry cleaning and dying establishments.
5. 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.
6. Printing and publishing houses.
7. Dairies and bottling plants.
8. Laundries.
9. Lockers and cold storage plants.
10. A Building, or portion thereof, or a Building designed with self-contained units, which is leased by the owner for storage.
11. Any similar use subject to the approval of the plan commission and zoning administrator.

(C) Signs, billboards and other similar advertising media.

(Section 15.01(1)(B) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

15.02 **Building location.**

(1) Road Setback:

(A) Fifty (50) feet minimum, with the following exceptions when measured from a Local Road:

1. Thirty-five (35) feet minimum if the Lot is part of a subdivision recorded after October 1, 2016.

2. Thirty-five (35) feet minimum if the Lot is served by sewer.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) 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 minimum, sewered.

(C) Additional regulations and exceptions from Section 3.09(3) apply.

15.03 **Height regulations:** The regulations and exception of Section 3.10 apply.

15.04 **Area regulations.**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2 Total: Eleven hundred (1,100) square feet.

(B) Maximum Building Footprint permitted: Fifty percent (50%).

(C) Additional regulations and exceptions from Section 3.11 apply.

(2) Lot size:

(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 15.1 B-4 COMMUNITY BUSINESS DISTRICT

15.11 **Statement of 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 serve the entire community.

15.12 **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.

(Section 15.12 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

15.13 **Permitted Principal Uses.**

(1) Permitted Principal Uses: The following retail establishments, selling of and storing of only new merchandise.

(A) Art, dance, music teaching studios or other similar uses.
(B) Architects, engineers or other Professional Offices.
(C) Bakery goods stores.
(D) Banks, savings and loan association and other financial institutions.
(E) Barber and beauty shops.
(F) Candy, confectionery stores.
(G) Clothing stores.
(H) Delicatessens.
(I) Dentist, physician or other similar professional health offices.
(J) Drugstores.
(K) Dry cleaning pick-up and delivery establishments.
(L) Retail florists.
(M) Fruit stores.
(N) General public bookstores.
(O) Gift stores.
(P) Grocery stores.
(Q) Hardware stores, paint or decorating stores.
(R) Hobby shops.
(S) Meat, fish, or poultry markets.
(T) Optical stores.
(U) Packaged beverage stores.
(V) Photo and film pick-up stores.
(W) Shoe repair shops.
(X) Shoe stores.
(Y) Soda and ice cream stores.
(Z) Sporting goods stores.
(AA) Tobacco stores.
(AB) Variety stores.
(AC) Vegetable stores.
(AD) Video stores.
(AE) Department stores.
(AF) Cafes or Restaurants.

(2) Permitted Accessory Uses:

(A) Garages for storage of licensed vehicles used in conjunction with the operation of a business.

(B) Off-street parking and loading areas.

(3) 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.

(4) 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.

(Sections 15.13(C) and (D) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

15.14 **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 establishments.
(2) Service stations.
(3) Home improvements 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.

(Section 15.14D was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

15.15 **Prohibited Uses.**

(1) Any new residential dwellings.

(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.

15.16 **Height Regulations:** The regulations and exceptions of Section 3.10 apply.

15.17 **Lot Area, 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 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 Structures shall be located not less than fifty (50) feet from any street or highway right-of-way.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(5) Side Yard Setback:

(A) All Structures 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 a Building or future paved driveway access to the rear of a Building.

(B) Additional regulations and exceptions from Section 3.09(3) apply.

(6) Rear Yard Setback:

(A) All Structures shall have a minimum Offset of twenty-five (25) feet.

(B) Additional regulations and exceptions from Section 3.09(3) apply.

(7) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(8) Floor Area: Initial construction proposed on each Lot shall be a minimum of five thousand (5,000) square feet.

(9) Building Footprint:

(A) Maximum of thirty percent (30%), unsewered.

(B) Maximum of fifty percent (50%), sewered.

(C) Not more than sixty-five percent (65%), unsewered or seventy percent (70%),

sewered of any Lot shall be covered with Buildings, surfaced pavement, parking, loading areas, or other covering materials which are impervious to surface absorption.

(Sections 15.17(1) and (5) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

SECTION 15.2 BP-MIXED USE BUSINESS PARK DISTRICT.

15.21 Statement of Intent.

(1) This District is to be used as an implementation tool for the municipality's 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.

(Section 15.21B was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

15.22 **Permitted Principal Uses.**

(1) 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.

(A) 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 one thousand (1,000) feet of a state trunk highway except as identified by Section 15.23 of this Ordinance.

(B) Offices for the professions, business and utilities, studios, health care facilities and clinics (not providing for overnight stay).

(C) 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 one thousand (1,000) feet of a state trunk highway.

(D) 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.

(E) Trades or light industrial operations of limited intensity, including manufacturing, assembly, fabrication, and processing operations, warehousing (on parcels greater than three (3) acres), wholesaling, and distribution operations, except as otherwise prohibited.

(2) 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

(A) Garages attached to the principal Structure for storage of vehicles used in conjunction with operation of the business.

(B) 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.

(C) 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.

(D) Bus or taxi shelters or waiting areas.

(Section 15.22 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

15.23 **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 one thousand (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 one thousand (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 one thousand (1,000) feet of a state trunk highway.

(8) Retail uses operated more than sixteen (16) hours per day.

(9) Health care facilities providing for overnight stays.

(10) Commercial vehicle terminals with roadway access to a state trunk highway.

(Section 15.23 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

15.24 **Prohibited Uses.**

(1) Offensive Uses. 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) Specific Prohibited Uses. 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) Junkyards 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, cold

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 or Residences of any kind.

(Section 15.24(1) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

15.25 **Height Regulations:** The regulations and exceptions of Section 3.10 apply.

15.26 **Lot Area, 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 two hundred forty (240) feet (unsewered).

(4) Road Setback:

(A) All Structures 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 3.09(1) apply.

(5) Side Yard Setback:

(A) All Structures 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 a Building or future paved driveway access to the rear of a Building.

(B) Additional regulations and exceptions from Section 3.09(3) apply.

(6) Rear Yard Setback:

(A) All Structures shall have a minimum Offset of twenty-five (25) feet.

(B) Additional regulations and exceptions from Section 3.09(3) apply.

(7) Wetland Setback:

(A) Seventy-five (75) feet minimum setback.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(8) Floor Area: Initial construction proposed on each Lot shall be a minimum of five thousand (5,000) square feet.

(9) Building Footprint and Impervious Surface: Maximum of thirty percent (30%). In addition, no more than sixty-five percent (65%) of any Lot shall be covered with Buildings, surface pavement, parking, loading areas, or other covering materials which are impervious to surface absorption prior to the installation of sanitary sewers. Upon installation of sanitary sewers, the total impervious coverage shall not exceed seventy-five percent (75%) and the Building Footprint shall not exceed fifty percent (50%).

(Sections 15.26(1) and (5) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

15.27 **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:

1. Single-use structure Signs shall not exceed one-half (.5) square foot for each one (1) foot width of the Building.

2. Multi-use structure Signs shall not exceed one-quarter (.25) square foot 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 thirty (30) square feet in area on each sign face. Free standing Signs may not be closer than one hundred fifty (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 15.27(1) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

SECTION 16 Q-1 QUARRYING DISTRICT

16.01 **Use regulations.**

(1) Permitted Uses:

(A) Any use as permitted in the A-1 Agricultural District.

(B) Quarrying, although permitted by right, shall be authorized as a conditional use under Section 3.08 of this Ordinance. By placing a property in this category, it has been determined that the subject area is appropriate for such Quarrying designation and the 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 3.08(7)(S).

(C) The following related operations, where accessory to the permitted quarrying operation, subject to the regulations of Section 3.08(7)(S):

1. The manufacture of concrete building blocks or other similar blocks.

2. Production of ready-mixed concrete.

16.02 **Building location.**

(1) Road Setback:

(A) Quarrying operations: As required by Section 3.08(7)(S).

(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 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Quarrying operations: As required by Section 3.08(7)(S).

(B) Other Permitted Uses: Twenty (20) feet minimum.

(C) Additional regulations and exceptions from Section 3.09(3) apply.

16.03 **Height regulations:** The regulations and exceptions from Section 3.10 apply, except that Buildings associated with quarrying operations are limited to a maximum height of sixty (60) feet.

16.04 **Area regulations.**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) square feet.

2. 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 3.11 apply.

(2) Lot size:

(A) Minimum area: Three (3) acres.

(B) Minimum average width: Two hundred (200) feet.

SECTION 17 M-1 LIMITED INDUSTRIAL DISTRICT

17.01 **Use regulations.**

(1) Permitted Uses:

(A) Any use as permitted in a B-3 General Business or A-1 Agricultural District, except that residential use shall be permitted only in conjunction with or accessory to an otherwise Permitted Use.

(B) 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 18.01(1)(C) or any of the following:

1. Junk yards, as regulated by Section 3.08(7)(V).
2. Drop forges, foundries, refineries, tanneries or any similar use, the normal operation of which causes objectionable noise, odor, dust or smoke.

(Section 17.01(1)(B) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

17.02 **Building location.**

(1) Road Setback:

(A) Fifty (50) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) 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 restrictions shall apply:

1. Buildings or uses permitted in the more restrictive District shall comply with the offset requirements of the more restrictive District.

2. 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 3.09(3) apply.

17.03 **Height regulations.**

(1) Principal Building: Sixty (60) feet maximum. If the Structure is located on a Lot of less than sixty-five (65) feet in width, the provisions of Section 3.10(1) apply.

(2) Accessory Buildings: Sixty (60) feet maximum.

(3) Additional regulations and exceptions from Section 3.10 apply.

17.04 **Area regulations.**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) sq. ft. minimum.

2. Total: Eleven hundred (1,100) sq. ft. minimum.

(B) Maximum Building Footprint permitted: Seventy percent (70%).

(C) Additional regulations and exceptions from Section 3.11 apply.

(2) Lot size:

(A) Minimum area: One (1) acre.

(B) Minimum average width: One hundred fifty (150) feet.

SECTION 18 M-2 GENERAL INDUSTRIAL DISTRICT

18.01 **Use regulations.**

(1) Permitted Uses:

(A) Any use as permitted in the M-1 Limited Industrial District.

(B) Quarrying, subject to the regulations of Section 3.08(7)(S).

(C) 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:

1. Cement, lime, gypsum, or plaster of paris manufacture.
2. Acid manufacture.
3. Manufacture of explosives, but not including the making of small arms ammunition.
4. Storage of explosives, except as incidental to a Permitted Use.
5. Fertilizer manufacture.
6. Offal or dead animal reduction.
7. Glue manufacture, fat rendering or distillation of bones.
8. Stockyards or commercial slaughter of animals.

(Section 18.01(1)(C) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

18.02 **Building location.**

(1) Road Setback:

(A) Fifty (50) feet minimum.

(B) Where the opposite road frontage is in a residential or agricultural district, a one hundred (100) foot minimum Road Setback shall be required.

(C) Additional regulations and exceptions from Section 3.09(1) apply.

(2) Wetland Setback:

(A) Seventy-five (75) feet minimum.

(B) Additional regulations and exceptions from Section 3.09(2) apply.

(3) Offset:

(A) Ten (10) feet minimum, except that where a Lot abuts on a district boundary line of a more restrictive District permitting residential use, the following regulations shall apply:

1. Buildings or uses permitted in the more restrictive District shall comply with the offset requirements of the more restrictive District.

2. Buildings or uses not permitted in the more restrictive District shall provide a one hundred (100) foot minimum Offset from a restricted or local business district and a two hundred (200) foot 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 3.09(3) apply.

18.03 **Height regulations.**

(1) Principal Building: Sixty (60) feet maximum. If the Structure is located on a Lot of less than sixty-five (65) feet in width, the provisions of Section 3.10(1) apply.

(2) Accessory Buildings: Sixty (60) feet maximum.

(3) Additional regulations and exceptions from Section 3.10 apply.

18.04 **Area regulations.**

(1) Floor Area and Building Footprint:

(A) Minimum Floor Area required for Single-family Dwelling:

1. First floor: Eight hundred fifty (850) sq. ft. minimum.

2. Total: Eleven hundred (1,100) sq. ft. minimum.

(B) Maximum Building Footprint permitted: Seventy percent (70%).

(C) Additional regulations and exceptions from Section 3.11 apply.

(2) Lot size:

(A) Minimum area: One (1) acre.

(B) Minimum average width: One hundred fifty (150) feet.

SECTION 19 BOARD OF ADJUSTMENT

19.01 **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.

(1) 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.

(Sections 19.01(1) and (2) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

19.02 **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, or 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 such other rules governing its procedures as are necessary, consistent with this Ordinance.

(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.

19.03 **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 of Section 59.69 Wisconsin Statutes, or of this Ordinance.

(B) To hear and decide Special Exceptions to the terms of this Ordinance upon which such board is required to pass under this Ordinance.

(C) To authorize upon appeal in specific cases such Variances from the terms of this Ordinance as will not be contrary to the public interest, 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.

(2) Additional requirements: In making its determination, the board shall consider whether the proposed Special 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.

(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, 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 the division of a parcel to create additional parcels which are not in conformity with the zoning district regulations in which it is located; or of permitting, without the approval of the county zoning agency, any Building within the base setback area as established by Section 3.09(1) of this Ordinance, or of granting exception to the state plumbing code, or other state, county or local Ordinances.

(5) Required vote: The concurring vote of three (3) 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 ground of every such determination shall be stated.

(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.

(Sections 19.03(1)(A), (4) and (6) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

19.04 **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, together with the proper fee as established under Section 22.01(4) 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. In addition, written notice shall be given to the county zoning administrator, any other 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. At the hearing, any party may appear in person, or by agent or by attorney.

(4) Decision: The decision on any appeal shall be made within fifteen (15) days after completion of the hearing thereon.

(Section 19.04(3) was amended by Enrolled Ordinance 162-48, effective 10-9-07.)

19.05 **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.

SECTION 20 CHANGES AND AMENDMENTS

20.01 **Authority.**

Pursuant to the provisions of Section 59.69 of the Wisconsin Statutes the county board may amend the regulations of this Ordinance or change the District boundaries.

(Section 20.01 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

20.02 **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: Such petition shall be submitted in triplicate directly to the zoning administrator in order that notice of hearings and other processing may be initiated without unnecessary delay. The zoning administrator shall immediately file the original of said petition with the county clerk, who shall present it to the county board at its next meeting for formal referral to the zoning agency for report and recommendation as required by Section 59.69(5) of the Wisconsin Statutes.

(3) Fee: A petition submitted by other than a governmental body or agency shall be accompanied by the proper fee as established under Section 22.01(4) of this Ordinance and payable to the Waukesha County Park and Planning Commission.

(4) Data required: In addition to all information required on the petition form, the petitioner shall supply the following:

(A) A plot map in triplicate accurately drawn to a 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.

(5) Hearing: As soon as practical after receipt of each petition, the zoning agency shall call a public hearing thereon. Notice of the time and place of such hearing shall be given in the manner prescribed under Section 21 of this Ordinance.

(6) Zoning agency action and report: As soon as possible after such public hearing, the county zoning agency shall act on such petition either approving, modifying and approving, or disapproving of the same. If its action is favorable to granting the requested change, or any modification thereof, it shall cause an Ordinance to be drafted effectuating its determination and shall submit such proposed Ordinance directly to the county board with its recommendations. If the county zoning agency, after its public hearing, shall recommend denial of the petition, it shall report its recommendation directly to the county board with its reasons for such action. Proof of publication of the notice of the public hearing held by the county zoning agency and proof of the giving of notice to the town clerk of such hearing shall be attached to either such report.

(7) County board action: Upon receipt of the report of the county zoning agency, the county board may adopt the Ordinance as drafted by such zoning agency or with amendments, or it may refuse to deny the petition for amendment as recommended by the county zoning agency, in which case it shall re-refer the petition to the county zoning agency, with

direction to draft an Ordinance to effectuate the petition, and report the same back to the county board, which may then adopt or reject such Ordinance, or it may re-refer the petition to the county zoning agency for reconsideration including possible further public hearing.

(8) Protest: In case a protest against a proposed amendment is filed with the county clerk at least twenty-four (24) hours prior to the date of the meeting of the county board at which the report of the county zoning agency is to be considered, duly signed and acknowledged by the owners of fifty percent (50%) or more of the area proposed to be altered, or by the owners of at least fifty percent (50%) of the frontage immediately in the rear or along the side boundaries thereof within three hundred (300) feet of the area proposed to be changed, or by the owners of at least fifty percent (50%) of the frontage directly opposite and across a public street, Highway or alley from the area proposed to be altered, action on such Ordinance may be deferred until the county zoning agency shall have had a reasonable opportunity to ascertain and report to the county board as to the authenticity of such ownership statements. Each signer of such protest shall state the amount of area or frontage owned by him, and shall include a description of the lands owned by him. If such statements are found to be true, such Ordinance shall not be adopted except by the affirmative vote of three-fourths (3/4) of the members of the county board present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present, such protest may be disregarded.

(9) Effectuation.

(A) If a town affected by the proposed amendment disapproves of the proposed amendment, the town board of such town may file a certified copy of the resolution adopted by such Board disapproving of the petition with the county zoning agency prior to, at or within ten (10) days after the public hearing. If the town board of the town affected in the case of an Ordinance relating to the location of boundaries of Districts files such a resolution, or the town boards of a majority of the towns affected in the case of all other amendatory Ordinances file such resolutions, the county zoning agency may not recommend approval of the petition without a change but may only recommend approval with change or recommend disapproval.

(B) If any proposed Ordinance amendment makes only the change sought in the petition, and if the petition is not disapproved at or within ten (10) days after the public hearing by the town board of the town affected in the case of an Ordinance relating to the location of district boundaries or by the town boards of a majority of the towns affected in the case of all other amendatory Ordinances, it shall become effective upon passage by the county board. The county clerk shall record in his office the date on which such Ordinance becomes effective and he shall notify the town clerk of all towns affected by such Ordinance of such effective date, and also insert such effective date in the proceedings of the county board. Any other such amendatory Ordinance which would be a change from the change sought in the petition, when so adopted by the county board, shall within seven (7) days thereafter be submitted in duplicate by the county clerk, by registered mail, to the town clerk of each town in which lands affected by such Ordinance are located. If, after forty (40) days from the date of such adoption, a majority of such towns have not filed certified copies of resolutions approving such amendment with the county clerk or, if within a shorter time, a majority of the towns in which the Ordinance is in effect have filed certified copies of resolutions approving the amendment with the county clerk, the amendment shall thereupon be in effect in all the towns affected by the Ordinance. Any such Ordinance relating to the location of boundaries of Districts

shall, within seven (7) days after adoption by the county board, be transmitted by the county clerk by registered mail only to the town clerk of the town in which the lands affected by such change are located and shall become effective forty (40) days after adoption of the Ordinance by the county board unless such town board prior to such date files a certified copy of a resolution disapproving of such Ordinance with the county clerk. If such town board approves the Ordinance prior to the forty (40)day limit, said Ordinance shall become effective upon the filing of the resolution of the town board approving same with the county clerk. The county clerk shall record in his office the date on which such Ordinance becomes effective, and he shall notify the town clerk of all towns affected by such Ordinance of such effective date, and also make such report to the county board, which report shall be printed in the proceedings of the county board.

(Section 20.02(2) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

20.03 **Zoning county-owned lands.**

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(5) 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.

(Section 20.03 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

20.04 **Zoning in annexed areas.**

(1) Removal from map: When any lands previously under the jurisdiction of a county zoning Ordinance shall have been finally removed from such jurisdiction by reason of annexation to an incorporated municipality, and after the regulations imposed by the county zoning Ordinance have ceased to be effective as provided in Section 59.69(7) 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 (5)(a) to (e), Wisconsin Statutes, and such amendatory Ordinances shall become effective upon passage and publication. A copy of such Ordinance shall be forwarded by the county clerk to the clerk of each town in which the lands affected were previously located. Nothing in this paragraph shall be construed to nullify or supersede the provisions of Section 80.64 of the Wisconsin Statutes.

(2) Continued effect of Ordinance: Whenever any area which has been subject to a county zoning Ordinance petitions to become a part of a village or city, the regulations imposed by such county zoning Ordinance shall continue in effect, without change, and shall be enforced by such village or city until such regulations have been changed by official action of the governing body of such village or city, except that in the event an Ordinance of annexation is contested in the courts, the county zoning shall prevail and the county shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(Section 20.04 (1) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

SECTION 21 PUBLIC HEARINGS

21.01 **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.

21.02 **Procedure.**

(1) Posting and publishing:

(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. The failure of such notice to reach any property owner provided such failure be not intentional, shall not invalidate any amending Ordinance or grant 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.

(2) Joint hearing: When the hearing involves a proposed change in the zoning district classification of any property, 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. Within thirty (30) days after the hearing, the Plan Commission shall transmit its recommendation on the proposed change to the County Zoning Administrator. Approval by the Town Board in such zoning amendments is not required and disapproval by such Town Board is advisory only.

(Sections 21.02(1)(B) and (C) were amended by Enrolled Ordinance 162-48, effective 10-09-07.)

SECTION 22 GENERAL ADMINISTRATION

22.01 **Zoning agency**

(1) Park and planning commission designated: The Waukesha County Park and Planning Commission is hereby designated as the 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.

(Sections 22.01(1) and (4) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

22.02 **Zoning administrator.**

(1) Designation: The Director of the Waukesha County Parks and Land Use Department 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 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) Issue the necessary zoning and occupancy and use permits, provided the provisions of this Ordinance and of any applicable building code have been complied with, and make or cause to be made the necessary inspections.

(B) Keep an accurate record of all zoning and occupancy and use permits issued.

(C) Keep accurate records and maps of the zoning Ordinance and any amendments or changes thereto.

(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 the town building inspector as 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 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 inspections as provided in Section 3.03(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.

(Sections 22.02(1) and (5) were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

22.03 **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 two hundred dollars ($200.00) 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 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.

(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 the 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:

1. The name and address of the alleged violator.
2. The factual allegations describing the alleged violation.
3. The time and place of the offense.
4. The Section of the Ordinance violated.
5. A designation of the offense in such a manner as can be reasonably understood by a person making a reasonable effort to do so.
6. The time at which the alleged violator may appear in court.
7. 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.

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

9. 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.

(Section 22.03(4) was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

SECTION 23 VALIDITY

23.01 **Repeal of conflicting Ordinances.**

All other Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

23.02 **Declaration of severability.**

The several Sections, subsections and paragraphs of this Ordinance are hereby declared to be severable. If any Section, subsection, or paragraph or subparagraph of this Ordinance shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of the Ordinance, or of the Section of which the invalid portion or paragraph may be a part.

23.03 **Effective date.**

Following passage and publication by the county board, this Ordinance shall be in full force and effect in each town upon filing with the county clerk a certified copy of a resolution by the town board approving said Ordinance pursuant to Section 59.69(5)(c) of the Wisconsin Statutes and attached to a copy of the Ordinance as submitted to the town board.

(Section 23.03 was amended by Enrolled Ordinance 159-69, effective 1-17-05.)

23.04 **Adoption.**

Passed and approved by the Board of Supervisors of Waukesha County, Wisconsin, this 26th day of February, 1959.

23.05 **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 make changes to the numbering sequence, lettering, organization, formatting, or capitalization of words of an enrolled ordinances or these Code Sections, as needed to create a consecutive sequence, an orderly format, and to be consistent with other code Sections.

(Section 23.05 was created by Enrolled Ordinance 159-69, effective 1-17-05.)

Editor's Note regarding comprehensive text amendments:

The Waukesha County Basic Zoning Ordinance was originally adopted on June 7, 1946 and was revised February 26, 1959. The ordinance has been subsequently amended, the most recent comprehensive text amendments being Enrolled Ordinance 159-69, effective January 17, 2005, Enrolled Ordinance 160-03, effective May 13, 2005, and Enrolled Ordinance 161-13, effective September 4, 2006.

Prior to July 23, 2015, this ordinance was effective in the Towns of Genesee, Oconomowoc, Ottawa and Vernon. Through Enrolled Ordinance 170-25, effective July 23, 2015, this ordinance is no longer effective in the Town of Genesee.