

Chapter 65 - RENEWABLE ENERGY

Footnotes:

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Editor's note— Ord. No. 559-06/09, pt. I, adopted June 9, 2009, amended the Code by creating the designation of Chapter 65.

ARTICLE I. - WIND ENERGY SYSTEMS

Footnotes:

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Editor's note— Ord. No. 829-01/14, pt. I, amended the Code by repealing former art. I, §§ 65-1—65-18, and adding a new art. I. Former art. I pertained to large wind energy systems, and derived from Ord. No. 559-06/09, adopted June 9, 2009.

DIVISION 1. - GENERAL

Sec. 65-1. - Title.

This article may be referred to as the "Wind Energy System Ordinance for both Large and Small Wind Energy Systems."

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-2. - Authority.

This article is adopted pursuant to authority granted by Wis. Admin. Code PSC 128 and Wis. Stats. §§ 66.0401, 66.0403, 59.69, 59.692, 59.694 and 87.30. Walworth County may not place any restriction, either directly or in effect, on the installation or use of a wind energy system except those that comply with and is not more restrictive than Wis. Admin. Code PSC 128 and Wis. Stats. § 66.0401.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-3. - Purpose.

The purpose of this article is to incorporate requirements of Wis. Stats. § 66.0401 and Wis. Admin. Code Ch. PSC 128 and any applicable amendments thereto, as a local ordinance and to establish local regulations on the installation and use of large and small wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission and that serve to preserve or protect the public health or safety, do not significantly

increase the cost of the system or significantly decrease wind energy system efficiency, or allow for an alternative system of comparable cost and efficiency.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-4. - Applicability.

- (1) This article applies to all lands within the boundaries of the County lying outside the limits of incorporated cities and villages.
- (2) This article does not apply to any of the following:
 - a. A wind energy system for which construction began before March 1, 2011.
 - b. A wind energy system placed in operation before March 1, 2011.
 - c. A wind energy system approved by a Walworth County before March 1, 2011.
 - d. A wind energy system proposed by an owner in an application filed with a Walworth County before the March 1, 2011. Notwithstanding par. 4 if an owner withdraws an application for a proposed wind energy system that is filed with Walworth County before March 1, 2011, this article applies to the wind energy system if the owner re-files the application with the County on or after March 1, 2011.
- (3) COMMISSION APPLICATIONS. The Commission shall consider whether the installation or use of a wind energy system is consistent with the standards specified in this article when reviewing an application under Wis. Stats. § 196.491(3)(d), filed on or after March 1, 2011.
- (4) INDIVIDUAL CONSIDERATION. Nothing in this article shall preclude the Commission from giving individual consideration to exceptional or unusual situations and applying requirements to an individual wind energy system that may be lesser, greater, or different from those provided in this article.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-5. - Abrogation.

It is not intended by this article to repeal, abrogate, annul, impair, or interfere with any existing ordinance.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-6. - Severability.

The provisions of this article are severable, and the invalidity of any section, subdivision, paragraph, or other part of this article shall not affect the validity or effectiveness of the remainder of the article.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-7. - Warning and disclaimer of liability.

This article shall not create a duty or liability on the part of or a cause of action against the County, its officers or employees thereof, for any damages that may result from administration of or reliance on this article.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-8. - Definitions.

In this article:

- (1) "Commercial communications" includes communications used by government and military entities for emergency purposes, licensed amateur radio service, and non-emergency communications used by agricultural, business, government, and military entities including aviation radar, commercial mobile radio service, fixed wireless service, global positioning, line-of-sight, microwave, personal communications service, weather radar, and wireless internet service.
- (2) "Commission" means the Public Service Commission.
- (3) "Decommissioning" means removal of all of the following:
 - a. The above ground portion of a wind energy system, including wind turbines and related facilities, except for access roads if removal has been waived by the property owner.
 - b. All below ground facilities, except the following:
 1. Underground collector circuit facilities.
 2. Those portions of concrete structures four feet or more below grade.
- (4) "DNR" means the Wisconsin department of natural resources.
- (5) "Maximum blade tip height" means the nominal hub height plus the nominal blade length of a wind turbine, as listed in the wind turbine specifications provided by the wind turbine manufacturer. If not listed in the wind turbine specifications, "maximum blade tip height" means the actual hub height plus the blade length.
- (6) "Nameplate capacity" means the nominal generating capacity of a wind energy system, as listed in the wind turbine specifications provided by the wind turbine manufacturer.
- (7) "Nonparticipating property" means real property that is not a participating property.
- (8) "Nonparticipating residence" means a residence located on nonparticipating property.

- (9) "Occupied community building" means a school, church or similar place of worship, daycare facility or public library.
- (10) "Owner" means:
- a. A person with a direct ownership interest in a wind energy system, regardless of whether the person was involved in acquiring the necessary rights, permits and approvals or otherwise planning for the construction and operation of a wind energy system.
 - b. At the time a wind energy system is being developed, a person who is acting as a wind energy system developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a wind energy system, regardless of whether the person will own or operate the wind energy system.
- (11) "Participating property" means any of the following:
- a. A turbine host property.
 - b. Real property that is the subject of an agreement that does all of the following:
 1. Provides for the payment of monetary compensation to the landowner from an owner regardless of whether any part of a wind energy system is constructed on the property.
 2. Specifies in writing any waiver of a requirement or right under PSC 128 and that the landowner's acceptance of payment establishes the landowner's property as a participating property.
- (12) "Participating residence" means a residence located on participating property.
- (13) "Personal communications" includes wireless telecommunications, personal communications service, radio, television, wireless internet service, and other systems used for personal use purposes.
- (14) "Political subdivision" has the meaning Walworth County.
- (15) "Residence" means an occupied primary or secondary personal residence including a manufactured home as defined in Wis. Stats. § 101.91(2), a hospital, community-based residential facility, residential care apartment complex or similar facility, or a nursing home. "Residence" includes a temporarily unoccupied primary or secondary personal residence. "Residence" does not include any of the following:
- a. A recreational vehicle as defined in Wis. Stats. § 340.01(48r), notwithstanding the length of the vehicle.
 - b. A camping trailer as defined in Wis. Stats. § 340.01 (6m).
 - c. A permanently abandoned personal residence.

- (16) "Shadow flicker" means a pattern of moving shadows cast on a residence or an occupied community building caused by sunlight shining through moving wind turbine blades resulting in alternating changes in light intensity.
- (17) "Small wind energy system" means a wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.
- (18) "Turbine host property" means real property on which at least one wind turbine is located.
- (19) "Wind access easement" means a written document that creates a legal interest in real property that restricts the use of the property to avoid interference with the wind resource on another property.
- (20) "Wind energy system" means equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy Wis. Stats. § 66.0403(1)(m), and is used to convert wind energy to electrical energy.
- (21) "Wind energy system easement" means a written document that creates a legal interest in real property that permits an owner to place, construct or operate a wind turbine or other wind energy system facility on the property.
- (22) "Wind energy system emergency" means a condition or situation at a wind energy system that presents a significant threat of physical danger to human life or a significant threat to property or a natural event that causes damage to wind energy system facilities.
- (23) "Wind energy system facility" means any component of a wind energy system, such as a wind turbine, collector circuit, access road, electric system interconnection facility or operation and maintenance facility.
- (24) "Wind energy system lease" means a written agreement between a landowner and an owner that establishes the terms and conditions associated with the placement, construction or operation of a wind turbine or other wind energy system facility on a landowner's property.
- (25) "Administrator" means the Zoning Administrator of Walworth County or his/her designee defined pursuant to Chapter 74.
- (26) "Blade canopy" means a circle around the tower which the radius is equal to the length of a single blade.
- (27) "Committee" means the Walworth County Zoning Agency (CZA).
- (28) "Department" means the Walworth County Land Use and Resource Management Department (LURM).
- (29) "Met tower" means a tower, including an anchor, base, base plate, boom, cable, electrical or electronic equipment, guy wire, hardware, indicator, instrument, telemetry device, vane,

or wiring, that is used to collect or transmit meteorological data, including wind speed and wind flow information, in order to monitor or characterize wind resources at a given location.

(30) "Permit" means a wind energy system permit issued by the Walworth County Land Use and Resource Management Department pursuant to this article.

(31) "Chapter 74" means the Walworth County Zoning Ordinance.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-9. - Enforcement.

(1) Walworth County shall be responsible for enforcing its wind energy system ordinance and permit provisions.

- a. This article shall be administered by the County Zoning Administrator.
- b. The Administrator may enter any property for which a conditional use or zoning permit has been issued under this article to conduct an inspection to determine whether the conditions stated in the permit have been met.
- c. The Administrator may issue orders to abate any violation of this article.
- d. The Administrator may issue a citation for any violation of this article.
- e. The Administrator may refer any violation of this article to the corporation counsel for enforcement.
- f. Nothing in this section shall be construed to prevent the County from using any other lawful means to enforce this article.
- g. Any person who fails to comply with any provision of this article, a conditional use permit or a zoning permit issued pursuant to this article shall be subject to citations in accordance with chapter 14 of the Walworth County Code of Ordinances.
- h. The failure of any employee, official, or officer of the County to perform any official duty imposed by this code will not subject the employee, official, or officer to the penalty imposed for violation of this code unless a penalty is specifically provided.

(2) COMMISSION. The Commission shall enforce its rules and orders under this chapter in the manner prescribed in Wis. Stats. § 196.66, or by such other means as provided in the statutes or administrative code.

(Ord. No. 829-01/14, pt. I, 1-14-14)

DIVISION 2. - OWNER REQUIREMENTS

Sec. 65-10. - Permits required.

- (1) A conditional use permit is required for a wind farm system, and for each large wind system that is not included in a conditional use permit issued for a wind farm system. A conditional use permit application must be on a form approved or provided by the County. The owner must provide a site plan, fee, the information specified in Chapter 74 of the County zoning ordinances and the following additional information:
- a. Name, corporate status, address, and telephone number of the person signing the application and certifying that the application is true and correct.
 - b. Name, corporate status, address, and telephone number of the owner.
 - c. Name, corporate status, address, and telephone number of the landowner.
 - d. Legal description of the property and a description of a benchmark on the property, including its elevation expressed in feet and tenths of feet.
 - e. Number, description, and design specifications of each large wind system and met tower, including the manufacturer, model, capacity, blade length, height, lighting, and total height of any large wind system.
 - f. Blueprints or drawings that have been approved by the manufacturer's registered professional engineer showing a cross section, elevation, and diagram for any tower and tower foundation, verifying non-interference with other wind towers, and assuring no signal interference.
 - g. Scale diagram showing proposed location of aboveground and underground electrical wiring, access routes, landscaping, and fencing.
 - h. Statement describing any hazardous materials that will be used on the property and how those materials will be stored.
 - i. Location of any overhead utility lines adjacent to the property within 500 feet.
 - j. Existing buildings and structures within one-half mile of the property, including any church, hospital, public library, residence, and school.
 - k. Any sewer service planning area and incorporated municipal boundary within one-half mile of the property.
 - l. Copy of a certificate of authority and environmental assessment, if applicable, from the State Public Service Commission.
 - m. Statement that each large wind system and met tower will be installed in compliance with manufacturer's specifications, along with a copy of the manufacturer's specifications.

- n. Statement that the owner will construct and operate the large wind system, met tower, or wind farm system in compliance with all applicable local, state, and Federal codes, laws, orders, regulations, and rules.
- (2) A zoning permit is required for the installation of a small wind energy system or a met tower, and the owner must apply for a zoning permit and pay the fee (set by the County Board) for a permitted accessory use. The permit application will be processed following the procedures of Chapter 74. A zoning permit is required for the installation of a met tower, a small wind system, including each small wind system in a conditional use approved wind farm system.
 - (3) A zoning permit application is submitted to the Administrator for a wind tower. The application must be on a form approved or provided by the County and must include the name, address, and telephone number of the person designated by the owner as the contact for operational issues and the investigation of any complaints. The owner must provide a site plan and information as detailed in Chapter 74 and provide the following additional information as part of the permit application:
 - a. A drawing that shows the proposed height, location and distance of the tower from the property lines of the parcel on which it is located;
 - b. Location of any overhead utility lines on or adjacent to the property;
 - c. Description and specifications of the components of the wind energy system, met tower, or both, including the manufacturer, model, capacity, blade length, and total height of any wind energy system; and
 - d. Blueprints or drawings which have been approved by a manufacturers registered professional engineer for any tower and tower foundation.
 - (4) The Administrator will issue a zoning permit for a tower in a wind system or a wind farm system if the application materials show that the proposed tower location meets the requirements of this article and of the conditional use permit issued by the County Zoning Agency.
 - (5) If the application is approved, the Administrator will return one copy of the drawing with an approved copy of the zoning permit and retain the other copy with the original application.
 - (6) If the application is denied, the Administrator will notify the applicant in writing and provide a written statement of the reason why the application was denied. The owner may appeal the Administrator's decision to the Board of Adjustment as provided in Chapter 74
 - (7) The zoning permit card must be conspicuously posted on the premises and visible to the public at all times until construction or installation of the tower is complete.
 - (8) Expiration. A permit expires if the wind energy system or met tower is not installed and functioning within two years from the date the permit is issued.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-10.5. - Development of a wind energy system; notice requirements.

- (1) PRE-APPLICATION NOTICE. At least 90 days before an owner files an application to construct a wind energy system, an owner shall use commercially reasonable methods to provide written notice of the planned wind energy system to all of the following:
 - a. Landowners within one mile of a planned wind turbine host property.
 - b. Political subdivisions within which the wind energy system may be located.
 - c. Emergency first responders and air ambulance service providers serving a political subdivision within which the wind energy system may be located.
 - d. The Wisconsin Department of Transportation.
 - e. The Commission.
 - f. The DNR.
 - g. The Wisconsin Department of Agriculture, Trade and Consumer Protection.
 - h. The Office of the Deputy Undersecretary of the U.S. Department of Defense.
- (2) PRE-APPLICATION NOTICE REQUIREMENTS. The owner shall include all of the following in a notice under sub. (1):
 - a. A complete description of the wind energy system, including the number and size of the planned wind turbines.
 - b. A map showing the planned location of all wind energy system facilities.
 - c. Contact information for the owner.
 - d. A list of all potential permits or approvals the owner anticipates may be necessary for construction of the wind energy system.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-11. - Real property provisions.

- (1) EASEMENT RECORDING REQUIRED. A wind energy system easement or wind access easement shall be recorded under Wis. Stats. ch. 706. A wind energy system easement or wind access easement shall include the term of the easement and a full legal description of the property subject to the easement.
- (2) WIND LEASE AND WAIVER PROVISIONS. A wind energy system lease and any waiver under section 65-14 (5) or section 65-15 (4) shall hold harmless and indemnify the real property owner for all of the following:

- a. Any violation of Federal, State or local law by the owner of the wind energy system.
- b. Any damages or bodily injury caused by the construction, operation or decommissioning of the wind energy system.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-12. - Existing property uses.

- (1) LAND USE AND COMMERCIAL ENTERPRISES. An owner shall make reasonable efforts to ascertain and accommodate any land use or commercial enterprise located on a nonparticipating property within one-half mile of a proposed wind turbine site if the land use or commercial enterprise exists when the owner gives notice under section 65-10(1), or if complete publicly-available plans for construction are on file with a political subdivision within 30 days of the date the owner gives notice under section 65-10(1).
- (2) AGRICULTURAL USE. An owner shall design a wind energy system to reasonably minimize the conversion of land from agricultural use.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-13. - Siting criteria.

- (1) SETBACK DISTANCE AND HEIGHT REQUIREMENTS.
 - a. An owner shall design and construct a wind energy system using the wind turbine setback distances shown in Table 1.

Table 1

Setback Description	Setback Distance
Occupied Community Buildings	The lesser of 1,250 feet or <u>3.1</u> times the maximum blade tip height
Participating Residences	<u>1.1</u> times the maximum blade tip height
Nonparticipating Residences	The lesser of 1,250 feet or <u>3.1</u> times the maximum blade tip height
Participating Property Lines	None

Nonparticipating Property Lines	<u>1.1</u> times the maximum blade tip height
Public Road Right-of-Way	<u>1.1</u> times the maximum blade tip height
Overhead Communication and Electric Transmission or Distribution Lines—Not including utility service lines to individual houses or outbuildings	<u>1.1</u> times the maximum blade tip height
Overhead Utility Service Lines—Lines to individual houses or outbuildings	None

- b. An owner shall measure wind turbine setback distances as a straight line from the vertical centerline of the wind turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable.
- c. An owner shall work with Walworth County and owners of participating and nonparticipating properties to site wind turbines to minimize individual hardships.
- d. The owner of a nonparticipating residence or occupied community building may waive the applicable wind turbine setback distances in Table 1 for those structures to a minimum setback distance of 1.1 times the maximum blade tip height. The owner of a nonparticipating property may waive the applicable wind turbine setback distance in Table 1 from a nonparticipating property line.

(2) POLITICAL SUBDIVISION CRITERIA.

- a. Walworth County may not establish long-term land use planning requirements or practices that preclude the construction of a particular type, or any type, of wind turbine or wind energy system within the County's jurisdiction, except the County may deny an application for approval if the proposed site of the wind energy system is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted, as part of a comprehensive plan, under Wis. Stats. § 66.1001 (2) (b) and (f), before June 2, 2009, or as shown in such maps after December 31, 2015, as part of a comprehensive plan that is updated as required under Wis. Stats. § 66.1001 (2) (i). This subdivision applies to a wind energy system that has a nominal capacity of at least one

megawatt. Wis. Stats. § 66.0401(4)(f)2.

- b. Walworth County may not set height or setback distance limitations for a wind turbine near a public use airport or heliport that are more restrictive than existing airport and airport approach protection provisions under Wis. Stats. §§ 114.135 and 114.136. If no provisions have been established for public use airports or heliports under Wis. Stats. § 114.135 or 114.136, Walworth County may adopt wind turbine height or setback distance provisions that are based on, but not more restrictive than, the Federal Aviation Administration obstruction standards in 14 CFR Part 77.
- c. Walworth County may set height or setback distance limitations for wind turbines near a private heliport at a medical facility used for air ambulance service that are based on, but not more restrictive than, Federal Aviation Administration obstruction standards that apply to public use heliports.
- d. A political subdivision may not set height or setback distance limitations for a wind turbine near a private use airport or heliport except as provided in par. c.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65.14. - Noise criteria.

- (1) DEFINITIONS. In this section, nighttime hours are the hours beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are the hours beginning at 6:00 a.m. and ending at 10:00 p.m. daily.
- (2) PLANNING.
 - a. The noise limits in this section apply at the outside wall of a nonparticipating residence or occupied community building that exists when the owner gives notice under section 65-10 or for which complete publicly-available plans for construction are on file with Walworth County within 30 days of the date on which the owner gives notice under section 65-10.
 - b. An owner shall design the proposed wind energy system to minimize noise at a residence or occupied community building to the extent reasonably practicable.
 - c. An owner shall design a wind energy system to comply with the noise standards in this section under planned operating conditions.
- (3) NOISE LIMITS.
 - a. Except as provided in par. b., subs. (4)b. and (5), an owner shall operate the wind energy system so that the noise attributable to the wind energy system does not exceed 50 dBA during daytime hours and 45 dBA during nighttime hours.
 - b. In the event audible noise due to wind energy system operations contains a steady pure tone, such as a whine, whistle, screech, or hum, the owner shall promptly take corrective

action to permanently eliminate the noise. This paragraph does not apply to sound the wind energy system produces under normal operating conditions.

(4) COMPLIANCE.

- a. If an owner uses sound level measurements to evaluate compliance with this section at a nonparticipating residence or occupied community building, those measurements shall be made as near as possible to the outside wall nearest to the closest wind turbine, or at an alternate wall as specified by the owner of the nonparticipating residence or occupied community building. The owner may take additional measurements to evaluate compliance in addition to those specified by this section.
- b. Upon receipt of a complaint regarding a violation of the noise standards in sub. (3)a, an owner shall test for compliance with the noise limits in sub. (3) a. Walworth County may not require additional testing to show compliance with sub. (3)a if the owner has provided the results of an accurate test conducted within 2 years of the date of the complaint showing that the wind energy system is in compliance with sub. (3)a at the location relating to the complaint.
- c. Methods available for the owner to comply with sub. (3) shall include operational curtailment of one or more wind turbines. Upon receipt of a complaint about a noise under sub. (3)b, the owner shall use operational curtailment to eliminate the noise until the owner permanently corrects the problem.
- d. An owner shall evaluate compliance with sub. (3)a as part of pre- and post-construction noise studies. An owner shall conduct pre- and post-construction noise studies under the most current version of the noise measurement protocol as described in section 65-50(2).

(5) WAIVER. Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the owner of the wind energy system of the requirement to meet any of the noise limits in this section at the affected residence or occupied community building by written contract with the wind energy system owner. Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property, runs with the land until the wind energy system is decommissioned, and shall be recorded under Wis. Stats. ch. 706.

(6) NOTIFICATION.

- a. Before entering into a contract under sub. (5), an owner of a wind energy system shall provide written notice of the requirements of this section to the owner of an affected nonparticipating residence or occupied community building.

- b. Before the initial operation of the wind energy system, an owner of a wind energy system shall provide notice of the requirements of this section to an owner of a nonparticipating residence or occupied community building within one-half mile of a constructed wind turbine that has not entered into a contract under sub. (5).

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-15. - Shadow flicker.

(1) PLANNING.

- a. The shadow flicker requirements in this section apply to a nonparticipating residence or occupied community building that exists when the owner gives notice under section 65-10 or for which complete publicly-available plans for construction are on file with Walworth County within 30 days of the date on which the owner gives notice under section 65-10.
- b. An owner shall design the proposed wind energy system to minimize shadow flicker at a residence or occupied community building to the extent reasonably practicable.
- c. An owner shall use shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by a wind energy system and shall design the wind energy system so that computer modeling indicates that no nonparticipating residence or occupied community building will experience more than 30 hours per year of shadow flicker under planned operating conditions.

- (2) SHADOW FLICKER LIMITS. An owner shall operate the wind energy system in a manner that does not cause more than 30 hours per year of shadow flicker at a nonparticipating residence or occupied community building. If a nonparticipating residence or occupied community building experiences more than 30 hours per year of shadow flicker under the wind energy system's normal operating conditions, the owner shall use operational curtailment to comply with this subsection.

(3) SHADOW FLICKER MITIGATION.

- a. An owner of a wind energy system shall work with an owner of a nonparticipating residence or occupied community building to mitigate the effects of shadow flicker to the extent reasonably practicable.
- b. An owner shall provide reasonable shadow flicker mitigation at the owner's expense for a nonparticipating residence or occupied community building experiencing 20 hours or more per year of shadow flicker.
- c. An owner shall model shadow flicker and a nonparticipating residence or occupied community building is eligible for mitigation if computer modeling shows that shadow flicker at the nonparticipating residence or occupied community building will be 20 hours

or more per year. An owner of a nonparticipating residence or occupied community building is not required to document the actual hours per year of shadow flicker if modeling indicates the nonparticipating residence or occupied community building is eligible for mitigation. A nonparticipating residence or occupied community building that experience 20 hours or more per year of shadow flicker based on records kept by the resident of a nonparticipating residence or the occupant of an occupied community building shall also be eligible for mitigation.

- d. An owner may provide shadow flicker mitigation for any residence or occupied community building in addition to the mitigation required under par. b.
 - e. The requirement under par. b. to mitigate shadow flicker applies when the owner receives a complaint or request for mitigation regarding shadow flicker for an eligible nonparticipating residence or occupied community building. If shadow flicker mitigation is required, the owner of the wind energy system shall allow the owner of the nonparticipating residence or occupied community building to choose a preferred reasonable mitigation technique, including installation of blinds or plantings at the wind energy system owner's expense.
- (4) WAIVER. Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the wind energy system owner of a requirement under sub. (2) or (3)b. at the affected nonparticipating residence or occupied community building by written contract with the wind energy system owner. Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property and runs with the land until the wind energy system is decommissioned, and shall be recorded under Wis. Stats. ch. 706.
- (5) NOTIFICATION.
- a. Before entering into a contract under sub. (4), a wind energy system owner shall provide notice of the requirements of this section to individual owners of an affected nonparticipating residence or occupied community building.
 - b. Before the initial operation of the wind energy system, a wind energy system owner shall provide notice of the requirements of this section to an owner of a nonparticipating residence or occupied community building within one-half mile of a constructed wind turbine that has not entered into a contract under sub. (4).

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-16. - Signal interference.

(1) PLANNING.

- a. Except as provided in sub. (4), the signal interference requirements in this section apply to commercial communications and personal communications in use when the wind energy system begins operation.
- b. An owner shall use reasonable efforts to avoid causing interference with commercial communications and personal communications to the extent practicable.
- c. An owner may not construct wind energy system facilities within existing line-of-sight communication paths that are used by government or military entities to provide services essential to protect public safety. Walworth County may require an owner to provide information showing that wind turbines and other wind energy system facilities will be in compliance with this paragraph.

(2) COMMERCIAL COMMUNICATIONS INTERFERENCE MITIGATION. An owner shall use reasonable and commercially available technology to mitigate interference caused by a wind energy system with commercial communications in use when a wind energy system begins operation. Before implementing mitigation measures, the owner shall consult with affected parties regarding the preferred mitigation solution for commercial communications interference problems. Except as provided in sub. (4), an owner shall mitigate commercial communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier.

(3) PERSONAL COMMUNICATIONS INTERFERENCE MITIGATION.

- a. An owner shall use reasonable and commercially available technology to mitigate interference with personal communications in use when a wind energy system begins operation caused by a wind energy system. Walworth County may require an owner to use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the wind energy system began commercial operation, if a wind energy system is causing the interference and the interference occurs at a location at least one-half mile from a wind turbine.
- b. Before implementing mitigation measures, the owner shall consult with affected parties regarding the preferred mitigation solution for personal communications interference problems. Except as provided in sub. (4), an owner shall mitigate personal communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier.

(4) MITIGATION PROTOCOL. Walworth County may, under a protocol established under section

65-50(2), require an owner to implement a new mitigation solution that becomes commercially available before the wind energy system is decommissioned to address interference for which mitigation is required under sub. (2) or (3) and for which the original mitigation solution implemented is only partially effective.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-17. - Stray voltage.

(1) TESTING REQUIRED.

- a. An owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within one-half mile of a wind energy system facility pursuant to the stray voltage protocol established by the Commission before any wind energy system construction activity that may interfere with testing commences and again after construction of the wind energy system is completed, except as otherwise specified by Commission staff under par. b.
- b. Before any testing under par. a. begins, an owner shall work with Commission staff to determine the manner in which stray voltage testing will be conducted and on which properties. The electric distribution company serving a dairy or confined animal operation where testing is required under par. a. shall conduct or arrange to conduct all required testing at the expense of the owner.

(2) RESULTS OF TESTING. An owner and the electric distribution company shall provide to Commission staff the results of all stray voltage testing in writing.

(3) REQUIREMENT TO RECTIFY PROBLEMS. An owner shall work with the electric distribution company and farm owner to rectify any stray voltage problems attributable to the construction and operation of the wind energy system, in compliance with the Commission's stray voltage protocol.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-18. - Construction and operation.

(1) PHYSICAL CHARACTERISTICS.

- a. An owner may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a wind turbine. An owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a wind turbine. An owner may attach a safety feature or wind monitoring device to a wind turbine.
- b.

An owner shall ensure that a wind turbine has a conventional or unobtrusive finish.

- c. An owner shall install lighting at a wind energy system that complies with standards established by the Federal Aviation Administration. Walworth County may not establish lighting requirements for a wind energy system that conflict with standards established by the Federal Aviation Administration. Walworth County may require use of shielding or control systems approved by the Federal Aviation Administration to reduce visibility of lighting to individuals on the ground.
- d. An owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel.
- e. An owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present.
- f. An owner shall place appropriate warning signage on or at the base of each wind turbine.
- g. An owner shall post and maintain up-to-date signs containing a 24-hour emergency contact telephone number, information identifying the owner, and sufficient information to identify the location of the sign within the wind energy system. An owner shall post these signs at every intersection of a wind energy system access road with a public road and at each wind turbine location.
- h. An owner shall clearly mark guy wires and supports for a wind energy system, meteorological tower or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.

(2) ELECTRICAL STANDARDS.

- a. An owner shall construct, maintain, and operate collector circuit facilities in a manner that complies with the National Electrical Safety Code and ch. PSC 114 and shall construct, maintain, and operate all wind energy system facilities in a manner that complies with the National Electrical Safety Code.
- b. An owner shall construct collector circuit facilities for a wind energy system underground to the extent practicable.
- c. An owner shall establish an inspection schedule for all overhead collector circuits to ensure that third-party facilities, including cable television and telecommunications cables, are not attached or bonded to overhead collector circuit grounding. If third-party facilities are found attached to the overhead collector facilities, the owner shall ensure that the third-party facilities are promptly removed.

(3) CONSTRUCTION, OPERATION, AND MAINTENANCE STANDARDS.

- a. An owner shall construct, operate, repair, maintain and replace wind energy system facilities as needed to keep the wind energy system in good repair and operating condition

and in a manner that protects individuals from injury.

- am. An owner shall minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land during the construction or decommissioning of the wind energy system. Walworth County may establish reasonable requirements designed to minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land.
- b. Except for the area physically occupied by the wind energy system facilities, an owner shall restore the topography, soils and vegetation of the project area to original condition after construction is complete, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements.
- c. An owner shall carry general liability insurance relating to claims for property damage or bodily injury arising from the construction, operation or decommissioning of the wind energy system and shall include turbine host property owners as additional insured persons on the policy.

(4) EMERGENCY PROCEDURES.

- a. An owner shall notify Walworth County of the occurrence and nature of a wind energy system emergency within 24 hours of the wind energy system emergency.
- b. An owner shall establish and maintain liaison with Walworth County and with fire, police, and other appropriate first responders serving the wind energy system to create effective emergency plans that include all of the following:
 - 1. A list of the types of wind energy system emergencies that require notification under par. a.
 - 2. Current emergency contact information for first responders and for the wind energy system owner, including names and phone numbers.
 - 3. Procedures for handling different types of wind energy system emergencies, including written procedures that provide for shutting down the wind energy system or a portion of the system as appropriate.
 - 4. Duties and responsibilities of the owner and of first responders in the event of a wind energy system emergency.
 - 5. An emergency evacuation plan for the area within one-half mile of any wind energy system facility, including the location of alternate landing zones for emergency services aircraft.
- c. The owner shall review the emergency plan at least annually in collaboration with fire, police and other appropriate first responders to update and improve the emergency plan as needed.
- d. The owner shall distribute current copies of the emergency plan to Walworth County

and fire, police and other appropriate first responders as identified by Walworth County.

- e. Walworth County may require the owner to provide annual training for fire, police and other appropriate first responders regarding responding to a wind energy system emergency until the wind energy system has been decommissioned.
- f. An owner of a wind energy system shall do all of the following:
 1. Furnish its operator, supervisors and employees who are responsible for emergency action a copy of the current edition of the emergency procedures established under this subsection to ensure compliance with those procedures.
 2. Train the appropriate operating personnel to ensure they have knowledge of the emergency procedures and verify that the training is effective.
 3. As soon as possible after the end of a wind energy system emergency, review employee activities to determine whether the procedures were effectively followed.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-19. - Decommissioning.

(1) REQUIREMENT TO DECOMMISSION.

- a. An owner of a wind energy system shall decommission and remove the wind energy system when the system is at the end of its useful life.
- b. A wind energy system is presumed to be at the end of its useful life if the wind energy system generates no electricity for a continuous 360-day period. This presumption may be rebutted under par. c.
- c. Upon application by the owner, and except as provided in par. d., Walworth County shall grant an extension of the time period for returning the wind energy system to service by one or more additional 180-day periods if the owner demonstrates it is likely the wind energy system will operate again in the future and any of the following occur:
 1. The owner submits a plan to Walworth County that demonstrates an ongoing good faith effort to return the wind energy system to service and outlines the steps and schedule for returning the wind energy system to service in a reasonable period of time, including by repairing, replacing or repowering the wind energy system facilities as necessary to generate electricity.
 2. The owner demonstrates that the wind energy system is part of a prototype or other demonstration project being used for ongoing research or development purposes.
 3. The owner demonstrates that the wind energy system is being used for educational

purposes.

- d. Walworth County may deny a request for an extension under par. c. if the wind energy system has not generated any electricity for a continuous period of 540 days or more and the political subdivision finds that the owner is not capable of returning the wind energy system to service within a reasonable period of time.
 - e. A wind energy system is irrefutably presumed to be at the end of its useful life if the wind energy system generates no electricity for a period of 540 days and any of the following occur:
 1. The owner does not request an extension of the time period for returning the wind energy system to service under par. c.
 2. The Walworth County denies a request for an extension under par. d. and any appeal rights have expired.
 - f. When decommissioning is required, the owner shall begin decommissioning within 360 days after the wind energy system has reached the end of its useful life. The owner shall complete decommissioning and removal of the wind energy system within 540 days after the wind energy system has reached the end of its useful life.
- (2) DECOMMISSIONING REVIEW. Walworth County may establish a decommissioning review process to determine when a wind energy system has reached the end of its useful life.
- (3) FINANCIAL RESPONSIBILITY.
- a. The owner of a wind energy system with a nameplate capacity of one megawatt or larger shall maintain proof of the owner's ability to fund the actual and necessary cost to decommission the wind energy system and shall ensure the availability of funds necessary for decommissioning throughout the expected life of the wind energy system and through to completion of the decommissioning activities.
 - b. Walworth County may require an owner of a wind energy system with a nameplate capacity of one megawatt or larger to provide financial assurance of the owner's ability to pay for the actual and necessary cost to decommission the wind energy system before commencing major civil construction activities such as blasting or foundation construction at the wind energy system site. An owner may comply with this paragraph by choosing to provide a bond, deposit, escrow account, irrevocable letter of credit, or some combination of these financial assurances, that will ensure the availability of funds necessary for decommissioning throughout the expected life of the wind energy system and through to completion of the decommissioning activities.
 - c. A political subdivision may require an owner to provide the financial assurance under par. b. in an amount up to the estimated actual and necessary cost to decommission the wind

energy system. If Walworth County requires an owner to provide financial assurance under par. b, Walworth County may do any of the following:

1. Require the owner to provide Walworth County with up to three cost estimates of the actual and necessary cost to decommission the wind energy system that are prepared by third parties agreeable to the owner and the County.
 2. Require an owner to establish financial assurance that places Walworth County in a secured position, and that any secured funds may only be used for decommissioning the wind energy system until either the County determines that the wind energy system has been decommissioned under sub. (5)b., or until the County has otherwise approved the release of the secured funds, whichever is earlier.
 3. Require an owner to establish financial assurance that allows Walworth County to access funds for the purpose of decommissioning the wind energy system if the owner does not decommission the wind energy system when decommissioning is required.
- d. If Walworth County requires an owner to provide cost estimates under par. c.1, the County may not require the amount of the financial assurance to exceed the average of the cost estimates provided.
- e. Walworth County may condition its approval of a wind energy system on the owner's compliance with pars. b and c.
- f. During the useful life of a wind energy system, Walworth County may periodically request information from the owner regarding the industry costs for decommissioning the wind energy system. If the County finds that the future anticipated cost to decommission the wind energy system is at least ten percent more or less than the amount of financial assurance previously provided under par. b., the County may correspondingly increase or decrease the amount of financial assurance required for the wind energy system. Walworth County may not adjust the financial assurance under this paragraph more often than once in a five-year period.
- g. Walworth County may require an owner to submit a substitute financial assurance of the owner's choosing under par. b. if an event occurs that raises material concerns regarding the viability of the existing financial assurance.

(4) SITE RESTORATION.

- a. Except as provided in par. b., if a wind energy system was constructed on land owned by a person other than the owner of the wind energy system, the owner of the wind energy system shall ensure that the property is restored to preconstruction condition, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements.

- b. If a wind energy system was constructed on a brownfield, as defined in Wis. Stats. § 238.13(1)(a), the owner shall restore the property to eliminate effects caused by the wind energy system, except for the effects of environmental remediation activities, as defined in Wis. Stats. § 238.13(1)(d).

(5) DECOMMISSIONING COMPLETION.

- a. An owner shall file a notice of decommissioning completion with Walworth County and the Commission when a wind energy system approved by the County has been decommissioned and removed.
- b. Within 360 days of receiving a notice of decommissioning, Walworth County shall determine whether the owner has satisfied the requirements of subs. (1)a. and (4).

(Ord. No. 829-01/14, pt. I, 1-14-14)

DIVISION 3. - POLITICAL SUBDIVISION PROCEDURE

Sec. 65-30. - Application and notice requirements.

- (1) APPLICATION REQUIRED. An owner shall file a conditional use application to construct a wind energy system with the Walworth County Land Use and Resource Management Department (LURM), Zoning Administrator as specified in section 65-10.
- (2) CONTENTS OF AN APPLICATION. An owner shall complete and file with LURM an application that includes all of the following:
 - a. Wind energy system description and maps showing the locations of all proposed wind energy facilities.
 - b. Technical description of wind turbines and wind turbine sites.
 - c. Timeline and process for constructing the wind energy system.
 - d. Information regarding anticipated impact of the wind energy system on local infrastructure.
 - e. Information regarding noise anticipated to be attributable to the wind energy system.
 - f. Information regarding shadow flicker anticipated to be attributable to the wind energy system.
 - g. Information regarding the anticipated effects of the wind energy system on existing land uses within one-half mile of the wind energy system.
 - h. Information regarding the anticipated effects of the wind energy system on airports and airspace.

- i. Information regarding the anticipated effects of the wind energy system on line-of-sight communications.
 - j. A list of all State and Federal permits required to construct and operate the wind energy system.
 - k. Information regarding the planned use and modification of roads within Walworth County during the construction, operation, and decommissioning of the wind energy system, including a process for assessing road damage caused by wind energy system activities and for conducting road repairs at the owner's expense.
 - l. A copy of all emergency plans developed in collaboration with appropriate first responders under section 65-18(4) b. An owner may file plans using confidential filing procedures as necessary.
 - m. A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with section 65-19.
 - n. A representative copy of all notices issued under sub. (5) and sections 65-10(1)a and 128.42(1).
 - o. Any other information necessary to understand the construction, operation or decommissioning of the proposed wind energy system.
- (3) ACCURACY OF INFORMATION. The owner shall ensure that information contained in an application is accurate.
- (4) DUPLICATE COPIES. Walworth County may specify a reasonable number of copies to be filed. Each copy shall include all worksheets, maps, and other attachments included in the application. Walworth County may permit an owner to file an application electronically.
- (5) NOTICE TO PROPERTY OWNERS AND RESIDENTS.
- a. On the same day an owner files an application for a wind energy system, the owner shall, under Wis. Stats. § 66.0401(4)(a)3., use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. The notification shall include all of the following:
 1. A complete description of the wind energy system, including the number and size of the wind turbines.
 2. A map showing the locations of all proposed wind energy system facilities.
 3. The proposed timeline for construction and operation of the wind energy system.
 4. Locations where the application is available for public review.
 5. Owner contact information.

- b. After a political subdivision receives an application for a wind energy system, the notice required to be published by Walworth County under Wis. Stats. § 66.0401(4)(a)1., shall include a brief description of the proposed wind energy system and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the political subdivision, and the approximate schedule for review of the application by Walworth County.

(6) PUBLIC PARTICIPATION.

- a. Walworth County shall make an application for a wind energy system available for public review at a local library and at the Land Use and Resource Management Department (LURM) business office or some other publicly-accessible location. The County may also provide public access to the application electronically.
- b. Walworth County shall establish a process for accepting and considering written public comments on an application for a wind energy system.
- c. Walworth County shall hold at least one public meeting to obtain comments on and to inform the public about a proposed wind energy system.

(7) JOINT APPLICATION REVIEW PROCESS.

- a. If the wind energy system is proposed to be located in more than one political subdivision with jurisdiction over the wind energy system, the County and other political subdivisions involved may conduct a joint application review process on their own motion or upon request. If an owner requests a joint application review, the owner shall include the request in its notice of intent to file an application with Walworth County under section 65-10(1). If the owner requests a joint application review process, Walworth County shall approve or deny this request within 60 days of receipt of the owner's notice of intent to file an application.
- b. Except as provided in Wis. Stats. § 66.0401(4)(a)2., if Walworth County and political subdivisions elect to conduct a joint application review process, the process shall be consistent with this chapter and the political subdivisions shall establish the process within 90 days of the date the political subdivisions receive the owner's notice of intent to file an application. A political subdivision may follow the review process of another political subdivision for purposes of conducting a joint application review process concurrently with the other political subdivision. If a joint application review process is adopted, the owner shall file the joint-review process application with all of the political subdivisions participating in the joint review process.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-31. - Application completeness.

(1) COMPLETE APPLICATIONS.

- a. An application is complete if it meets the filing requirements under sections 65-30(2) and 65-50(1).
- b. Walworth County shall determine the completeness of an application, and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed. An application is considered filed the day the owner notifies Walworth County in writing that all the application materials have been filed. If Walworth County determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
- c. An owner may file a supplement to an application that Walworth County has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in the notice under par. b.
- d. An additional 45-day completeness review period shall begin the day after Walworth County receives responses to all items identified in the notice under par. b.
- e. If Walworth County does not make a completeness determination within the applicable review period, the application is considered to be complete.

(2) REQUESTS FOR ADDITIONAL INFORMATION. Walworth County may request additional information necessary to understand the wind energy system after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-32. - Political subdivision review of a wind energy system.

- (1) APPROVAL BY POLITICAL SUBDIVISION. Except as provided in section 65-2(1), Walworth County may require an owner to obtain approval from the County before constructing any of the following:
 - a. A wind energy system.
 - b. An expansion of an existing or previously-approved wind energy system.
- (2) STANDARD FOR APPROVAL.
 - a. Walworth County may not unreasonably deny an application for a wind energy system or impose unreasonable conditions.

(3) WRITTEN DECISION.

- a. Walworth County shall issue a written decision to grant or deny an application for a wind energy system. The written decision shall include findings of fact supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. Walworth County may make its approval subject to the conditions in section 65-33.
- b. Walworth County shall provide its written decision to the owner and to the Commission. If Walworth County approves an application for a wind energy system, Walworth County shall provide the owner with a duplicate original of the decision.
- c. The owner shall record the duplicate original of a decision approving an application with the Walworth County register of deeds.

(4) EFFECT OF OWNERSHIP CHANGE ON APPROVAL. Approval of a wind energy system by Walworth County shall remain in effect if there is a change in the owner of the wind energy system. Walworth County shall require an owner to provide timely notice of any change in the owner of the wind energy system.

(5) FEES.

- a. Walworth County shall charge an owner a reasonable application fee or require an owner to reimburse the County for reasonable expenses relating to the review and processing of an application for a wind energy system.
- b. The Walworth County's fee or reimbursement requirement under par. a. shall be based on the actual and necessary cost of the review of the wind energy system application, and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts. Walworth County may by ordinance set standardized application fees based on the size and complexity of a proposed wind energy system.
- c. Walworth County may require an owner of a wind energy system to submit up to 50 percent of the total estimated amount of the fee or reimbursement for the wind energy system application under par. a before issuing a written decision under sub. (3)a., if the political subdivision gives written notice to the owner of its intent to do so within ten days of the date the application is deemed complete and the notice contains an estimate of the amount of the fee and the relevant reimbursement requirements.
- d. Walworth County shall not charge an owner an annual fee or other recurring fees to operate or maintain a wind energy system.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-33. - Political subdivision permitted provisions.

Walworth County establishes the following as a condition for approval of an application to construct a wind energy system:

- (1) INFORMATION. Require information about whether an owner has consulted with and received any non-binding recommendations for constructing, operating or decommissioning the wind energy system from a State or Federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the wind energy system.
- (2) STUDIES. Require an owner to cooperate with any study of the effects of wind energy systems coordinated by a State agency.
- (3) MONETARY COMPENSATION. Require an owner of a wind energy system to offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within one-half mile of a constructed wind turbine. For one turbine located within one-half mile of a nonparticipating residence, the initial annual monetary compensation may not exceed \$600.00. For two turbines located within one-half mile of a nonparticipating residence, the initial annual monetary compensation may not exceed \$800.00. For three or more turbines located within one-half mile of a nonparticipating residence, the initial annual monetary compensation may not exceed \$1,000.00. The initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in Wis. Stats. § 196.374(5)(bm)2.b., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under this chapter and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under this article.
- (3m) AERIAL SPRAYING. Require an owner of a wind energy system to offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within one-half mile of a constructed wind turbine if the farm operator demonstrates all of the following:
 - a. Substantial evidence of a history, before the wind energy system owner gives notice under section 65-10(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans or sweet corn on all or part of a farm field located within one-half mile of a constructed wind turbine.
 - b. A material reduction in potato, pea, snap bean or sweet corn production or a material increase in application costs on all or part of a farm field located within one-half mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.

- (4) PERMITS. Require the owner to submit copies of all necessary State and Federal permits and approvals to Walworth County.
- (5) ANNUAL REPORTS. The owner shall file an annual report with Walworth County documenting the operation and maintenance of the wind energy system during the previous calendar year.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-34. - Record of decision.

(1) RECORDKEEPING.

- a. Walworth County shall keep a complete written record of its decision-making relating to an application for a wind energy system.
- b. If Walworth County denies an application, the County shall keep the record for at least seven years following the year in which it issues the decision.
- c. If Walworth County approves an application, the County shall keep the record for at least seven years after the year in which the wind energy system is decommissioned.

(2) RECORD CONTENTS. The record of a decision shall include all of the following:

- a. The approved application and all additions or amendments to the application.
- b. A representative copy of all notices issued under sections 65-10(1)a., 65-30(5), and 65-42(1).
- c. A copy of any notice or correspondence that Walworth County issues related to the application.
- d. A record of any public meeting under section 65-30(6)c. and any hearing related to the application. The record may be an electronic recording, a transcript prepared from an electronic recording, or a transcript prepared by a court reporter or stenographer. The record shall include any documents or evidence submitted by meeting or hearing participants.
- e. Copies of any correspondence or evidentiary material that Walworth County considered in relation to the application, including copies of all written public comments filed under section 65-30(6)b.
- f. Minutes of Walworth County Committee hearing and decision meetings held to consider or act on the application.
- g. A copy of the written decision under section 65-32(3)a.
- h. Other materials that Walworth County prepared to document its decision-making process.
- i. A copy of any ordinance cited in or applicable to the decision.

- (3) POST-CONSTRUCTION FILING REQUIREMENT. Within 90 days of the date a wind energy system commences operation, the owner shall file with Walworth County and the Commission an as-built description of the wind energy system, an accurate map of the wind energy system showing the location of all wind energy system facilities, geographic information system information showing the location of all wind energy system facilities and current information identifying the owner of the wind energy system. An owner shall in the filings under this subsection label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under section 65-18(1)g.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-35. - Modifications to an approved wind energy system.

(1) MATERIAL CHANGE.

- a. An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of Walworth County that authorized the wind energy system, unless the County automatically approves the material change by taking either of the steps specified in section 65-32(2)b.1. or 2.
- b. An owner shall submit an application for a material change to an approved wind energy system to Walworth County that authorized the wind energy system.

(2) REVIEW LIMITED.

- a. Application for a material change to a wind energy system under sub. (1)b. may not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change.
- b. An application for a material change is subject to sections 65-30(1), (3) to (5), (6)a. and b., and (7) and 65-31 to 65-34.
- c. An application for a material change shall contain information necessary to understand the material change.
- d. Walworth County may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved wind energy system.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-36. - Monitoring compliance.

- (1) MONITORING PROCEDURE. Walworth County may establish a procedure to monitor compliance by the owner with any condition on an approved wind energy system or to assess when wind energy system facilities are not maintained in good repair and operating condition.

The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public.

- (2) THIRD-PARTY INSPECTOR DURING CONSTRUCTION. Walworth County may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the County regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a State permitting authority upon the State permitting authority's request.

(Ord. No. 829-01/14, pt. I, 1-14-14)

DIVISION 4. - COMPLAINTS

Sec. 65-40. - Complaint process.

(1) MAKING A COMPLAINT.

- a. An aggrieved person may make a complaint regarding failure by an owner to comply with an obligation under this article.
- b. A complaint under par. a. shall be made first to the owner of the wind energy system pursuant to a complaint resolution process developed by the owner.
- c. A complainant may petition Walworth County for review of a complaint that is not resolved within 45 days of the day the owner receives the original complaint.
- d. Walworth County's decision under par. c. is subject to review under Wis. Stats. § 66.0401(5).

(2) COMPLAINT RESOLUTION.

- a. An owner shall use reasonable efforts to resolve complaints regarding a wind energy system and shall investigate complaints regarding a wind energy system at the owner's expense.
- b. Upon receipt of a complaint, an owner shall provide the complainant with a copy of the notice described in section 65-42(1). Within 30 days of receiving a complaint, an owner shall provide an initial response to the complainant.
- c. An owner shall make a good faith effort to resolve complaints within 45 days of receiving a complaint. An owner shall notify Walworth County of complaints that have not been resolved within 45 days of the date the owner received the original complaint.
- d. An owner shall maintain a log of all complaints received regarding the wind energy system. The owner shall include in the log the name and address of each complainant, the nature of each complaint, and the steps taken to resolve each complaint. An owner shall provide a

copy of a complaint log monthly, at no cost, to Walworth County. An owner shall make any complaint log available to the Commission upon request.

- e. An owner shall develop a complaint resolution process that is consistent with this subsection.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-41. - Monitoring committee.

- (1) MULTIPLE JURISDICTIONS. If a wind energy system is located in more than one political subdivision with jurisdiction over the wind energy system and Walworth County and the other political subdivisions decide to establish a monitoring committee, the political subdivisions shall jointly establish a single monitoring committee to oversee resolution of complaints regarding the wind energy system.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-42. - Notice to property owners and residents.

- (1) NOTICE OF PROCESS FOR MAKING COMPLAINTS. Before construction of a wind energy system begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within one-half mile of any wind energy system facility. An owner shall include in the notice the requirements under section 65-40(1) for submitting a complaint to the owner, a petition for review to Walworth County, and an appeal to the Commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance and decommissioning.
- (2) NOTICE TO POLITICAL SUBDIVISION. An owner shall provide a copy of the notice under sub. (1) to Walworth County and the owner shall keep the contact person and telephone number current and on file with the County.

(Ord. No. 829-01/14, pt. I, 1-14-14)

DIVISION 5. - COMMISSION PROCEDURE

Sec. 65-50. - Standards established by the Commission.

- (1) DETAILED APPLICATION FILING REQUIREMENTS. The Commission shall establish detailed application filing requirements for applications filed for political subdivision review of a wind energy system, which shall contain a detailed description of the information required to satisfy

the filing requirements for applications under section 65-30(2). The Commission may revise these requirements as necessary. The Commission shall make the filing requirements available to the public on the Commission's website.

(2) COMMISSION PROTOCOLS.

- a. The Commission may periodically create and revise measurement, compliance, and testing protocols as needed to provide standards for evaluating compliance with this article. These protocols may be created and revised to reflect current industry practice, changes in the state of the art, and implementation of new technologies. The Commission may make protocols under this subsection available to the public on the Commission's website.
- b. The Commission may establish protocols in any of the following areas:
 1. Noise measurement, compliance and mitigation.
 2. Stray voltage testing and remediation.
 3. Shadow flicker compliance and mitigation.
 4. Communications interference testing and mitigation.
 5. Other areas where protocols are appropriate.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-51. - Commission review.

- (1) APPEALS TO THE COMMISSION. An appeal under Wis. Stats. § 66.0401(5)(b), shall be treated as a petition to open a docket under § PSC 2.07, except the time provisions of that section do not apply.
- (2) PETITIONER FILING REQUIREMENTS. An aggrieved person under Wis. Stats. § 66.0401(5)(a), may file a petition with the Commission. The petition shall be submitted to the Commission in writing or filed using the Commission's electronic filing system and shall contain all of the following:
 - a. The petitioner's name, address, and telephone number.
 - b. The name, address, and telephone number of the political subdivision that is the subject of the petition.
 - c. A description of the wind energy system that is the subject of the petition.
 - d. A description of the petitioner's relationship to the wind energy system.
 - e. The information specified in § PSC 2.07(2).
- (3) POLITICAL SUBDIVISION FILING REQUIREMENTS.
 - a.

Walworth County shall file a certified copy of the information required under Wis. Stats. § 66.0401(5)c, using the Commission's electronic regulatory filing system.

- b. The Commission may require the Walworth County to file up to five paper copies of the record upon which it based its decision.
- c. The Commission may require the Walworth County to file additional information.

(4) SERVICE AND NOTICE.

- a. An owner submitting a petition under sub. (2)(intro.) shall serve a copy of the petition on Walworth County and on any other person specified in § PSC 2.07(3).
- b. Any person other than an owner submitting a petition under sub. (2)(intro.) shall serve a copy of the petition on the owner, Walworth County, and any other person specified in § PSC 2.07(3).
- c. If Walworth County is subject to a petition under sub. (2) the County shall make a copy of the petition available for public inspection and, in the manner in which it is required to publish notice of a public meeting, publish notice of that petition.

(5) COMMISSION HEARING DISCRETIONARY. The Commission may review a petition under this section with or without a hearing.

(6) ENVIRONMENTAL ANALYSIS. A docket opened to review a petition under this section is a Type III action under § PSC 4.10(3).

(7) REMAND TO POLITICAL SUBDIVISION.

- a. Except as provided in par. b., if the Commission remands any issue to Walworth County, the County's review on remand shall be completed in a time frame established by the Commission in its remand order.
- b. If the Commission determines that a Walworth County has not yet reviewed an application that is complete, and the Commission remands the application to Walworth County for review, the County's review shall be completed within the time frame provided for reviewing a complete application under this article and Wis. Stats. § 66.0401(4)(d) and (e), beginning with the day after the day on which the Commission issues its remand order.

(Ord. No. 829-01/14, pt. I, 1-14-14)

ARTICLE II. - SMALL WIND ENERGY SYSTEMS

Footnotes:

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Editor's note— Ord. No. 829-01/14, pt. I, amended the Code by repealing former art. II, §§ 65-21—65-34, and adding a new art. II. Former art. II pertained to small wind energy systems, and derived from Ord. No. 550-05/09, adopted May 12,

2009.

Sec. 65-61. - SE Title.

This article may be referred to as the "Wind Energy System Ordinance for both Large and Small Wind Energy Systems."

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-62. - SE Authority.

This article is adopted pursuant to authority granted by Wis. Admin. Code PSC 128 and Wis. Stats. §§ 66.0401, 66.0403, 59.69, 59.692, 59.694 and 87.30. Walworth County may not place any restriction, either directly or in effect, on the installation or use of a wind energy system except those that comply with and is not more restrictive than Wis. Admin. Code PSC 128 and Wis. Stats. § 66.0401.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-63. - SE Purpose.

The purpose of this article is to incorporate requirements of Wis. Stats. § 66.0401 and Wis. Admin. Code ch. PSC 128 and any applicable amendments thereto, as a local ordinance and to establish local regulations on the installation and use of large and small wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission and that serve to preserve or protect the public health or safety, do not significantly increase the cost of the system or significantly decrease wind energy system efficiency, or allow for an alternative system of comparable cost and efficiency.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-64. - SE Applicability.

- (1) This article applies to all lands within the boundaries of the County lying outside the limits of incorporated cities and villages.
- (2) This article does not apply to any of the following:
 - a. A wind energy system for which construction began before March 1, 2011.
 - b. A wind energy system placed in operation before March 1, 2011.
 - c. A wind energy system approved by a Walworth County before March 1, 2011.
 - d. A wind energy system proposed by an owner in an application filed with a Walworth

County before the March 1, 2011. Notwithstanding par. 4 if an owner withdraws an application for a proposed wind energy system that is filed with Walworth County before March 1, 2011, this article applies to the wind energy system if the owner re-files the application with the County on or after March 1, 2011.

(3) COMMISSION APPLICATIONS. The Commission shall consider whether the installation or use of a wind energy system is consistent with the standards specified in this article when reviewing an application under Wis. Stats. § 196.491(3)(d), filed on or after March 1, 2011.

(4) INDIVIDUAL CONSIDERATION. Nothing in this article shall preclude the Commission from giving individual consideration to exceptional or unusual situations and applying requirements to an individual wind energy system that may be lesser, greater, or different from those provided in this article.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-65. - SE Abrogation.

It is not intended by this article to repeal, abrogate, annul, impair, or interfere with any existing ordinance.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-66. - SE Severability.

The provisions of this article are severable, and the invalidity of any section, subdivision, paragraph, or other part of this article shall not affect the validity or effectiveness of the remainder of the article.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-67. - SE Warning and disclaimer of liability.

This article shall not create a duty or liability on the part of or a cause of action against the County, its officers or employees thereof, for any damages that may result from administration of or reliance on this article.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-68. - SE Definitions.

In this article:

(1) "Commercial communications" includes communications used by government and military entities for emergency purposes, licensed amateur radio service, and non-emergency

communications used by agricultural, business, government, and military entities including aviation radar, commercial mobile radio service, fixed wireless service, global positioning, line-of-sight, microwave, personal communications service, weather radar, and wireless internet service.

- (2) "Commission" means the Public Service Commission.
- (3) "Decommissioning" means removal of all of the following:
 - a. The above ground portion of a wind energy system, including wind turbines and related facilities, except for access roads if removal has been waived by the property owner.
 - b. All below ground facilities, except the following:
 1. Underground collector circuit facilities.
 2. Those portions of concrete structures four feet or more below grade.
- (4) "DNR" means the Wisconsin department of natural resources.
- (5) "Maximum blade tip height" means the nominal hub height plus the nominal blade length of a wind turbine, as listed in the wind turbine specifications provided by the wind turbine manufacturer. If not listed in the wind turbine specifications, "maximum blade tip height" means the actual hub height plus the blade length.
- (6) "Nameplate capacity" means the nominal generating capacity of a wind energy system, as listed in the wind turbine specifications provided by the wind turbine manufacturer.
- (7) "Nonparticipating property" means real property that is not a participating property.
- (8) "Nonparticipating residence" means a residence located on nonparticipating property.
- (9) "Occupied community building" means a school, church or similar place of worship, daycare facility or public library.
- (10) "Owner" means:
 - a. A person with a direct ownership interest in a wind energy system, regardless of whether the person was involved in acquiring the necessary rights, permits and approvals or otherwise planning for the construction and operation of a wind energy system.
 - b. At the time a wind energy system is being developed, a person who is acting as a wind energy system developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a wind energy system, regardless of whether the person will own or operate the wind energy system.
- (11) "Participating property" means any of the following:
 - a. A turbine host property.

- b. Real property that is the subject of an agreement that does all of the following:
 1. Provides for the payment of monetary compensation to the landowner from an owner regardless of whether any part of a wind energy system is constructed on the property.
 2. Specifies in writing any waiver of a requirement or right under PSC 128 and that the landowner's acceptance of payment establishes the landowner's property as a participating property.
- (12) "Participating residence" means a residence located on participating property.
- (13) "Personal communications" includes wireless telecommunications, personal communications service, radio, television, wireless internet service, and other systems used for personal use purposes.
- (14) "Political subdivision" has the meaning Walworth County.
- (15) "Residence" means an occupied primary or secondary personal residence including a manufactured home as defined in Wis. Stats. § 101.91(2), a hospital, community-based residential facility, residential care apartment complex or similar facility, or a nursing home. "Residence" includes a temporarily unoccupied primary or secondary personal residence. "Residence" does not include any of the following:
 - b. A recreational vehicle as defined in Wis. Stats. § 340.01(48r), notwithstanding the length of the vehicle.
 - b. A camping trailer as defined in Wis. Stats. § 340.01(6m).
 - c. A permanently abandoned personal residence.
- (16) "Shadow flicker" means a pattern of moving shadows cast on a residence or an occupied community building caused by sunlight shining through moving wind turbine blades resulting in alternating changes in light intensity.
- (17) "Small wind energy system" means a wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.
- (18) "Turbine host property" means real property on which at least one wind turbine is located.
- (19) "Wind access easement" means a written document that creates a legal interest in real property that restricts the use of the property to avoid interference with the wind resource on another property.
- (20) "Wind energy system" means equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy Wis. Stats. § 66.0403(1)(m), and is used to convert wind energy to electrical energy.

- (21) "Wind energy system easement" means a written document that creates a legal interest in real property that permits an owner to place, construct or operate a wind turbine or other wind energy system facility on the property.
- (22) "Wind energy system emergency" means a condition or situation at a wind energy system that presents a significant threat of physical danger to human life or a significant threat to property or a natural event that causes damage to wind energy system facilities.
- (23) "Wind energy system facility" means any component of a wind energy system, such as a wind turbine, collector circuit, access road, electric system interconnection facility or operation and maintenance facility.
- (24) "Wind energy system lease" means a written agreement between a landowner and an owner that establishes the terms and conditions associated with the placement, construction or operation of a wind turbine or other wind energy system facility on a landowner's property.
- (25) "Administrator" means the Zoning Administrator of Walworth County or his/her designee defined pursuant to Chapter 74.
- (26) "Blade canopy" means a circle around the tower which the radius is equal to the length of a single blade.
- (27) "Committee" means the Walworth County Zoning Agency (CZA).
- (28) "Department" means the Walworth County Land Use and Resource Management Department (LURM).
- (29) "Met tower" means a tower, including an anchor, base, base plate, boom, cable, electrical or electronic equipment, guy wire, hardware, indicator, instrument, telemetry device, vane, or wiring, that is used to collect or transmit meteorological data, including wind speed and wind flow information, in order to monitor or characterize wind resources at a given location.
- (30) "Permit" means a wind energy system permit issued by the Walworth County Land Use and Resource Management Department pursuant to this article.
- (31) "Chapter 74" means the Walworth County Zoning Ordinance.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-69. - SE Enforcement.

- (1) Walworth County shall be responsible for enforcing its wind energy system ordinance and permit provisions.
 - a. This article shall be administered by the County Zoning Administrator.

- b. The Administrator may enter any property for which a conditional use or zoning permit has been issued under this article to conduct an inspection to determine whether the conditions stated in the permit have been met.
 - c. The Administrator may issue orders to abate any violation of this article.
 - d. The Administrator may issue a citation for any violation of this article.
 - e. The Administrator may refer any violation of this article to the corporation counsel for enforcement.
 - f. Nothing in this section shall be construed to prevent the County from using any other lawful means to enforce this article.
 - g. Any person who fails to comply with any provision of this article, a conditional use permit or a zoning permit issued pursuant to this article shall be subject to citations in accordance with chapter 14 of the Walworth County Code of Ordinances.
 - h. The failure of any employee, official, or officer of the County to perform any official duty imposed by this code will not subject the employee, official, or officer to the penalty imposed for violation of this code unless a penalty is specifically provided.
- (2) COMMISSION. The Commission shall enforce its rules and orders under this chapter in the manner prescribed in Wis. Stats. § 196.66, or by such other means as provided in the statutes or administrative code.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-70. - SE Permits Required.

- (1) A zoning permit is required for the installation of a small wind energy system or a met tower, and the owner must apply for a zoning permit and pay the fee (set by the County Board) for a permitted accessory use. The permit application will be processed following the procedures of Chapter 74. A zoning permit is required for the installation of a met tower, a small wind system, including each small wind system in a conditional use approved wind farm system.
- (2) A zoning permit application is submitted to the Administrator for a wind tower. The application must be on a form approved or provided by the County and must include the name, address, and telephone number of the person designated by the owner as the contact for operational issues and the investigation of any complaints. The owner must provide a site plan and information as detailed in Chapter 74 and provide the following additional information as part of the permit application:
 - a. A drawing that shows the proposed height, location and distance of the tower from the property lines of the parcel on which it is located;
 - b.

Location of any overhead utility lines on or adjacent to the property;

- c. Description and specifications of the components of the wind energy system, met tower, or both, including the manufacturer, model, capacity, blade length, and total height of any wind energy system; and
 - d. Blueprints or drawings which have been approved by a manufacturer's registered professional engineer for any tower and tower foundation.
- (3) The Administrator will issue a zoning permit for a tower in a wind system or a wind farm system if the application materials show that the proposed tower location meets the requirements of this article and of the conditional use permit issued by the County Zoning Agency.
 - (4) If the application is approved, the Administrator will return one copy of the drawing with an approved copy of the zoning permit and retain the other copy with the original application.
 - (5) If the application is denied, the Administrator will notify the applicant in writing and provide a written statement of the reason why the application was denied. The owner may appeal the Administrator's decision to the Board of Adjustment as provided in Chapter 74.
 - (6) The zoning permit card must be conspicuously posted on the premises and visible to the public at all times until construction or installation of the tower is complete.
 - (7) Expiration. A permit expires if the wind energy system or met tower is not installed and functioning within two years from the date the permit is issued.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-70.5. - SE Development of a wind energy system; notice requirements.

- (1) PRE-APPLICATION NOTICE. At least 60 days before an owner files an application to construct a wind energy system, an owner shall use commercially reasonable methods to provide written notice of the planned wind energy system to all of the following:
 - a. Adjacent landowners.
 - b. Walworth County.
- (2) PRE-APPLICATION NOTICE REQUIREMENTS. The owner shall include all of the following in a notice under sub. (1):
 - a. A complete description of the wind energy system, including the number and size of the planned wind turbines.
 - b. A map showing the planned location of all wind energy system facilities.
 - c. Contact information for the owner.
 - d. A list of all potential permits or approvals the owner anticipates may be necessary for

construction of the wind energy system.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-71. - SE Real property provisions.

- (1) EASEMENT RECORDING REQUIRED. A wind energy system easement or wind access easement shall be recorded under Wis. Stats. ch. 706. A wind energy system easement or wind access easement shall include the term of the easement and a full legal description of the property subject to the easement.
- (2) WIND LEASE AND WAIVER PROVISIONS. A wind energy system lease and any waiver under § PSC 128.14(5) or 128.15(4) shall hold harmless and indemnify the real property owner for all of the following:
 - a. Any violation of Federal, State or local law by the owner of the wind energy system.
 - b. Any damages or bodily injury caused by the construction, operation or decommissioning of the wind energy system.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-72. - SE Existing property uses.

- (1) LAND USE AND COMMERCIAL ENTERPRISES. An owner shall make reasonable efforts to ascertain and accommodate any land use or commercial enterprise located on adjacent nonparticipating properties if the land use or commercial enterprise exists when the owner gives notice under section 65-10(1).
- (2) AGRICULTURAL USE. An owner shall design a wind energy system to reasonably minimize the conversion of land from agricultural use.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-73. - SE Siting criteria.

- (1) SETBACK DISTANCE AND HEIGHT REQUIREMENTS.
 - a. An owner shall design and construct a wind energy system using the wind turbine setback distances shown in Table 2.

Table 2

Setback Description	Setback Distance
Occupied Community Buildings	1.0 times the maximum blade tip height

Participating Residences	None
Nonparticipating Residences	1.0 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	<u>1.1</u> times the maximum blade tip height
Public Road Right-of-Way	None
Overhead Communication and Electric Transmission or Distribution Lines — Not including utility service lines to individual houses or outbuildings	<u>1.1</u> times the maximum blade tip height
Overhead Utility Service Lines — Lines to individual houses or outbuildings	None

- b. An owner shall measure wind turbine setback distances as a straight line from the vertical centerline of the wind turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable.
- c. An owner shall work with Walworth County and owners of participating and nonparticipating properties to site wind turbines to minimize individual hardships.
- d. The owner of adjacent nonparticipating residence or occupied community building may waive the applicable wind turbine setback distances in Table 2.

(2) POLITICAL SUBDIVISION CRITERIA.

- a. Walworth County may not establish long-term land use planning requirements or practices that preclude the construction of a particular type, or any type, of wind turbine or wind energy system within the County's jurisdiction, except the County may deny an application for approval if the proposed site of the wind energy system is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted, as part of a comprehensive plan, under Wis. Stats. § 66.1001(2)(b) and (f), before

June 2, 2009, or as shown in such maps after December 31, 2015, as part of a comprehensive plan that is updated as required under § 66.1001(2)(i). This subdivision applies to a wind energy system that has a nominal capacity of at least one megawatt. Wis. Stats. § 66.0401(4)(f)2.

- b. Walworth County may not set height or setback distance limitations for a wind turbine near a public use airport or heliport that are more restrictive than existing airport and airport approach protection provisions under Wis. Stats. §§ 114.135 and 114.136. If no provisions have been established for public use airports or heliports under Wis. Stats. § 114.135 or 114.136, Walworth County may adopt wind turbine height or setback distance provisions that are based on, but not more restrictive than, the Federal Aviation Administration obstruction standards in 14 CFR Part 77.
- c. Walworth County may set height or setback distance limitations for wind turbines near a private heliport at a medical facility used for air ambulance service that are based on, but not more restrictive than, Federal Aviation Administration obstruction standards that apply to public use heliports.
- d. A political subdivision may not set height or setback distance limitations for a wind turbine near a private use airport or heliport except as provided in par. c.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65.74. - SE Noise criteria.

- (1) DEFINITIONS. In this section, nighttime hours are the hours beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are the hours beginning at 6:00 a.m. and ending at 10:00 p.m. daily.
- (2) PLANNING.
 - a. The noise limits in this section apply at the outside wall of a nonparticipating residence or occupied community building that exists when the owner gives notice under section 65-10 or for which complete publicly-available plans for construction are on file with a Walworth County within 30 days of the date on which the owner gives notice under section 65-10.
 - b. An owner shall design the proposed wind energy system to minimize noise at a residence or occupied community building to the extent reasonably practicable.
 - c. An owner shall design a wind energy system to comply with the noise standards in this section under planned operating conditions.
- (3) NOISE LIMITS.
 - a. Except as provided in par. b., subs. (4)c. and (5), an owner shall operate the wind energy system so that the noise attributable to the wind energy system does not exceed 50 dBA

during daytime hours and 45 dBA during nighttime hours.

- b. In the event audible noise due to wind energy system operations contains a steady pure tone, such as a whine, whistle, screech, or hum, the owner shall promptly take corrective action to permanently eliminate the noise. This paragraph does not apply to sound the wind energy system produces under normal operating conditions.

(4) COMPLIANCE.

- a. If an owner uses sound level measurements to evaluate compliance with this section at a nonparticipating residence or occupied community building, those measurements shall be made as near as possible to the outside wall nearest to the closest wind turbine, or at an alternate wall as specified by the owner of the nonparticipating residence or occupied community building. The owner may take additional measurements to evaluate compliance in addition to those specified by this section.
- b. Upon receipt of a complaint regarding a violation of the noise standards in sub. (3)a., an owner shall test for compliance with the noise limits in sub. (3)a. Walworth County may not require additional testing to show compliance with sub. (3)a. if the owner has provided the results of an accurate test conducted within two years of the date of the complaint showing that the wind energy system is in compliance with sub. (3)a. at the location relating to the complaint.
- c. Methods available for the owner to comply with sub. (3) shall include operational curtailment of one or more wind turbines. Upon receipt of a complaint about a noise under sub. (3)b., the owner shall use operational curtailment to eliminate the noise until the owner permanently corrects the problem.

(5) WAIVER. Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the owner of the wind energy system of the requirement to meet any of the noise limits in this section at the affected residence or occupied community building by written contract with the wind energy system owner. Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property, runs with the land until the wind energy system is decommissioned, and shall be recorded under Wis. Stats. ch. 706.

(6) NOTIFICATION.

- a. Before entering into a contract under sub. (5), an owner of a wind energy system shall provide written notice of the requirements of this section to the owner of an affected nonparticipating residence or occupied community building.

- b. Before the initial operation of the wind energy system, an owner of a wind energy system shall provide notice of the requirements of this section to an owner of adjacent nonparticipating residence or occupied community building.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-75. - SE Shadow flicker.

(1) PLANNING.

- a. The shadow flicker requirements in this section apply to a nonparticipating residence or occupied community building that exists when the owner gives notice under section 65-10 or for which complete publicly-available plans for construction are on file with a political subdivision within 30 days of the date on which the owner gives notice under section 65-10.
- b. An owner shall design the proposed wind energy system to minimize shadow flicker at a residence or occupied community building to the extent reasonably practicable.

- (2) SHADOW FLICKER LIMITS. An owner shall operate the wind energy system in a manner that does not cause more than 30 hours per year of shadow flicker at a nonparticipating residence or occupied community building. If a nonparticipating residence or occupied community building experiences more than 30 hours per year of shadow flicker under the wind energy system's normal operating conditions, the owner shall use operational curtailment to comply with this subsection.

(3) SHADOW FLICKER MITIGATION.

- a. An owner of a wind energy system shall work with an owner of a nonparticipating residence or occupied community building to mitigate the effects of shadow flicker to the extent reasonably practicable.

- (4) WAIVER. Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the wind energy system owner of a requirement under sub. (2) at the affected nonparticipating residence or occupied community building by written contract with the wind energy system owner. Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property and runs with the land until the wind energy system is decommissioned, and shall be recorded under Wis. Stats. ch. 706.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-76. - SE signal interference.

(1) PLANNING.

- a. Except as provided in sub. (4), the signal interference requirements in this section apply to commercial communications and personal communications in use when the wind energy system begins operation.
- b. An owner shall use reasonable efforts to avoid causing interference with commercial communications and personal communications to the extent practicable.
- c. An owner may not construct wind energy system facilities within existing line-of-sight communication paths that are used by government or military entities to provide services essential to protect public safety. Walworth County may require an owner to provide information showing that wind turbines and other wind energy system facilities will be in compliance with this paragraph.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-77. - SE Stray voltage.

(1) TESTING REQUIRED.

- a. An owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within one-half mile of a wind energy system facility pursuant to the stray voltage protocol established by the Commission before any wind energy system construction activity that may interfere with testing commences and again after construction of the wind energy system is completed, except as otherwise specified by Commission staff under par. b.
- b. Before any testing under par. a. begins, an owner shall work with Commission staff to determine the manner in which stray voltage testing will be conducted and on which properties. The electric distribution company serving a dairy or confined animal operation where testing is required under par. a. shall conduct or arrange to conduct all required testing at the expense of the owner.

(2) RESULTS OF TESTING. An owner and the electric distribution company shall provide to Commission staff the results of all stray voltage testing in writing.

(3) REQUIREMENT TO RECTIFY PROBLEMS. An owner shall work with the electric distribution company and farm owner to rectify any stray voltage problems attributable to the construction and operation of the wind energy system, in compliance with the Commission's stray voltage protocol.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-78. - SE Construction and operation.

(1) PHYSICAL CHARACTERISTICS.

- a. An owner may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a wind turbine. An owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a wind turbine. An owner may attach a safety feature or wind monitoring device to a wind turbine.
- b. An owner shall ensure that a wind turbine has a conventional or unobtrusive finish.
- c. An owner shall install lighting at a wind energy system that complies with standards established by the Federal Aviation Administration. Walworth County may not establish lighting requirements for a wind energy system that conflict with standards established by the Federal Aviation Administration. Walworth County may require use of shielding or control systems approved by the Federal Aviation Administration to reduce visibility of lighting to individuals on the ground.

- d. An owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel.
- e. An owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present.
- f. An owner shall place appropriate warning signage on or at the base of each wind turbine.
- g. An owner shall clearly mark guy wires and supports for a wind energy system, meteorological tower or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.

(2) ELECTRICAL STANDARDS.

- a. An owner shall construct, maintain, and operate collector circuit facilities in a manner that complies with the National Electrical Safety Code and ch. PSC 114 and shall construct, maintain, and operate all wind energy system facilities in a manner that complies with the National Electrical Safety Code.

(3) CONSTRUCTION, OPERATION, AND MAINTENANCE STANDARDS.

- a. An owner shall construct, operate, repair, maintain and replace wind energy system facilities as needed to keep the wind energy system in good repair and operating condition and in a manner that protects individuals from injury.

(4) EMERGENCY PROCEDURES.

- a. An owner shall notify Walworth County of the occurrence and nature of a wind energy system emergency within 24 hours of the wind energy system emergency.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-79. - SE Decommissioning.

(1) REQUIREMENT TO DECOMMISSION.

- a. An owner of a wind energy system shall decommission and remove the wind energy system when the system is at the end of its useful life.
- b. A wind energy system is presumed to be at the end of its useful life if the wind energy system generates no electricity for a continuous 540-day period. This presumption may be rebutted under par. c.
- c. When decommissioning is required, the owner shall begin decommissioning within 360 days after the wind energy system has reached the end of its useful life. The owner shall complete decommissioning and removal of the wind energy system within 540 days after the wind energy system has reached the end of its useful life.

(2) DECOMMISSIONING REVIEW. Walworth County may establish a decommissioning review

process to determine when a wind energy system has reached the end of its useful life.

(3) DECOMMISSIONING COMPLETION.

- a. An owner shall file a notice of decommissioning completion with Walworth County and the Commission when a wind energy system approved by the political subdivision has been decommissioned and removed.
- b. Within 360 days of receiving a notice of decommissioning, Walworth County shall determine whether the owner has satisfied the requirements of subs. (1)a. and (4).

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-80. - SE Application and notice requirements.

- (1) APPLICATION REQUIRED. An owner shall file a zoning permit application to construct a wind energy system with The Walworth County Land Use and Resource Management Department (LURM), Zoning Administrator.
- (2) CONTENTS OF AN APPLICATION. An owner shall complete and file with LURM an application that includes all of the following:
 - a. Wind energy system description and maps showing the locations of all proposed wind energy facilities.
 - b. Technical description of wind turbines and wind turbine sites.
 - c. Timeline and process for constructing the wind energy system.
 - d. Information regarding anticipated impact of the wind energy system on local infrastructure.
 - e. Information regarding noise anticipated to be attributable to the wind energy system.
 - f. Information regarding shadow flicker anticipated to be attributable to the wind energy system.
 - g. Information regarding the anticipated effects of the wind energy system on existing adjacent land uses.
 - h. Information regarding the anticipated effects of the wind energy system on airports and airspace.
 - i. Information regarding the anticipated effects of the wind energy system on line-of-sight communications.
 - j. A list of all State and Federal permits required to construct and operate the wind energy system.
 - k. Information regarding the planned use and modification of roads within Walworth County during the construction, operation, and decommissioning of the wind energy system,

including a process for assessing road damage caused by wind energy system activities and for conducting road repairs at the owner's expense.

- I. A representative copy of all notices issued under sub. (5) and sections 65-10(1)a. and 128.42(1).
 - m. Any other information necessary to understand the construction, operation or decommissioning of the proposed wind energy system.
- (3) ACCURACY OF INFORMATION. The owner shall ensure that information contained in an application is accurate.
- (4) DUPLICATE COPIES. Walworth County may specify a reasonable number of copies to be filed. Each copy shall include all worksheets, maps, and other attachments included in the application. Walworth County may permit an owner to file an application electronically.
- (5) NOTICE TO PROPERTY OWNERS AND RESIDENTS.
 - a. On the same day an owner files an application for a wind energy system, the owner shall, under Wis. Stats. § 66.0401(4)(a)3., use commercially reasonable methods to provide written notice of the filing of the application to adjacent property owners and residents. The notification shall include all of the following:
 1. A complete description of the wind energy system, including the number and size of the wind turbines.
 2. A map showing the locations of all proposed wind energy system facilities.
 3. The proposed timeline for construction and operation of the wind energy system.
 4. Locations where the application is available for public review.
 5. Owner contact information.
 - b. After Walworth County receives an application for a wind energy system, the notice required to be published by Walworth County under Wis. Stats. § 66.0401(4)(a)1., shall include a brief description of the proposed wind energy system and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the County, and the approximate schedule for review of the application by Walworth County.
- (6) PUBLIC PARTICIPATION.
 - a. Walworth County shall make an application for a wind energy system available for public review at a local library and at the political subdivision's business office or some other publicly-accessible location. The County may also provide public access to the application electronically.
 - b. Walworth County shall establish a process for accepting and considering written public

comments on an application for a wind energy system.

- c. A Walworth County may hold at least one public meeting to obtain comments on and to inform the public about a proposed small wind energy system.

(7) JOINT APPLICATION REVIEW PROCESS.

- a. If the wind energy system is proposed to be located in more than one political subdivision with jurisdiction over the wind energy system, the political subdivisions involved may conduct a joint application review process on their own motion or upon request. If an owner requests a joint application review, the owner shall include the request in its notice of intent to file an application with Walworth County under section 65-10(1). If the owner requests a joint application review process, Walworth County shall approve or deny this request within 60 days of receipt of the owner's notice of intent to file an application.
- b. Except as provided in Wis. Stats. § 66.0401(4)(a)2., if political subdivisions elect to conduct a joint application review process, the process shall be consistent with this chapter and the political subdivisions shall establish the process within 90 days of the date the political subdivisions receive the owner's notice of intent to file an application. A political subdivision may follow the review process of another political subdivision for purposes of conducting a joint application review process concurrently with the other political subdivision. If a joint application review process is adopted, the owner shall file the joint-review process application with all of the political subdivisions participating in the joint review process.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-81. - SE Application completeness.

(1) COMPLETE APPLICATIONS.

- a. An application is complete if it meets the filing requirements under sections 65-30(2) and 65-50(1).
- b. Walworth County shall determine the completeness of an application, and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed. An application is considered filed the day the owner notifies Walworth County in writing that all the application materials have been filed. If Walworth County determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
- c. An owner may file a supplement to an application that Walworth County has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. For incomplete applications, the owner shall provide additional information as

specified in the notice under par. b.

- d. An additional 45-day completeness review period shall begin the day after Walworth County receives responses to all items identified in the notice under par. b.
 - e. If Walworth County does not make a completeness determination within the applicable review period, the application is considered to be complete.
- (2) REQUESTS FOR ADDITIONAL INFORMATION. Walworth County may request additional information necessary to understand the wind energy system after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-82. - SE Political subdivision review of a wind energy system.

- (1) APPROVAL BY POLITICAL SUBDIVISION. Except as provided in section 65-2(1), Walworth County may require an owner to obtain approval from the political subdivision before constructing any of the following:
 - a. A wind energy system.
 - b. An expansion of an existing or previously-approved wind energy system.
- (2) STANDARD FOR APPROVAL.
 - a. Walworth County may not unreasonably deny an application for a wind energy system or impose unreasonable conditions.
- (3) WRITTEN DECISION.
 - a. Walworth County shall issue a written decision to grant or deny an application for a wind energy system. The written decision shall include findings of fact supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. Walworth County may make its approval subject to the conditions in section 65-33.
 - b. Walworth County shall provide its written decision to the owner and to the Commission. If Walworth County approves an application for a wind energy system, Walworth County shall provide the owner with a duplicate original of the decision.
 - c. The owner shall record the duplicate original of a decision approving an application with the Walworth County register of deeds.
- (4) EFFECT OF OWNERSHIP CHANGE ON APPROVAL. Approval of a wind energy system by Walworth County shall remain in effect if there is a change in the owner of the wind energy system. Walworth County shall require an owner to provide timely notice of any change in the

owner of the wind energy system.

(5) FEES.

- a. Walworth County shall charge an owner a reasonable application fee or require an owner to reimburse the County for reasonable expenses relating to the review and processing of an application for a wind energy system.
- b. The Walworth County's fee or reimbursement requirement under par. a. shall be based on the actual and necessary cost of the review of the wind energy system application, and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts. Walworth County may by ordinance set standardized application fees based on the size and complexity of a proposed wind energy system.
- c. Walworth County may require an owner of a wind energy system to submit up to 50 percent of the total estimated amount of the fee or reimbursement for the wind energy system application under par. a. before issuing a written decision under sub. (3)a., if the political subdivision gives written notice to the owner of its intent to do so within ten days of the date the application is deemed complete and the notice contains an estimate of the amount of the fee and the relevant reimbursement requirements.
- d. Walworth County shall not charge an owner an annual fee or other recurring fees to operate or maintain a wind energy system.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-83. - SE Political subdivision permitted provisions.

Walworth County establishes the following as a condition for approval of an application to construct a wind energy system:

- (1) PERMITS. Require the owner to submit copies of all necessary State and Federal permits and approvals to Walworth County.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-84. - SE Record of decision.

(1) RECORDKEEPING.

- a. Walworth County shall keep a complete written record of its decision-making relating to an application for a wind energy system.
- b. If a Walworth County denies an application, the County shall keep the record for at least seven years following the year in which it issues the decision.

- c. If Walworth County approves an application, the County shall keep the record for at least seven years after the year in which the wind energy system is decommissioned.
- (2) RECORD CONTENTS. The record of a decision shall include all of the following:
- a. The approved application and all additions or amendments to the application.
 - b. A representative copy of all notices issued under sections 65-10(1)a., 65-30(5), and 65-42(1).
 - c. A copy of any notice or correspondence that Walworth County issues related to the application.
 - d. A record of any public meeting under section 65-30(6)(c) and any hearing related to the application. The record may be an electronic recording, a transcript prepared from an electronic recording, or a transcript prepared by a court reporter or stenographer. The record shall include any documents or evidence submitted by meeting or hearing participants.
 - e. Copies of any correspondence or evidentiary material that Walworth County considered in relation to the application, including copies of all written public comments filed under section 65-30(6)b.
 - f. Minutes of Walworth County Committee hearing and decision meetings held to consider or act on the application.
 - g. A copy of the written decision under section 65-32(3)a.
 - h. Other materials that Walworth County prepared to document its decision-making process.
 - i. A copy of any ordinance cited in or applicable to the decision.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-85. - SE Modifications to an approved wind energy system.

- (1) MATERIAL CHANGE.
- a. An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of Walworth County that authorized the wind energy system, unless the County automatically approves the material change by taking either of the steps specified in section 65-32(2)b.1. or 2.
 - b. An owner shall submit an application for a material change to an approved wind energy system to Walworth County that authorized the wind energy system.
- (2) REVIEW LIMITED.
- a. Application for a material change to a wind energy system under sub. (1)b. may not reopen the merits of the earlier approval but shall consider only those issues relevant to the

proposed change.

- b. An application for a material change is subject to section 65-30(1), (3) to (5), (6)a. and b., and (7) and 65-31 to 65-34.
- c. An application for a material change shall contain information necessary to understand the material change.
- d. Walworth County may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved wind energy system.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Secs. 65-86—65-89. - Reserved.

Sec. 65-90. - SE Complaint process.

(1) MAKING A COMPLAINT.

- a. An aggrieved person may make a complaint regarding failure by an owner to comply with an obligation under this article.
- b. A complaint under par. a. shall be made first to the owner of the wind energy system pursuant to a complaint resolution process developed by the owner.
- c. A complainant may petition Walworth County for review of a complaint that is not resolved within 45 days of the day the owner receives the original complaint.
- d. Walworth County's decision under par. c. is subject to review under Wis. Stats. § 66.0401(5).

(2) COMPLAINT RESOLUTION.

- a. An owner shall use reasonable efforts to resolve complaints regarding a wind energy system and shall investigate complaints regarding a wind energy system at the owner's expense.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Secs. 65-91—65-99. - Reserved.

Sec. 65-100. - SE Standards established by the Commission.

- (1) DETAILED APPLICATION FILING REQUIREMENTS. The Commission shall establish detailed application filing requirements for applications filed for political subdivision review of a wind energy system, which shall contain a detailed description of the information required to satisfy the filing requirements for applications under section 65-30(2). The Commission may revise

these requirements as necessary. The Commission shall make the filing requirements available to the public on the Commission's website.

(2) COMMISSION PROTOCOLS.

- a. The Commission may periodically create and revise measurement, compliance, and testing protocols as needed to provide standards for evaluating compliance with this article. These protocols may be created and revised to reflect current industry practice, changes in the state of the art, and implementation of new technologies. The Commission may make protocols under this subsection available to the public on the Commission's website.
- b. The Commission may establish protocols in any of the following areas:
 1. Noise measurement, compliance and mitigation.
 2. Stray voltage testing and remediation.
 3. Shadow flicker compliance and mitigation.
 4. Communications interference testing and mitigation.
 5. Other areas where protocols are appropriate.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Sec. 65-101. - SE Commission review.

- (1) APPEALS TO THE COMMISSION. An appeal under Wis. Stats. § 66.0401(5)(b) shall be treated as a petition to open a docket under § PSC 2.07, except the time provisions of that section do not apply.
- (2) PETITIONER FILING REQUIREMENTS. An aggrieved person under Wis. Stats. § 66.0401(5)(a), may file a petition with the Commission. The petition shall be submitted to the Commission in writing or filed using the Commission's electronic filing system and shall contain all of the following:
 - a. The petitioner's name, address, and telephone number.
 - b. The name, address, and telephone number of the political subdivision that is the subject of the petition.
 - c. A description of the wind energy system that is the subject of the petition.
 - d. A description of the petitioner's relationship to the wind energy system.
 - e. The information specified in § PSC 2.07(2).
- (3) POLITICAL SUBDIVISION FILING REQUIREMENTS.
 - a. Walworth County shall file a certified copy of the information required under Wis. Stats. § 66.0401(5)(c), using the Commission's electronic regulatory filing system.

- b. The Commission may require the Walworth County to file up to five paper copies of the record upon which it based its decision.
- c. The Commission may require the Walworth County to file additional information.

(4) SERVICE AND NOTICE.

- a. An owner submitting a petition under sub. (2)(intro.) shall serve a copy of the petition on Walworth County and on any other person specified in § PSC 2.07(3).
- b. Any person other than an owner submitting a petition under sub. (2)(intro.) shall serve a copy of the petition on the owner, Walworth County, and any other person specified in § PSC 2.07(3).
- c. If Walworth County is subject to a petition under sub. (2) the County shall make a copy of the petition available for public inspection and, in the manner in which it is required to publish notice of a public meeting, publish notice of that petition.

(5) COMMISSION HEARING DISCRETIONARY. The Commission may review a petition under this section with or without a hearing.

(6) ENVIRONMENTAL ANALYSIS. A docket opened to review a petition under this section is a Type III action under § PSC 4.10(3).

(7) REMAND TO POLITICAL SUBDIVISION.

- a. Except as provided in par. b., if the Commission remands any issue to Walworth County, the County's review on remand shall be completed in a time frame established by the Commission in its remand order.
- b. If the Commission determines that a Walworth County has not yet reviewed an application that is complete, and the Commission remands the application to Walworth County for review, the County's review shall be completed within the time frame provided for reviewing a complete application under this article and Wis. Stats. § 66.0401(4)(d) and (e), beginning with the day after the day on which the Commission issues its remand order.

(Ord. No. 829-01/14, pt. I, 1-14-14)

Secs. 65-102—65-110. - Reserved.

ARTICLE III. - SOLAR ENERGY SYSTEMS

Footnotes:

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Editor's note— Ord. No. 559-05/09, pt. IV, adopted June 9, 2009, amended the Code by renaming art. III. Formerly, art. III was entitled "Solar Energy System Ordinance." Subsequently, Ord. No. 829-01/14, pt. II, amended the Code by renumbering former art. III, §§ 65-41—65-57, as new §§ 65-111—65-127.

Sec. 65-111. - Title.

This article may be referred to as the "Solar Energy System Ordinance."

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-41. See editor's note, art. III.

Sec. 65-112. - Authority.

This article is adopted pursuant to authority granted by Wis. Stats. §§ 59.69, 59.694, 66.040 and 66.0403

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-42. See editor's note, art. III.

Sec. 65-113. - Purpose.

The County finds that solar energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity or heat will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Distributed solar photovoltaic systems will also enhance the reliability and power quality of the power grid, make more efficient use of electric distribution infrastructure, reduce peak power demands, and help diversify the energy supply. Solar energy systems offer additional energy choice to consumers and improves the competitiveness of the electricity supply market. The County finds building-mounted solar energy, within the standards noted below, to be an essential service.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-43. See editor's note, art. III.

Sec. 65-114. - Applicability.

This article applies to all lands within the boundaries of the County lying outside the limits of incorporated cities and villages and adopted in accordance with Wis. Stats. § 59.69.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-44. See editor's note, art. III.

Sec. 65-115. - Abrogation.

It is not intended by this article to repeal, abrogate, annul, impair, or interfere with any existing ordinance.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-45. See editor's note, art. III.

Sec. 65-116. - Severability.

The provisions of this article are severable, and the invalidity of any section, subdivision, paragraph, or other part of this article shall not affect the validity or effectiveness of the remainder of the article.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-46. See editor's note, art. III.

Sec. 65-117. - Warning and disclaimer of liability.

This article shall not create a duty or liability on the part of or a cause of action against the County, its officers or employees thereof, for any damages that may result from administration of or reliance on this article.

The County is not responsible for impermissible interference. The owner of the property shall release, indemnify and hold harmless the County and its agents and employees from all liability, claims, demands, causes of action, costs, or losses for personal injuries, property damage or loss of life or property resulting from installation and/or use of an active solar energy system.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-47. See editor's note, art. III.

Sec. 65-118. - Definitions.

In this article:

Collector use period. 9 a.m. to 3 p.m. standard time daily.

Photovoltaic system. A manmade solar energy system that converts solar energy directly into electricity.

Solar collector. A manmade device which is part of a solar energy system, providing the surface on which sunlight energy is collected.

Solar energy. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar energy system. A manmade system that transforms solar energy into another form of energy or transfers heat from a solar collector to another medium using mechanical, electrical, or chemical means.

Solar hot water system. A type of solar energy system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-48. See editor's note, art. III.

Sec. 65-119. - Performance standards.

A solar energy system shall be permitted in all upland zoning classifications where buildings are permitted. If the system fails to meet the following standards, a conditional use review and approval in accordance with section 65-121 and chapter 74 shall be required.

Building mounted solar systems shall be exempt from the conditional use process and zoning permit process outlined in chapter 74 provided the solar system does not extend more than 18 inches from the original exterior perimeter of the permitted building on which the system is mounted or built. Zoning permits may be obtained to extend the structure beyond 18 inches provided all setback requirements are met. Further provided if located on a principal structure, the structure is at least five feet from all property lines and if located on an accessory structure, the structure is at least three feet from all property lines.

Ground mounted/pole mounted solar system may be exempt from the conditional use process but is required to obtain a zoning permit provided the entire system meets the total accessory structure limitations in accordance with chapter 74, does not exceed 12.5 kilowatt in rated capacity total for the parcel, and is no more than 21 feet in height.

Electrical: Electric solar system components and batteries must be in compliance with applicable electrical codes.

Glare and light: Collector surfaces shall minimize glare and reflected light.

Safety: The solar system must be anchored or secured in accordance with applicable building codes.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14; Ord. No. 1129-07/18, pt. I, 7-10-18)

Note— Former § 65-49. See editor's note, art. III.

Sec. 65-120. - Zoning permit procedure.

The application for a zoning permit for each solar energy system, including must be accompanied by a fee set by the County Board.

- (1) A zoning permit is required for the installation of a solar energy system except a solar energy system that does not extend more than 18 inches from the original exterior perimeter of a permitted building on which the system is mounted or built.
- (2) A person may submit a zoning permit application to the Administrator for a solar energy system. The application must be on a form approved or provided by the County and must include the name, address, and telephone number of the person designated by the owner as the contact for operational issues and the investigation of any complaints. The application must also be accompanied by two copies of a drawing that shows the proposed height, location and distance of the system from the property lines of the parcel on which it is located.
- (3) The Administrator should issue a permit or deny the application within 30 days of the date on which the application is complete.
- (4) The Administrator will issue a zoning permit for a solar energy system if the application materials show that the proposed system location meets the requirements of this article and of the conditional use permit issued by the County Zoning Agency.
- (5) If the application is approved, the Administrator will return one copy of the drawing with an approved copy of the zoning permit and retain the other copy with the original application.
- (6) If the application is denied, the Administrator will notify the applicant in writing and provide a written statement of the reason why the application was denied. The owner may appeal the Administrator's decision to the Board of Adjustment as provided in chapter 74.
- (7) The zoning permit card must be conspicuously posted on the premises and visible to the public at all times until construction or installation of the system is complete.
- (8) Expiration. A permit expires if the solar energy system is not installed and functioning within two years from the date the permit is issued.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-50. See editor's note, art. III.

Sec. 65-121. - Conditional use procedure.

- (a) A person may submit an application to the Administrator for a conditional use permit for a solar energy system. The procedures shall be in accordance with chapter 74 of the Walworth

County Code of Ordinances. The Administrator will review the application materials for completeness and may request that the applicant provide additional information. When the Administrator determines that the application is complete, the Administrator will forward it to the Committee.

- (b) Setbacks. Solar energy systems that require conditional use approval shall be located at least 50 feet from all property lines and 75 feet from the ordinary high water mark. The Committee may modify the 50 foot setback from side and rear property lines shared by parcels supporting the same solar energy system.
- (c) The Committee will conduct a hearing on the application after a class 2 hearing notice is published in the official newspaper of the County and shoreland notice is provided to DNR at least ten days prior to the hearing. The hearing will be held within 60 days after the Committee receives the completed application.
- (d) The Committee will grant a conditional use permit if it determines that the requirements of this article are met and that granting the permit will not unreasonably interfere with the orderly land use and development plans of the County. The Committee may include conditions in the permit if those conditions preserve or protect the public health and safety; do not significantly increase the cost of the system or significantly decrease its efficiency; or allow for an alternative system of comparable cost and efficiency. The Committee may consider the following when setting conditions:
 - (1) Proposed ingress and egress.
 - (2) Proximity to transmission lines to link the system to the electric power grid.
 - (3) Number and their location.
 - (4) Nature of land use on adjacent and nearby properties.
 - (5) Location systems in the surrounding area.
 - (6) Surrounding topography.
 - (7) Proximity to residential structures, residential zoning districts, or areas identified for future residential use.
 - (8) Possible adverse effects on migratory birds, raptors, and other animals and wildlife.
 - (9) Impact on the orderly development.
 - (10) Proximity to public and private roads.
 - (11) Recommendation of the Town Board for each town in which a solar energy system is located.
 - (12) Any other factors that are relevant to the proposed system.
- (e) The Committee decision, the reason for its decision, and any conditions will be recorded in the

minutes. The Committee may authorize the County Zoning Administrator to issue a conditional use permit or inform the applicant in writing the conditional use permit has been denied.

- (f) The Committee decision may be appealed to the Circuit Court via certiorari. Appeals must be commenced seeking the remedy available by certiorari within 30 days after the filing date of the decision by the Committee.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14; Ord. No. 1129-07/18, pt. II, 7-10-18)

Note— Former § 65-51. See editor's note, art. III.

Sec. 65-122. - Removal.

A schedule with details for decommission and removal of a solar energy system may be established during the conditional use process. Upon termination of solar rights or in the absence of an approved schedule, after a solar system is no longer in operation, the owner shall have 90 days to effect removal and restoration unless weather prohibits such efforts:

- (1) Shall remove all solar energy system and outdoor storage;
- (2) Shall remove all hazardous material from the property and dispose of the hazardous material in accordance with Federal and State law.
- (3) If the owner fails to remove a solar energy system and reclaim the site, the County may remove or cause the removal of the solar system and the reclamation of the site. The County may recover the cost of removal and reclamation from any financial assurance provided by the owner. Any removal or reclamation cost incurred by the County that is not recovered from the owner will become a lien on the property where the removal or reclamation takes place and may be collected from the landowner in the same manner as property taxes.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14; Ord. No. 1131-07/18, pt. I, 7-10-18)

Note— Former § 65-52. See editor's note, art. III.

Sec. 65-123. - Fees.

All applications shall include a fee in accordance with the County Board approved schedule of fees.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-53. See editor's note, art. III.

Sec. 65-124. - Expiration.

A permit issued pursuant to this article expires if the solar energy system is not installed and functioning within two years from the date the permit is issued.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-54. See editor's note, art. III.

Sec. 65-125. - Violations.

It is unlawful for any person to construct, install, maintain, modify, or operate a solar energy system that is not in compliance with this article or with any condition contained in a conditional use or zoning permit issued pursuant to this article.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-55. See editor's note, art. III.

Sec. 65-126. - Administration and enforcement.

- (a) This article shall be administered by the County Zoning Administrator.
- (b) The Administrator may enter any property for which a conditional use or zoning permit has been issued under this article to conduct an inspection to determine whether the conditions stated in the permit have been met.
- (c) The Administrator may issue orders to abate any violation of this article.
- (d) The Administrator may issue a citation for any violation of this article.
- (e) The Administrator may refer any violation of this article to the corporation counsel for enforcement.
- (f) Nothing in this section shall be construed to prevent the County from using any other lawful means to enforce this article.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-56. See editor's note, art. III.

Sec. 65-127. - Penalties.

- (a) Any person who fails to comply with any provision of this article, a conditional use permit or a zoning permit issued pursuant to this article shall be subject to citations in accordance with the chapter 14 of the Walworth County Code of Ordinances.
- (b) The failure of any employee, official, or officer of the County to perform any official duty

imposed by this code will not subject the employee, official, or officer to the penalty imposed for violation of this code unless a penalty is specifically provided.

(Ord. No. 551-05/09, pt. I, 5-12-09; Ord. No. 829-01/14, pt. II, 1-14-14)

Note— Former § 65-57. See editor's note, art. III.

ARTICLE I. - IN GENERAL

Secs. 74-1—74-25. - Reserved.

DIVISION 1. - INTRODUCTION

Sec. 74-26. - Authority.

This ordinance is adopted under the authority granted by Wis. Stats. §§ 59.69, 59.694 and 87.30 and ch. 91 and amendments thereto. The Board of Supervisors of the County of Walworth, Wisconsin, do ordain as follows:

(Ord. No. 879-09/14, pt. I, 9-4-14)

Sec. 74-27. - Title.

This ordinance shall be known as, referred to, and cited as the "Zoning Ordinance, Walworth County, Wisconsin" and hereinafter referred to as the "ordinance."

Sec. 74-28. - Purpose.

The purpose of this ordinance is to promote the comfort, health, safety, prosperity, aesthetics, and general welfare of the County and its communities and to protect the natural and agricultural resources and environmental corridors, as identified and mapped in the County Land Use Plan, the Farmland Preservation Plan, the Regional Natural Areas and Critical Species Habitat Protection and Management Plan for Southeastern Wisconsin, the County Park and Open Space Plan, and/or on the County Zoning Map.

Further purposes include utilizing conservation development design to encourage restoration of previously drained wetlands, reforesting former woodlands, replanting native species of grasses and wildflowers in reclaimed prairies, and utilizing storm water management strategies to replenish aquifers and to recharge groundwater supplies through infiltration measures, and to minimize surface runoff,

wherever feasible.

In addition, conservation development design is recognized as a practical tool to help protect interconnected networks of open space, to protect water resources, to sustain a diversity of native vegetation and wildlife, and to help establish substantial buffers along scenic roadways, existing protected land, and actively-worked farmland.

(Amd. of 7-13-04; Ord. No. 684-08/11, pt. I, 8-9-11; Ord. No. 879-09/14, pt. II, 9-4-14)

Sec. 74-29. - Intent.

It is the general intent of this ordinance to:

- (1) Regulate the use of all structures, lands, and waters outside of the shoreland areas of Walworth County;
- (2) Regulate lot coverage, population density and distribution, and the location and size of all structures outside of the shoreland areas of Walworth County;
- (3) Secure safety from fire, flooding, panic, and other dangers;
- (4) Provide adequate light, air, sanitation and drainage;
- (5) Further the appropriate use of land and conservation of natural resources;
- (6) Obtain the wise use, conservation, development, and protection of the County's water, soil, wetland, woodland, and wildlife resources and attain a balance between land uses and the ability of the natural resource base to support and sustain such uses;
- (7) Prevent overcrowding and avoid undue population concentration and urban sprawl;
- (8) Stabilize and protect the natural beauty and property values of the County;
- (9) Lessen congestion in and promote the safety and efficiency of the streets and highways;
- (10) Facilitate the adequate provision of public facilities and utilities;
- (11) Preserve natural growth and cover and promote the natural beauty of the County;
- (12) Implement those municipal, County, watershed, or regional comprehensive plans or their components adopted by the County;
- (13) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (14) To preserve the beauty and rural character of the County through the permanent preservation of meaningful open space and sensitive natural resources;
- (15) To preserve prime agricultural land by concentrating housing on lands that have low agricultural potential;
- (16) To provide commonly-owned open space areas for passive and/or active recreational use

by residents of the development and, where specified, the larger community;

- (17) To provide a diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups;
- (18) To provide buffering between residential development and non-residential uses;
- (19) To meet demand for housing in a rural setting;
- (20) To provide an opportunity to create an interconnected network of protected lands;
- (21) To protect the quality and abundance of ground water resources; and
- (22) To protect and restore environmentally sensitive areas, biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors.

Additionally, it is intended to provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

(Amd. of 7-13-04)

Sec. 74-30. - Abrogation and greater restrictions.

It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this ordinance imposes greater restrictions the provisions of this ordinance shall govern.

Sec. 74-31. - Interpretation.

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements liberally construed in favor of the County and shall not be construed to be a limitation or repeal of any other power granted by the Wisconsin Statutes. This ordinance shall be interpreted and applied in its entirety and shall be consistent with the purpose and intent of this ordinance. Where a provision of this ordinance is required by a standard in Chapters NR 115 and NR 116, Wisconsin Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Chapters NR 115 and NR 116 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(Ord. of 6-11-02; Ord. No. 575-09/09, pt. I, 9-8-09)

Sec. 74-32. - Severability and nonliability.

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby. This

ordinance shall not create a liability on the part of, or a cause of action against, the County or any office or employee thereof for any damages that may result from reliance on this ordinance.

If any application of this ordinance to a particular structure, land or water is adjudged unconstitutional or invalid by a Court of competent jurisdiction, such judgement shall not be applicable to any other structure, land, or water not specifically included in said judgement.

The County does not guarantee, warrant, or represent that those soils listed as being unsuited for specific uses are the only unsuitable soils, and hereby asserts that there is no liability on the part of the Board of Supervisors, its agencies, or employees for any flood damage, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this ordinance.

(Ord. of 6-11-02)

Sec. 74-33. - Conflicting ordinances.

All prior County ordinances, or parts of ordinances and amendments thereto conflicting with this ordinance, are hereby repealed and superseded by this ordinance.

All other ordinances enacted by the County under Wis. Stats. §§ 59.69, 59.692, 59.694 and 87.30 relating to floodlands and shorelands, including the "Shoreland Zoning Ordinance for Walworth County" adopted by the board of supervisors on January 12, 1971, are hereby repealed and superseded by this ordinance.

Sec. 74-34. - Adoption and effective date.

This ordinance shall be effective after a public hearing, recommendation by the County Zoning Agency, and hereafter referred to as Committee; adoption by the County Board of Supervisors; and publication or posting as provided by law.

(Ord. of 6-11-02; Amd. of 4-22-04)

DIVISION 2. - GENERAL PROVISIONS

Sec. 74-35. - Introduction.

The proper regulation of the use of certain structures, lands, and waters, only through the use of the zoning districts contained within this ordinance, is neither feasible nor adequate. Therefore, the following regulations, which shall be applied in addition to the district regulations, are necessary to accomplish the intent of this ordinance.

Sec. 74-36. - Jurisdiction.

The provisions of this ordinance shall apply to all structures, land, water and air within the unincorporated areas of Walworth County, Wisconsin, except shorelands.

Sec. 74-37. - Compliance.

No structure, land, water or air shall hereafter be used or developed, and no structure or part thereof shall hereafter be located, erected, moved, constructed, reconstructed, modified, extended, enlarged, converted, or structurally altered without a zoning permit and without full compliance with the provisions of this ordinance and all other applicable local, County, and State regulations.

No lot, yard, parking area, building area, or other space shall be reduced in area or dimensions so as not to meet the provisions of this ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used to meet the requirements for any other structure or use.

No obstruction shall be permitted in any district above the height of two and one-half feet above the plane through the mean centerline roadway grades within the triangular space formed by any two existing or proposed intersection street or alley right-of-way lines and a line joining points on such lines located 50 feet from their point of intersection.

Nothing herein contained shall require any changes in plans, construction, size, or designated use of any building, or part thereof, for which a zoning permit has been issued before the effective date of this ordinance and the construction of which shall have been completed within 24 months from the date of such permit.

The Zoning Administrator shall accept all applications, issue or deny all zoning permits, investigate all complaints, give notice of violations, and enforce the provisions of this ordinance. All violations of this ordinance shall be reported to the corporation counsel who shall bring action to enforce the provisions of this ordinance.

Access. The Zoning Administrator and his deputies shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this ordinance. If, however, they are refused entry after presentation of proper identification, they may procure a special inspection warrant in accordance with Wis. Stats. § 66.0119.

(Ord. No. 591-12/09, pt. II, 12-15-09; Ord. No. 1049-06/17, pt. I, 6-13-17)

Sec. 74-38. - Use regulations.

Principal uses and their essential principal services specified for a district are permitted uses within the district:

- (1) Principal uses specified for a district.
- (2) Accessory uses and structures are permitted in any district but not until their principal structure is present or under construction. Uses accessory to residential district developments shall not involve the conduct of any business, trade or industry except for home occupations, minor home occupations and professional home office as defined and permitted herein. An accessory structure cannot contain a separate dwelling unit.
Accessory structure, size, height and locational requirements. The size (square footage at ground floor elevation) of accessory structures shall be based on lot area. The lot area shall be considered the net area less areas zoned C-1 and C-4.

The total accessory structure floor area shall be calculated as follows:

Parcel from 0 to 12,000 square foot is limited to 10% of lot area in accessory structures;

Parcel 12,001 sq. ft. to 40,000 sq. ft. is limited to 1,650 sq. ft. of accessory structures;

Parcel 40,001 sq. ft. to 1.99 acres is limited to 2,150 sq. ft. of accessory structures;

Parcel 2 acres to 2.99 acres is limited to 2,650 sq. ft. of accessory structures;

Parcel 3 acres to 3.99 acres is limited to 3,150 sq. ft. of accessory structures;

Parcel 4 acres to 4.99 acres is limited to 3,650 sq. ft. of accessory structures;

Parcel 5 acres or more is limited to 2% of lot area in accessory structures.

The height and location of accessory structures shall be as follows:

Accessory structures are permitted in the rear and side yards of all lots, and in the street yards of waterfront lots, flag lots, through lots, corner lots and lots of one acre or more in size. When located in the side yard and the street yard, they shall not be closer than the minimum required side yard, rear yard and street yard setback. Only boathouses, boat hoists, and piers shall be permitted in the shoreyard.

Accessory structures 1,200 square feet or less in size shall not exceed 17 feet in height, and accessory structures 1,201 square feet to 1,650 square feet in size shall not exceed 20 feet in height. When located in the side yard they shall conform to the setbacks required by the zone district and/or division 7 of this article. When located in the street yard, they shall not be closer than the minimum required side yard, rear yard and street yard setback except an alley which shall be at least five feet. When located in the street yard on waterfront lots, they shall not be located closer than three feet to the lot

line, five feet to an alley line, nor ten feet to the road right-of-way. When located in the rear yard they shall conform to the street setbacks required by the zone district and/or division 7 of this article and not be located closer than three feet to the lot line.

Accessory structures greater than 1,650 square feet shall not exceed 25 feet in height, and shall maintain the setbacks required by the zone district for the principal structure.

The above size, height, and locational requirements are applicable to accessory structures used for residential purposes in all zone districts where they are a permitted or conditional use. The requirements are not applicable to boathouses, accessory structures used for agricultural purposes in the A-1, A-2, and A-3 districts nor for accessory structures used for business, industrial, public, or recreational purposes.

- (3) Fences. No fence shall be permitted in any district above the height of two and one-half feet above the plane through the mean centerline roadway grades within the triangular space formed by any two existing or proposed intersection street or alley right-of-way lines and a line joining points on such lines located 50 feet from their point of intersection.

Fences are permitted on the property lines, but shall not in any case exceed a height of six feet in the side and rear yards; shall not exceed a height of six feet in the street yard and shall not be closer than two feet to any existing right-of-way.

Fences along freeways are permitted on the property lines but shall not exceed a height of ten feet.

Entrance pillars may be permitted on either side of the driveway/ access to the lot provided the pillars shall not be closer than two feet to any right of way, shall not exceed two feet in width and shall not exceed six feet in height.

Security fences more than six feet in height of an open type similar to woven wire or wrought iron, are permitted on the property lines in all districts except residential and conservation districts, but shall not exceed ten feet in height and shall not be closer than two feet to any existing public right-of-way.

Screening fences of a closed type may be permitted in all business, industrial and park districts provided it does not exceed ten feet in height, and shall not be closer than 25 feet to any right of way and ten feet to a property line (except salvage yards - see division 4).

Agricultural fences in agricultural and conservation districts are regulated under Wis. Stats. ch. 90.

- (4) Conditional uses and their accessory uses may be permitted in specified districts after review, public hearing, and approval by the Committee in accordance with procedures and standards established in division 4 of this article.
- (5) Principal uses not specified in this section may be permitted by the Board of Adjustment after the Committee has made a review and written recommendation and provided that such uses are similar in character to the permitted uses in the district.
- (6) Conditional uses not specified in this ordinance may be permitted by the Board of Adjustment after the Committee has made a review and written recommendation and provided that such uses are similar in character to the conditional uses in the district.
- (7) Special exceptions may be permitted by the Board of Adjustment:
 - a. For a structure that would otherwise not be permitted by ordinance so that a disabled person may enter or exit a residence on the property or gain access to a pier, as provided for under division 10 of this ordinance.
 - b. For an existing substandard structure's yard requirements in accordance with 74-111.
- (8) Temporary uses, such as shelters for materials and equipment being used in the construction of a permanent structure and temporary living quarters beyond that permitted in (9), may be permitted by the Board of Adjustment, as provided for under section 74-111 of this chapter.
- (9) Temporary living quarters while constructing a new single family residence is permitted in any district that permits a single family residence as a principal use provided all of the following minimum requirements are met:
 - a. Approval is limited to 18 months or occupancy, whichever comes first with the removal of the temporary living quarters within 60 days of occupancy of the new single family residence.
 - b. Signed and notarized agreement to abate temporary quarters, on forms provided by the Zoning Administrator, to be recorded in the register of deeds office.
 - c. Shall be required to meet district setback requirements.
 - d. Shall have an issued zoning permit for the new single family residence.
 - e. Shall comply with well and sanitary regulations.
- (10) Performance standards listed in division 8 shall be complied with by all uses in all districts, except where specifically exempted in division 8.
- (11) Food trucks are permitted as a residential accessory use without a permit and subject to the following conditions:
 - a. The food truck serves only guests of a customary residential gathering such as a family

reunion, wedding anniversary, graduation party, or auction.

- b. The food truck hours are limited to the hours of 9:00 a.m. to 11:00 p.m.
- c. Parcels of less than one-half acre shall be limited to one food truck; parcels of one-half acre to one acre shall be allowed two food trucks; and parcels over one acre shall be allowed three food trucks.
- d. Food truck use shall be limited in frequency to once in any 90 day period or no more than twice in one year.

(12) Food trucks are permitted as an accessory use without a permit for community events organized by a municipality.

(Ord. of 6-11-02; Amd. of 4-19-05; Ord. No. 353-04.06, pt. 1, 4-20-06; Ord. No. 428-04/07, pt. I, 4-17-07; Ord. No. 445-07/07, pt. I, 7-10-07; Ord. No. 474-01/08, pt. I, 1-8-08; Ord. No. 560-06/09, pt. I, 6-9-09; Ord. No. 591-12/09, pt. III, 12-15-09; Ord. No. 613-05/10, pt. I, 5-11-10; Ord. No. 686-08/11, pt. I, 8-9-11; Ord. No. 1049-06/17, pt. II, 6-13-17; Ord. No. 1171-06/19, pt. I, 6-11-19; Ord. No. 1273-05/22, pt. I, 5-10-22)

Sec. 74-39. - Site regulations.

All lots shall abut upon a public street or other officially approved right-of-way for a frontage of at least 50 feet; all principal structures shall be located on a lot; and, except in the A-1, A-2, A-3, P-1, P-2, R-4, R-5, R-6, R-8 and B-5 Districts or as otherwise provided for in this ordinance as a planned residential development or a planned unit development, only one principal structure shall be located, erected, or moved onto a lot.

No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedications has not been secured.

Width and area of all lots not served by a public sanitary sewage system or other approved system shall be sufficient to permit the use of a private on-site wastewater treatment system (POWTS) designed in accordance with the County sanitary ordinance.

The width of all lots which have soils suitable for the use of a private onsite wastewater treatment system shall not be less than 150 feet and the area of all such lots shall not be less than 40,000 square feet per dwelling unit to be constructed on the lot.

The width and area of all lots shall meet each of the minimum district requirements. A road/street separates a parcel of land provided there is at least 150 feet in lot width, 40,000 square feet in lot area and 50 feet of frontage on an officially approved way.

Maintenance easements for the purpose of providing limited right of vehicle ingress/egress to

unmanned uses such as utilities, dams, cell towers, renewable energy, sanitary sewers, etc. necessary to provide a needed public service are permitted to be reduced to a 15-foot wide easement. The 15-foot wide maintenance easement shall be a limited access easement to facilitate repairs and maintenance only. The limited access easement shall be of adequate soil conditions or surfacing to withstand loads produced by standard equipment and provide limited ingress and egress connecting to a street or other officially approved way.

All land divisions which encompass divisions resulting in parcels of land less than 35 acres which are not otherwise controlled by the Walworth County subdivision control ordinance, shall be subject to a review process under this ordinance. The review process shall also include the sale or exchange of parcels or portions thereof of land between owners of adjoining property to assure additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this ordinance or other applicable laws or ordinances. The review process shall use the appropriate application form and an instrument prepared by a registered land surveyor licensed in the State.

(Amd. of 4-19-05; Amd. of 5-10-05; Ord. No. 391-10/06, pt. I, 10-10-06; Ord. No. 428-04/07, pt. II, 4-17-07; Ord. No. 472-12/07, pt. I, 12-11-07; Ord. No. 591-12/09, pt. IV, 12-15-09)

Sec. 74-40. - Sanitary regulations.

No private onsite wastewater treatment system or parts thereof shall be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or their use changed without a sanitary permit and without full compliance with the County sanitary ordinance. Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 811 and 812, Wisconsin Administrative Code.

No zoning permit shall be issued until a safe and adequate water supply and sewage disposal system is assured and a sanitary permit is issued.

(Amd. of 5-10-05)

Sec. 74-41. - Tree cutting, shrubbery clearing and earth movement.

Tree cutting, shrubbery clearing, and earth movements shall be conducted in accordance with the county's conservation standards and, except as provided below, shall require a zoning permit and a conservation plan. In addition, the county zoning administrator may, where appropriate, require an applicant to furnish a surety to enable the county to carry out land restoration work in the event of default by the applicant in carrying out an approved conservation plan. The amount of such surety shall be determined by the zoning administrator, and the form and type of all sureties shall be approved by the park and planning commission. The county zoning administrator may, as appropriate, request a

review of the proposed cutting, clearing, or earth movement activity by the Wisconsin Department of Natural Resources, the USDA Natural Resource Conservation Service, or other appropriate agency, and await their comments and recommendations before issuing a zoning permit but not to exceed 30 days. All cutting, clearing, and earth movement activities shall be so conducted as to prevent erosion and sedimentation and preserve the natural beauty of the county. Paths and trails shall not exceed ten feet in width and shall be so designed and constructed as to result in the least removal and disruption of natural ground cover and minimum impairment of natural beauty. The following activities shall be conducted in accordance with the county's conservation standards, but shall not require a zoning permit:

- (1) Normal excavation for structural foundations, driveways, on-site sewage disposal systems, swimming pools, and utility installations for single-family and two-family dwellings.
- (2) Other excavations not exceeding 10,000 square feet in area on property not abutting a lake or stream.
- (3) Normal plowing and working of land for gardens and yards.
- (4) Normal trimming, pruning, and shearing of trees and shrubs for agriculture and maintenance.
- (5) Removal of dead, diseased, or insect-infested trees or shrubs.
- (6) Earth movements related to essential farming and other agricultural activity, including sod farming.
- (7) Public road construction.
- (8) Drain tile laying.
- (9) Removal of trees and shrubs for site preparation purposes in connection with construction of single-family or two-family dwellings.
- (10) Forest management activities such as timber harvesting and timber stand improvement.

No waste materials, such as garbage, rubbish, gasoline, fuel oil, flammables, soils, tars, chemicals, greases, industrial or agricultural waste, or any other material of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm the waters shall be so located, stored, or discharged in a way that would be likely to run off, seep, or wash into surface of ground waters.

(Ord. No. 591-12/09, pt. V, 12-15-09)

Sec. 74-42. - Reserved.

Sec. 74-43. - Steep land regulations.

In addition to any other applicable use, site, or sanitary regulation, the following restrictions and regulations shall apply to all lands having slopes of 12 percent or greater as shown on the operational

soil survey maps prepared by the U.S. Natural Resource Conservation Service in cooperation with the Southeastern Wisconsin Regional Planning Commission and which are on file with the zoning administrator:

- (1) All construction of public and private roads shall be of sound engineering design and shall be so treated so as to prevent erosion in accordance with the county's conservation standards.
- (2) Tillage and grazing is permitted only if conducted in accordance with the county's conservation standards. Spreading of manure or fertilizer on frozen ground and establishment of feed lots shall be prohibited when such practice would cause direct runoff of pollutants into a drainageway or watercourse.
- (3) Tree cutting and shrubbery clearing for the purpose of changing land use from wildlife or woodlot management shall be conducted in accordance with the county's conservation standards and shall completely prevent erosion and sedimentation and promote the preservation of scenic beauty.

(Ord. No. 591-12/09, pt. VI, 12-15-09; Ord. No. 1171-06/19, pt. II, 6-11-19)

Sec. 74-43.1. - Erodible land regulations.

In addition to any other applicable use, site, or sanitary regulation, the following restrictions and regulations shall apply to the following lands as shown on the operational soil survey maps prepared by the U.S. Natural Resource Conservation Service for the Southeastern Wisconsin Regional Planning Commission and which are on file with the zoning administrator.

Tillage is permitted on the following organic and sandy soils, which soils are subject to wind erosion, only if conducted in accordance with the county's conservation standards.

133 - CtB, CtE	450 - Ht
134 - CtB, CtE	451 - Ht
280 - BpB, CrE2	452 - Ac, Pa
288 - BpB, BpC2, CtE	453 - Ac
316 - BpB, BpC2	454 - Pa
410 - CtB, CtE	455 - Pa

	459 - Ru
456 - Pa	460 - Ru
457 - Pa	461 - Ru
458 - Rv	

Tillage and grazing is permitted on all lands having an erosion factor of three only if conducted in accordance with the county's conservation standards.

(Ord. No. 591-12/09, pt. VII, 12-15-09)

Sec. 74-43.2. - Soil capability regulations.

In addition to any other applicable use, site or sanitary regulations, the following restrictions and regulations shall apply to the following soils as shown on the operational soil survey maps prepared by the U.S. Natural Resource Conservation Service for the Southeastern Wisconsin Regional Planning Commission and which are on file with the zoning administrator:

Because of their erodibility and very low agricultural capabilities, tillage is permitted on the following rough, broken, sandy, stony, or escarpment soils only when conducted in accordance with the county's conservation standards:

3 -	281 - BpB
75 - CeB2, CeC2, CrE2, RsF	282 - CeB2, CeC2, CfC3, CrD2, CfD3
96 - CeB2, CeC2, CfC3, CrD2, CrE2, RsF	288 - BpB, BpC2, CtE
271 - BpB, BpC2	419 - SfB

Farm drainage systems may be installed on the following soils, which soils are subject to a flooding hazard and which have generally unsuitable soil characteristics for an operative drainage system, only if

installed in accordance with the county's conservation standards:

4 - Mf	11W - Am, Ww
10W - WW	452 - Pa, Ac

Because of very severe limitations for pasturing, grazing is permitted on the following soils only when conducted in accordance with the county's conservation standards:

Mf	419 - SfB
416 -	452 - Pa, Ac

(Ord. No. 591-12/09, pt. VIII, 12-15-09)

Sec. 74-44. - Pet and animal regulations.

- (a) Household pets shall be permitted in all zoning districts; provided that not more than four dogs or four cats are kept on any one premises, and provided further that no animals, or pets are bred or reared on such premises for commercial purposes or sold therefrom. Notwithstanding the foregoing, however, offspring of permitted household pets may be kept and sold from the premises for a period of up to eight months.
- (b) All animals other than household pets shall be permitted only in the agricultural, C-1 and C-2 conservation districts, P-1 and P-2 park districts and the B-5 business district. Structures used for the housing of animals, other than household pets, must be located at least 100 feet from the side and rear property lines. Commercial feedlot structures for a commercial feedlot for 500 or more agricultural animals shall be at least 100 feet from property lines. Livestock structures for a livestock facility for 500 to fewer than 1,000 animal units shall be at least 100 feet from property lines. Livestock structures for a livestock facility for 1,000 animal units or more shall be at least 200 feet from property lines and 150 feet from an access right-of-way.

For animal units not listed, the equivalency to animal units shall be based on live animal weights, the characteristics of the manure, including nutrient content or pollutant concentration, or a combination of both. In those cases, 1000 pounds of live weight is equivalent to one animal unit. The current NR243

rules should be consulted for any changes to the equivalencies.

Combined Animal Unit Equivalency Factor/500 units/1000 Units	Animal Type:	Individual Animal Unit Equivalency Factor/500 Units/1000 Units
DAIRY CATTLE:		
1.4/358/715	Milking and Dry Cows	1.43/350/700
<u>1.1</u> /455/910	Heifers (800 to 1,200 lbs.)	1.0/500/1000
0.6/835/1670	Heifers (400 to 800 lbs.)	1.0/500/1000
0.2/2500/5000	Calves (under 400 lbs.)	
VEAL CALVES:		
0.5/1000/2000	Per Animal	1.0/500/1000
BEEF CATTLE:		
1.0/500/1000	Steers or cows (400 lbs. to mkt.)	1.0/500/1000
0.2/2500/5000	Calves (under 400 lbs.)	
1.4/350/700	Bulls	1.0/500/1000
SWINE:		
0.4/1250/2500	Pigs (55 lbs. to mkt.)	0.4/1250/2500
0.1/5000/10000	Pigs (up to 55 lbs.)	0.1/5000/10000
0.4/1250/2500	Sows	

0.5/1000/2000	Boars	
SHEEP:		
0.1/5000/10000	Per animal	0.1/5000/10000
HORSES:		
2.0/250/500	Per animal	2.0/250/500
DUCKS:		
0.2/2500/5000	Per bird (Liquid poultry manure handling)	0.2/2500/5000
0.01/50000/100000	Per bird (Non-liquid poultry manure handling)	0.0333/15000/30000
CHICKENS:		
0.033/15000/30000	Per Bird (Liquid poultry manure handling)	0.0333/15000/30000
0.01/50000/100000	Layers (Non-liquid poultry manure handling)	0.0123/41000/82000
0.005/100000/200000	Broilers and Pullets (Non-liquid poultry manure handling)	0.008/62500/125000
TURKEYS:		
0.018/27500/55000	Per bird	0.018/27500/55000

- (c) Chickens shall also be permitted in the R-1, R-2, R-3, R-5, R-5A and C-3 districts provided:
- (1) Chickens shall be female only. No roosters are permitted.
 - (2) No more than six chickens allowed on the parcel.
 - (3) Single family residence only.
 - (4) Chickens are permitted with a legal non-conforming zoned residence, duplex, tri-plex or multi-family structure, if permission is granted by owner/landlord/ association and parcel has no more than six chickens total, regardless of the number of dwelling units on the parcel.
 - (5) No chickens are permitted in mobile home parks.
 - (6) Towns, homeowners association and/or private restrictions can prohibit chickens or be more restrictive than this ordinance.
 - (7) Chickens must be kept on owners property at all times.
 - (8) A structure to house the chickens shall not exceed 100 square feet, shall be movable, shall be at least ten feet from side and rear property lines and shall be at least 20 feet from a residence, not including the residence on the subject parcel.
 - (9) The subject property shall be kept clean, sanitary, no excessive odor, noise, pests or other nuisance allowed and shall provide for free movement of chickens.
- (d) Chickens in the agricultural and C-2 district(s) may modify the requirements of (b) above provided:
- (1) A new structure to house up to 12 female chickens shall be permitted within the 100-foot setback requirement provided the structure does not exceed 100 sq. ft. in size, shall be movable, shall be at least ten feet from side and rear property lines, and shall be at least 20 feet from a residence, not including the residence on the subject parcel.
 - (2) Structures that legally existed prior to November 21, 2013 that are more than 100 square feet in size and meet a minimum ten-foot side and rear yard setback requirements and are at least 20 feet from a residence, not including the residence on the subject parcel, are permitted to have no more than 12 female chickens.
 - (3) Towns, homeowners association and/or private restrictions can prohibit chickens or be more restrictive than this ordinance.
 - (4) Chickens must be kept on owner's property at all times.
 - (5) The subject property shall be kept clean, sanitary, no excessive odor, noise, pests or other nuisance allowed and shall provide for free movement of chickens.

(Amd. of 8-9-05; Ord. No. 591-12/09, pt. IX, 12-15-09; Ord. No. 740-09/12, pt. I, 9-6-12; Ord. No. 837-02/14, pt. I, 2-11-14; Ord. No. 879-09/14, pt. III, 9-4-14; Ord. No. 938-07/15, pt. I, 7-14-15; Ord. No. 1194-11/19,

pt. I, 11-12-19)

Sec. 74-45. - Minor home occupation/professional home office.

A minor home occupation/professional home office shall include such uses as a home office, data processing, telephone answering, direct sale product distribution (Amway, Tupperware, Avon, Shaklee, etc.), dressmaking, sewing, tailoring, contractor sewing machine, jewelry making, typing/word processing, tutoring, music lessons, and computer programming.

In addition to any other applicable use, site or sanitary regulations, the following restrictions and regulations shall apply to minor home occupations/professional home office:

- (1) Be limited to the principal structure.
- (2) Shall not exceed 25 percent of the area of any floor.
- (3) Shall be incidental and secondary to the principal use of the residence.
- (4) No outside storage.
- (5) Shall be limited to the resident(s) of the parcel.
- (6) Shall be no employees on the parcel or employee vehicles except for resident and residents vehicles.
- (7) No on-site retail sales or display areas.
- (8) Deliveries—limited to typical residential deliveries.
- (9) Parking—sufficient on-premises parking to handle activity.
- (10) One business vehicle (Pickup truck, truck, commercial trailer, cargo van with a gross vehicle weight of 10,000 pounds or less is permitted on the parcel which is licensed as a truck and is used to transport property or equipment for business purposes.) For the purposes of this section, a commercial pickup truck is defined as any open or enclosed cargo bed truck commonly referred to as a mini, $\frac{1}{2}$, $\frac{3}{4}$, or one-ton pick-up with no more than six rubber tires. A commercial cargo van truck is defined as any motor vehicle commonly referred to as mini-vans, cargo vans, commercial vans, or panel truck with no more than six rubber road tires.
- (11) Signage limited to two square feet.
- (12) No use or storage of hazardous material or chemicals.
- (13) No alterations to the dwelling necessary for the purpose of supporting the home occupation such as a second kitchen, special equipment, additional plumbing, additional cooling/heating, or additional furnishings that are not typical for residential use.
- (14) No exterior entryways separate from entryways to serve the dwelling shall be created

and/or provided solely for the conduct of the home business.

- (15) More than one minor home occupation may operate in a residence provided the employee is a resident of the parcel, and the total use is limited to 25 percent as if one.

(Ord. No. 591-12/09, pt. X, 12-15-09; Ord. No. 1171-06/19, pt. III, 6-11-19)

Editor's note— Ord. No. 591-12/09, pt. X, adopted December 15, 2009, amended the Code by, in effect, repealing former § 74-45, and adding a new § 74-45. Former § 74-45 pertained to reduction or joint use, and derived from the original zoning ordinance.

Sec. 74-46. - Violations.

It shall be unlawful to construct, develop, or use any structure, or to develop or use any land, water, or air in violation of any of the provisions of this ordinance. Notice of violation(s) shall include the following information:

- (1) Name of property owner;
- (2) Physical location of violation;
- (3) Section(s) of ordinance violation.

No notice shall be required for a subsequent violation of the same rule or regulation and penalties begin immediately upon any subsequent violations of this notice. In case of any violation, the County Board of Supervisors, the zoning Administrator, the Committee, any municipality, or any owner of real estate within the district affected who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this ordinance.

(Ord. No. 1049-06/17, pt. III, 6-13-17)

Sec. 74-47. - Penalties.

Any person, firm, or corporation who fails to comply with the provisions of this ordinance or any order of the County Zoning Administrator issued in accordance with this ordinance shall, upon conviction thereof, forfeit not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1000.00) and costs of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be enforced pursuant to Wis. Stat. § 59.69(11).

(Amd. of 5-10-05; Ord. No. 591-12/09, pt. XI, 12-15-09))

Sec. 74-48. - Single-family dwelling and two-family dwelling requirements.

No single-family dwelling or two-family dwelling shall be erected or installed in any zoning district unless it meets all of the following:

- (1) Is set on an enclosed foundation in accordance with Wis. Stats. § 70.043(1), which meets the standards set forth in subchapters III, IV, and V of chap. ILHR 21, Wis. Adm. Code, or is set on a comparable enclosed foundation system approved by the building inspector. In townships that utilize a building officer, that officer shall require a plan approved by a registered architect, registered professional engineer, or certified building inspector to be submitted in order to ascertain that a proposed comparable foundation system provides proper support for the structure.
- (2) Is properly connected to utilities.
- (3) Shall have a minimum width of 22 feet.
- (4) Shall have a core area of living space at least 22 feet by 22 feet in size.

(Ord. of 6-11-02; Amd. of 4-22-04)

DIVISION 3. - ZONING DISTRICTS

Sec. 74-49. - Establishment.

For the purpose of this ordinance, the County of Walworth, State of Wisconsin, outside the limits of incorporated villages, cities, and shorelands, is hereby divided into the following zoning districts, namely:

A-1	Prime Agricultural Land District
A-1NC	Prime Agricultural Land Holding District
A-2	Agricultural Land District
A-3	Land Holding District
A-4	Agricultural-Related Manufacturing, Warehousing, and Marketing District
A-5	Rural Residential District
C-1	Lowland Resource Conservation District

C-2	Upland Resource Conservation District
C-3	Conservancy-Residential District
P-1	Recreational Park District
P-2	Institutional Park District
R-1	Single-Family Residence District (Unsewered)
R-2	Single-Family Residence District (Sewered)
R-2A	Single-Family Residence District (Sewered)
R-3	Two-Family Residence District (Sewered or Unsewered)
R-4	Multiple-Family Residence District (Sewered or Unsewered)
R-5	Planned Residential Development District (Unsewered)
R-5A	Planned Residential Development District (Sewered)
R-6	Planned Mobile Home Park Residence District
R-7	Mobile Home Subdivision Residence District (Sewered or Unsewered)
R-8	Multiple Family District (Sewered or Unsewered)
B-1	Local Business District
B-2	General Business District
B-3	Waterfront Business District
B-4	Highway Business District
B-5	Planned Commercial-recreation Business District

B-6	Bed and Breakfast District
M-1	Industrial District
M-2	Heavy Industrial District
M-3	Mineral Extraction District
M-4	Sanitary Landfill District

The boundaries of these districts are hereby established as shown on a map entitled "Zoning Map, Walworth County, Wisconsin," which accompanies and is a part of this ordinance. Such boundaries shall be construed to follow: corporate limits; U.S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad right-of-way, or such lines extended; and lines identifying boundaries of natural resource areas, as shown by changes in vegetation, slope, and other natural resource base features; unless otherwise noted on the zoning map. All notations, references, and other information shown upon the said zoning map shall be as much a part of this ordinance as if the matter and things set forth by the said map were fully described herein.

(Ord. No. 466-11/07, pt. I, 11-13-07; Ord. No. 938-07/15, pt. II, 7-14-15; Ord. No. 1171-06/19, pt. IV, 6-11-19)

Sec. 74-50. - Zoning map.

The official copy of the zoning map shall be adopted as part of this ordinance and shall be available to the public in the office of the County Zoning Administrator. The Administrator shall from time to time update the zoning map as necessary to reflect changes in zoning district boundaries effected under division 12 of this ordinance.

County zoning maps in digital format developed with geographic information systems software shall replace the hard copy zoning maps first incorporated into the zoning ordinance on August 13, 1974. Copies of the zoning maps shall be made available to the public on-line and in the office of the County Zoning Administrator.

(Ord. No. 575-09/09, pt. II, 9-8-09)

Sec. 74-51. - Agricultural districts.

A-1 Prime agricultural land district. A Farmland Preservation District. The primary purpose of this district is to maintain highly productive exclusive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses. Such lands are generally covered by Class I, II, and III soils as rated by the U.S. Natural Resource Conservation Service and are identified in the county farmland preservation plan as farmland preservation areas identified under Wis. Stats. Ch. 91.10(1)(d) in a farmland preservation plan described in Wis. Stats. Ch. 91.12(2). As a matter of policy, it is hereby determined that the highest and best use of these lands is agriculture. All structures and improvements must be consistent with agricultural use. (Wis. Stats. ch. 91)

(1) *Principal uses.*

- a. Farm residence.
- b. Dairying.
- c. Floriculture (cultivation of ornamental flowering plants).
- d. Grazing, subject to regulations in division 2.
- e. Livestock raising.
- f. Orchards.
- g. Paddocks.
- h. Plant nurseries, Christmas tree production.
- i. Poultry raising.
- j. Crop or forage production.
- k. Raising of tree fruits, nuts, and berries.
- l. Sod farming.
- m. Vegetable raising.
- n. Viticulture (grape growing).
- o. Equestrian trails for the farm family.
- p. Forest and game management.
- q. Nature trails and walks for the farm family.
- r. Apiculture (beekeeping).
- s. The separation of farm structures from farmland. The separation of the farm structures must conform with the regulations set forth in sections 74-39 and 74-40 of this ordinance; the parcel shall not be less than 40,000 square feet in area, nor greater than the larger of either five acres in area, or the acreage necessary to maintain the

minimum yard required in the A-1, A-2, or A-3 district; it shall not leave the balance of the land in a substandard condition; and the property owner will be required to record deed restrictions on both the farm separation parcel and on a parcel which meets the minimum required by the applicable zoning district, which directly adjoins or abuts the majority of the farm separation parcel, and which meets the intent of these provisions. A plat of survey for said parcel shall be prepared by a registered land surveyor licensed in the State of Wisconsin. Said deed restriction shall state that no structures may be placed on the adjoining acreage without first obtaining a conditional use approval from the Committee and that no land may be deeded to the separation parcel which increases its size above that outlined above without first obtaining proper approval which may include a rezone.

- t. Enrolling land in a Federal agricultural commodity payment program or a Federal or State agricultural land conservation payment program.
 - u. Aquaculture.
 - v. Undeveloped natural resource and open space areas.
 - w. Commercial feed lot.
 - x. Commercial egg production.
 - y. Livestock Facility.
- (2) *Accessory uses (permitted in accordance with 74-131).*
- a. A building, structure, or improvement that is an integral part of and consistent with an agricultural use (for example but not limited to: barn, stable, greenhouse).
 - b. Roadside stands not exceeding one per farm, limited to a structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises (or adjoining premises) in conformance with Wis. Stats. § 91.01(1).
 - c. Minor home occupation/professional home office in conformance with Wis. Stats. § 91.01(1).
- (3) *Conditional uses.* See division 4 for additional requirements.
- a. Additional farm residences. The approval for more than one farm residence is limited to one per a minimum of 35 acres of A-1. If approval is granted for more than one farm residence, the residence may be separated from the farm parcel provided that any parcel so created conforms with all regulations set forth in section 74-39 and 74-40 of this ordinance, except that no such parcel shall be less than 40,000 square feet in area nor greater than the larger of either five acres in area or the acreage necessary to

maintain the minimum required; it shall not leave the balance of the land in a substandard condition; and the property owner will be required to record a deed restriction on a remnant area which meets the minimum required by the applicable zoning district, which directly adjoins or abuts the majority of the farm residence separation parcel, and which meets the intent of these provisions. A plat of survey for said parcel shall be prepared by a registered land surveyor licensed in the State of Wisconsin. Said deed restriction shall state that no structures may be placed on the remnant acreage without first obtaining a conditional use permit that meets all requirements of this ordinance, from the Committee and that no land may be deeded to the separation parcel which increases its size above that outlined above without first obtaining proper approval which may include a rezone.

- b. A migrant labor camp (certified under Wis. Stats. § 103.92).
- c. Mobile homes for farm laborers. The approval for a mobile home is limited to one per 35 acres of A-1 zoned land.
- d. Livestock sales facilities.
- e. Veterinarian facilities for livestock.
- f. Fur farms, wild.
- g. Land restoration.
- h. Directional signs (exceeding three).
- i. Sewage disposal plants if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- j. Airports, airstrips, landing fields and heliports, which are related to agricultural activities (Wis. Stats. § 91.46(4)).
- k. Governmental and cultural uses, such as fire, and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes

of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

- i. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- m. Schools and churches if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- n. Yard waste composting.
- o. Home occupations that will not impair or limit future or current agricultural use of the farm in conformance with Wis. Stats. § 91.01(1)(d).
- p. Farm family business in the A-1, Prime Agricultural Land District is a use which is accessory to an agricultural use consisting of a farm family business wedding barn and uses listed in the A-4 district except the production, packing, packaging, and light

assembly of products from glass, metals, plaster, and plastics. A farm family business may be permitted as a conditional use for farm owners if limited to existing farm residence or farm structures not dedicated to agricultural uses. No more than two persons who are not members of the resident farm family may be employed in the farm family business and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

- q. Hunting and fishing club land without structures.
- r. Slurry storage for industrial waste water of agricultural by products.
- s. Placement of any structures on remnant parcels where the separation of farm structures has been approved and separated. All structures and improvements must be an integral part of or incidental to an agricultural use (Wis. Stats. ch. 91).
- t. Hobby farms.

(4) *Area, height and yard requirements.*

Lot (farm size)		Area	Minimum 35 acres
		Width	Minimum 300 feet
Building			
	Farm dwelling	Height	Maximum 45 feet
	Agricultural structures	Height	Maximum two times their distance from the nearest lot lines (See division 9)
Yards			
	Farm dwelling, agricultural structures, and livestock structures for less than 1,000 animal units	Rear	Minimum 100 feet

	Side	Minimum 20 feet except structures used for the housing of animals must be located at least 100 feet from side and rear lot lines and comply with <u>74-44</u>
Street:		
Subdivision road		Minimum 25 feet
Town road		Minimum 50 feet
County road		Minimum 65 feet
State and Federal highway (not including freeways)		Minimum 85 feet
Livestock structures for 1,000 or more animal units		See <u>section 74-44</u>

Existing Substandard Lots - See section 74-92.

A-1NC Prime agricultural land holding district. The primary purpose of this holding district is to provide a temporary zoning district category for lands that are rezoned into a prime agricultural land district that are not currently designated as farmland preservation areas in the Walworth County farmland preservation plan. This district designation is to be considered temporary in nature and will be rezoned to the standard A-1 zoning district at such time as the farmland preservation plan is amended to include A-1NC zoned land as a farmland preservation area (Wis. Stats. § 91.10(1)(d)). Additionally, the purpose of this holding district is to maintain highly productive exclusive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses. Such lands are generally covered by class I, II, and III soils as rated by the U.S. Natural Resource Conservation Service and as a matter of policy, it is hereby determined that the highest and best use of these lands is agricultural. All structures and improvements must be consistent with agricultural use (Wis. Stats. ch. 91). Lands zoned A-1NC may be included with A-1

zoned land for purposes of meeting acreage requirements.

(1) *Principal uses.*

- a. Farm residence.
- b. Dairying.
- c. Floriculture (cultivation of ornamental flowering plants).
- d. Grazing, subject to regulations in division 2.
- e. Livestock raising.
- f. Orchards.
- g. Paddocks.
- h. Plant nurseries, Christmas tree production.
- i. Poultry raising.
- j. Crop or forage production.
- k. Raising of tree fruits, nuts, and berries.
- l. Sod farming.
- m. Vegetable raising.
- n. Viticulture (grape growing).
- o. Equestrian trails for the farm family.
- p. Forest and game management.
- q. Nature trails and walks for the farm family.
- r. Apiculture (beekeeping).
- s. The separation of farm structures from farmland. The separation of the farm structures must conform with the regulations set forth in sections 74-39 and 74-40 of this ordinance; the parcel shall not be less than 40,000 square feet in area, nor greater than the larger of either five acres in area, or the acreage necessary to maintain the minimum yard required in the A-1, A-2, or A-3 district; it shall not leave the balance of the land in a substandard condition; and the property owner will be required to record deed restrictions on both the farm separation parcel and on a parcel which meets the minimum required by the applicable zoning district, which directly adjoins or abuts the majority of the farm separation parcel, and which meets the intent of these provisions. A plat of survey for said parcel shall be prepared by a registered land surveyor licensed in the State of Wisconsin. Said deed restriction shall state that no structures may be placed on the adjoining acreage without first obtaining a conditional use approval from the Committee and that no land may be deeded to the separation parcel which

increases its size above that outlined above without first obtaining proper approval which may include a rezone.

- t. Enrolling land in a Federal agricultural commodity payment program or a Federal or State agricultural land conservation payment program.
 - u. Aquaculture.
 - v. Undeveloped natural resource and open space areas.
 - w. Commercial feed lot.
 - x. Commercial egg production.
 - y. Livestock Facility.
- (2) *Accessory uses (permitted in accordance with 74-131).*
- a. A building, structure, or improvement that is an integral part of and consistent with an agricultural use (for example but not limited to: barn, stable, greenhouse).
 - b. Roadside stands not exceeding one per farm, limited to a structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises (or adjoining premises) in conformance with Wis. Stats. § 91.01(1).
 - c. Minor home occupation/professional home office in conformance with Wis. Stats. § 91.01(1).
- (3) *Conditional uses.* See division 4 for additional requirements.
- a. Additional farm residences. The approval for more than one farm residence is limited to one per a minimum of 35 acres of A-1. If approval is granted for more than one farm residence, the residence may be separated from the farm parcel provided that any parcel so created conforms with all regulations set forth in sections 74-39 and 74-40 of this ordinance, except that no such parcel shall be less than 40,000 square feet in area nor greater than the larger of either five acres in area or the acreage necessary to maintain the minimum required; it shall not leave the balance of the land in a substandard condition; and the property owner will be required to record a deed restriction on a remnant area which meets the minimum required by the applicable zoning district, which directly adjoins or abuts the majority of the farm residence separation parcel, and which meets the intent of these provisions. A plat of survey for said parcel shall be prepared by a registered land surveyor licensed in the State of Wisconsin. Said deed restriction shall state that no structures may be placed on the remnant acreage without first obtaining a conditional use permit that meets all requirements of this ordinance, from the Committee and that no land may be deeded

to the separation parcel which increases its size above that outlined above without first obtaining proper approval which may include a rezone.

- b. A migrant labor camp (certified under Wis. Stats. § 103.92).
- c. Mobile homes for farm laborers. The approval for a mobile home is limited to one per 35 acres of A-1 zoned land.
- d. Livestock sales facilities.
- e. Veterinarian facilities for livestock.
- f. Fur farms, wild.
- g. Land restoration.
- h. Directional signs (exceeding three).
- i. Sewage disposal plants if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- j. Airports, airstrips, landing fields and heliports, which are related to agricultural activities (Wis. Stats. § 91.46(4)).
- k. Governmental and cultural uses, such as fire, and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- l. Utilities, provided all principal structures and uses associated with the utility are not

less than 50 feet from all district lot lines except business, park and industrial if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

- m. Schools and churches if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- n. Yard waste composting.
- o. Home occupations that will not impair or limit future or current agricultural use of the farm in conformance with Wis. Stats. § 91.01(1)(d).
- p. Farm family business in the A-1, prime agricultural land district is a use which is accessory to an agricultural use consisting of a farm family business wedding barn and uses listed in the A-4 district except the production, packing, packaging, and light assembly of products from glass, metals, plaster, and plastics. A farm family business may be permitted as a conditional use for farm owners if limited to existing farm residence or farm structures not dedicated to agricultural uses. No more than two persons who are not members of the resident farm family may be employed in the farm family business and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
- q. Hunting and fishing club land without structures.
- r. Slurry storage for industrial waste water of agricultural by products.
- s. Placement of any structures on remnant parcels where the separation of farm

structures has been approved and separated. All structures and improvements must be an integral part of or incidental to an agricultural use (Wis. Stats. ch. 91).

(4) *Area, height and yard requirements.*

Lot (farm size)		Area	Minimum 35 acres
		Width	Minimum 300 feet
Building			
	Farm dwelling	Height	Maximum 45 feet
	Agricultural structures	Height	Maximum two times their distance from the nearest lot lines (See division 9)
Yards			
	Farm dwelling, agricultural structures, and livestock structures for less than 1,000 animal units	Rear	Minimum 100 feet
		Side	Minimum 20 feet except structures used for the housing of animals must be located at least 100 feet from side and rear lot lines and comply with <u>74-44</u>
	Street:		
	Subdivision road		Minimum 25 feet
	Town road		Minimum 50 feet
	County road		Minimum 65 feet

	State and Federal highway (not including freeways)	Minimum 85 feet
	Livestock structures for 1,000 or more animal units	See <u>section 74-44</u>

A-2 Agricultural land district. The primary purpose of this district is to maintain, preserve, and enhance agricultural lands historically utilized for crop production but which are not included within the A-1 prime agricultural land district and which are generally best suited for smaller farm units, including truck farming, horse farming, hobby farming, orchards, and other similar agricultural-related farming activity.

(1) *Principal uses.*

- a. All principal uses permitted in the A-1 prime agricultural land district.
- b. Single-family detached dwellings.
- c. Minor home occupation/professional home office.

(2) *Conditional uses.* (See division 4.)

- a. Housing for farm laborers.
- b. Housing for seasonal or migratory farm workers.
- c. Livestock sales facilities.
- d. Animal hospitals, shelters and kennels.
- e. Veterinarian facility.
- f. Fur farms, wild.
- g. Land restoration.
- h. Ski hills.
- i. Hunting and fishing clubs.
- j. Recreation camp.
- k. Commercial stables and retail sales related to the stable subject to Committee review and approval.
- l. Mobile homes for farm laborers.
- m. Directional signs (exceeding three).
- n. Sewage disposal plants.

- o. Airports, airstrips and landing fields.
- p. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- q. Schools and churches.
- r. Composting.
- s. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
- t. Home occupations.
- u. More than one farm dwelling per section 74-61.
- v. Bed and breakfast establishments.
- w. Conservation development design (five or more dwelling units).
- x. Farm family business in the Agricultural Land District is a use which is accessory to an agricultural use consisting of a farm family business wedding barn and uses listed in the A-4 district except the production, packing, packaging, and light assembly of products from glass, metals, plaster, and plastics. A farm family business may be permitted as a conditional use for farm owners if limited to existing farm residence or farm structures not dedicated to agricultural uses. No more than two persons who are not members of the resident farm family may be employed in the farm family business and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
- y. Hobby farms.

(3) *Conventional design.*

Area, height, and yard requirements.

Lot (farm size)		Area	Minimum 20 acres
		Width	Minimum 300 feet
Building			
	Farm dwelling	Height	Maximum 45 feet

	Agricultural structures	Height	Maximum two times their distance from the nearest lot line (see division 9)
Yards			
	Farm dwelling, Agricultural structures, and livestock structures for less than 1,000 animal units	Rear	Minimum 100 feet
		Side	Minimum 20 feet except structures used for the housing of animals must be 100 feet from side and rear lot lines and comply with <u>74-44</u>
Street:			
	Subdivision road		Minimum 25 feet
	Town road		Minimum 50 feet
	County road		Minimum 65 feet
	State and Federal hwy. (not including freeways)		Minimum 85 feet
	Livestock structures for 1,000 or more animal units		See <u>section 74-44</u>

(4) *Existing substandard lots. See section 74-92.*

(5) *Conservation developments (five or more dwelling units).*

a. Maximum density: one dwelling unit per 20 acres.

b. Area, height and yard requirements:

Lot size	Area	Minimum 20,000 square feet
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		Width	Minimum 100 feet
Building		Height	Maximum 45 feet
	Farm dwelling and agricultural structures	Height	Maximum two (2) times their distance from the nearest lot line (see division 9)
Yards		Rear	Minimum 20 feet
	Farm dwelling and agricultural structures	Side	Minimum 10 feet from lot lines In the case of no lot lines, minimum 20-foot dwelling separation.
		Animals	Structures used for the housing of animals shall be located at least 100 feet from all property lines
(The Zoning Agency may modify the interior setback for structures used to house animals to a minimum 25-foot interior setback. The developer must first demonstrate to the County Zoning Agency that the district requirement for agricultural structures cannot be met due to unique shape or characteristic of the property.)			
Street:			
	Subdivision road		Minimum 40 feet
	Town road		Minimum 200 feet
	County road		Minimum 250 feet
	State and Federal highways		Minimum 300 feet (not including freeways)

	Shore	An absolute minimum shoreyard setback of 75 feet shall be provided. Shoreland setback averaging with adjacent parcels shall not be allowed
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- c. Minimum required open space: 60 percent of the net buildable area consistent with the prioritized list of resources to conserve and other design consideration of section 11.9A of the County subdivision ordinance. The Zoning Agency may modify the required open space and/or setback requirements of conservation development design on a site specific basis during the conditional use review if the developer can demonstrate that the requirement cannot be met due to unique shape or characteristic of the property. The district open space and/or setback standards for conservation development design may be modified provided that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. Conservation developments, which are approved with a modification to the open space and/or setback requirements of conservation development design standards, shall not qualify for a density bonus. Modification of the open space and or setback requirements shall be limited to the minimum necessary. Open space shall not be modified greater than 20 percent of the minimum open space percentage requirement of the conservation development design standard. Setbacks shall not be modified below the conventional design standards for the district. Setbacks which are specifically listed as smaller than the conventional design standards by conservation development design standards shall not constitute a modification (i.e. buildings housing animals as specified by conservation development design may be reduced to 25 feet from interior lot lines and not constitute a modification. Setbacks from subdivision roads as listed by conservation design that are less than specified by conventional design shall not constitute a modification).

A-3 Land holding district. The primary purpose of this district is to preserve for a limited time period in agricultural and related open-space land uses those lands generally located adjacent to existing incorporated urban centers within Walworth County where urban expansion is planned to take place on the adopted regional land use plan and adopted municipal land use plans that refine and detail the regional land use plan. It is the intent that urban development be deferred in such areas until the

appropriate legislative bodies concerned determine that it is economically and financially feasible to provide public services and facilities for uses other than those permitted in the district. It is intended that the status of all areas in this district be reviewed by the appropriate planning bodies no less frequently than every five years in order to determine whether, in light of current land development trends, there should be a transfer of all or any part of such areas to some other appropriate use district. Any such review will consider the need for permitting other uses on such land, the nature of the use or uses to be permitted, and the cost and availability of the public services and facilities which will be necessitated by such new use or uses.

(1) *Principal uses.*

- a. Farm residence.
- b. Dairying.
- c. Floriculture (cultivation of ornamental flowering plants).
- d. Grazing, subject to regulations in division 2.
- e. Livestock raising, except commercial feed lots and livestock facility.
- f. Orchards.
- g. Paddocks.
- h. Plant nurseries, Christmas tree production.
- i. Poultry raising, except commercial egg production.
- j. Crop or forage production.
- k. Raising of tree fruits, nuts, and berries.
- l. Sod farming.
- m. Vegetable raising.
- n. Viticulture (grape growing).
- o. Equestrian trails for the farm family.
- p. Forest and game management.
- q. Nature trails and walks for the farm family.
- r. Apiculture (beekeeping).
- s. The separation of farm structures from farmland. The separation of the farm structures must conform with the regulations set forth in sections 74-39 and 74-40 of this ordinance; the parcel shall not be less than 40,000 square feet in area, nor greater than the larger of either five acres in area, or the acreage necessary to maintain the minimum yard required in the A-1, A-2, or A-3 district; it shall not leave the balance of the land in a substandard condition; and the property owner will be required to record

deed restrictions on both the farm separation parcel and on a parcel which meets the minimum required by the applicable zoning district, which directly adjoins or abuts the majority of the farm separation parcel, and which meets the intent of these provisions. A plat of survey for said parcel shall be prepared by a registered land surveyor licensed in the State of Wisconsin. Said deed restriction shall state that no structures may be placed on the adjoining acreage without first obtaining a conditional use approval from the Committee and that no land may be deeded to the separation parcel which increases its size above that outlined above without first obtaining proper approval which may include a rezone.

- t. Enrolling land in a Federal agricultural commodity payment program or a Federal or State agricultural land conservation payment program.
 - u. Aquaculture.
 - v. Undeveloped natural resource and open space areas.
- (2) *Conditional uses.* (See division 4.)
- a. Housing for farm laborers.
 - b. Housing for seasonal and migratory farm workers.
 - c. Livestock sales facilities.
 - d. Animal hospitals, shelters and kennels.
 - e. Fur farms, wild.
 - f. Land restoration.
 - g. Ski hills.
 - h. Mobile homes for farm laborers.
 - i. Directional signs (exceeding three).
 - j. Sewage disposal plants.
 - k. Airports, airstrips and landing fields.
 - l. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, park and ride facilities.
 - m. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
 - n. Schools and churches.
 - o. Composting.
 - p. Home occupations.

- q. More than one farm dwelling per section 74-61.
- r. Bed and breakfast establishments.
- s. Hobby farms.

(3) *Area, height and yard requirements.*

Lot (farm size)		Area	Minimum 35 acres
		Width	Minimum 300 feet
Building			
	Farm dwelling	Height	Maximum 45 feet
	Agricultural structures	Height	Maximum two times their distance from the nearest lot line (see division 9)
Yards			
	Farm dwelling	Rear	Minimum 100 feet
	Agricultural structures	Side	Minimum 20 feet except structures used for the housing of animals must be 100 feet from side and rear lot lines and comply with <u>74-44</u>
Street:			
	Subdivision road		Minimum 25 feet
	Town road		Minimum 50 feet
	County road		Minimum 65 feet

State and Federal highway (not including freeways)	Minimum 85 feet
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Existing substandard lots - See section 74-92.

A-4 Agricultural related manufacturing, warehousing and marketing district. The primary purpose of this district is to provide for the proper location and regulation of manufacturing, warehousing, storage, and related industrial and marketing activities that are dependent upon or closely allied to the agricultural district.

(1) *Principal uses.*

- a. Fruit store.
- b. Grape growing.
- c. Production of sausages and other meat products providing that all operations be conducted within an enclosed building.
- d. Vegetable store.
- e. Veterinarian facility.
- f. Commercial feed lot.
- g. Commercial egg production.
- h. Livestock Facility.

(2) *Conditional uses.*

- a. Contract sorting, grading and packaging services for fruits and vegetables.
- b. Corn shelling, hay balling, and threshing services.
- c. Bottling of spring water.
- d. Grist mill services.
- e. Horticultural services.
- f. Poultry hatchery services.
- g. Production of animal and marine fat oils.
- h. Canning of fruits, vegetables, preserves, jams and jellies.
- i. Canning of specialty foods.
- j. Preparation of cereals.
- k. Production of natural and processed cheese.

- l. Production of chocolate and cocoa products.
- m. Coffee roasting and production of coffee products.
- n. Production of condensed and evaporated milk.
- o. Wet milling of corn.
- p. Cottonseed oil milling.
- q. Production of creamery butter.
- r. Drying and dehydrating fruits and vegetables.
- s. Preparation of feeds for animals and fowl.
- t. Production of flour and other grain mill products.
- u. Blending and preparing of flour.
- v. Fluid milk processing.
- w. Production of frozen fruits, fruit juices, vegetables and other specialties.
- x. Malt production.
- y. Meat packing.
- z. Fruit and vegetable pickling, vegetable sauces and seasoning, and salad dressing preparation.
- aa. Poultry and small game dressing and packing providing that all operations be conducted within enclosed buildings.
- bb. Milling of rice.
- cc. Production of shortening, table oils, margarine, and other edible fats and oils.
- dd. Milling of soy bean oil.
- ee. Milling of vegetable oil.
- ff. Sugar processing and production.
- gg. Production of wine, brandy, and brandy spirits.
- hh. Livestock sales facilities.
 - ii. Grain elevators and bulk storage of feed grains.
 - jj. Fertilizer production, sales, storage, mixing, and blending.
 - kk. Sale or maintenance of farm implements and related equipment.
- ll. Transportation-related activities primarily serving the basic agricultural industry.
- mm. Living quarters for watchman or caretaker.
- nn. Off-season storage or mini-warehouse facilities.
- oo. Animal hospitals, shelters and kennels.

- pp. Land restoration.
- qq. Directional signs (exceeding three).
- rr. Sewage disposal plants.
- ss. Airports, airstrips and landing fields.
- tt. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums, and park and ride facilities.
- uu. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- vv. Schools and churches.
- ww. Contractors storage yards.
- xx. Production, packing, packaging and light assembly of products from furs, glass, metals, papers, leather, plaster, plastics, textiles and wood.
- yy. Composting.
- zz. Commercial greenhouse.
- aaa. Flea markets.
- bbb. Commercial stables.
- ccc. Commercial stables with horse shows.
- ddd. Retail sales related to those agricultural uses listed in A-4. The retail sales of ancillary non-agricultural items is subject to detailed plan approval by the Committee.
- eee. Farm food service. The retail sales of ancillary non-agricultural items and agricultural items not produced on the farm are subject to detailed plan approval by the Committee.
- fff. Processing agricultural products.
- ggg. Hobby farms.
- hhh. Microbrewery.

(3) *Area, height and yard requirements.*

Lot	Area	Minimum, sufficient area for the principal structure and its accessory buildings, all required yards, and off street parking and loading as required by <u>section 74-74</u> of this ordinance

Building	Height	Maximum 70 feet
Yards	Rear	Minimum 75 feet except structures used for the housing of animals and livestock facility structures for less than 1,000 animal units must comply with <u>74-44</u>
	Side	Minimum 75 feet except structures used for the housing of animals and livestock facility structures for less than 1,000 animal units must comply with <u>74-44</u>
Street:		
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal hwys. (not including freeways)	Minimum 85 feet
Livestock structures for 1,000 or more animal units		See <u>section 74-44</u>

A-5 Rural residential district. The primary purpose of this district is to permit the utilization of relatively small quantities of land in predominantly agricultural areas for rural residential use. As a matter of policy, it is intended that this district be applied solely to those rural lands that have marginal utility for agricultural use for reasons related to soils, topography, or severance from larger agricultural parcels. It is not intended that this district be utilized to accommodate residential subdivisions as defined in the Walworth County Subdivision Ordinance.

(1) *Principal uses.*

- a. Single-family dwellings.
 - b. Orchards.
 - c. Vegetable raising.
 - d. Plant nurseries.
- (2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of section 74-38.
- a. Greenhouses.
 - b. Roadside stands not exceeding one per farm.
 - c. Residential accessory structures.
 - d. Agricultural structures.
 - e. Minor home occupation/professional home office.
- (3) *Conditional uses.*
- a. Sewage disposal plants.
 - b. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums, and park and ride facilities.
 - c. Utilities, provided all principal structures and uses are not less than 50 feet from all district lot lines except business, park and industrial.
 - d. Schools and churches.
 - e. Home occupations.
 - f. Bed and breakfast establishments.
 - g. Planned residential developments.
 - h. Hobby farms.
 - i. Animal hospitals, shelters and kennels.
- (4) *Area, height and yard requirements.*

Lot	Area	Minimum 40,000 square feet
	Width	Minimum 150 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet

	Side	Minimum 15 feet
Street:		
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	Country road	Minimum 65 feet
	State and Federal Highway (not including freeways)	Minimum 85 feet
	Animals	Structures used for the housing of animals must be located at least 100 feet from side and rear lot lines

(Ord. of 6-11-02; Amd. of 1-14-03; Amd. of 7-13-04; Amd. of 5-10-05; Amd. of 8-9-05; Ord. No. 315-09/05, pt. I, 9-8-05; Ord. No. 331-01/06, pt. III, 1-10-06; Ord. No. 353-04/06, pt. II, 4-20-06; Ord. No. 462-10/07, pt. I, 10-9-07; Ord. No. 466-11/07, pt. II, 11-13-07; Ord. No. 591-12/09, pt. XII, 12-15-09; Ord. No. 673-03/11, pt. I, 3-8-11; Ord. No. 740-09/12, pt. II, 9-6-12; Ord. No. 879-09/14, pt. IV, 9-4-14; Ord. No. 938-07/15, pt. III, 7-14-15; Ord. No. 940-07/15, pt. I, 7-20-15; Ord. No. 996-07/16, pt. I, 7-28-16; Ord. No. 1049-06/17, pt. IV, 6-13-17; Ord. No. 1074-11/17, pt. I, 11-6-17; Ord. No. 1171-06/19, pt. V, 6-11-19; Ord. No. 1194-11/19, pt. II, 11-12-19)

Sec. 74-52. - Conservation districts.

C-1 Lowland resource conservation district. The primary purpose of this district is to preserve, protect, and enhance the lakes, streams, and wetland areas in Walworth County. The proper regulation of these areas will serve to maintain and improve water quality, both ground and surface; prevent flood damage; protect wildlife habitat; prohibit the location of structures on soils which are generally not suitable for such uses; protect natural watersheds; and protect the water based recreational resources of the County.

(1) *Principal uses.* The following uses are permitted in this district provided that such uses are

conducted in accordance with the County's conservation standards and do not involve dumping; filling; extension of cultivated areas; mineral, soil, or peat removal; or any other activity that would substantially disturb or impair the natural fauna, flora, water courses, water regimen, or topography.

- a. Farming and related agricultural uses when conducted in accordance with the County's conservation standards, not including the erection of buildings or structures.
 - b. Boat landing sites.
 - c. Drainage.
 - d. Fish hatcheries.
 - e. Flood overflow and movement of water.
 - f. Forest and game management.
 - g. Hunting and fishing.
 - h. Impoundments.
 - i. Navigation.
 - j. Park and recreation areas, not including the location or erection of buildings or structures.
 - k. Stream bank protection.
 - l. Swimming beaches.
 - m. Wilderness areas and wildlife preservation and refuges.
 - n. Hiking and nature trails.
 - o. Wild crop harvesting.
- (2) *Conditional uses.* (See division 4.)
- a. Golf courses and country clubs.
 - b. Yachting clubs and marinas.
 - c. Hunting and fishing clubs.
 - d. Recreation camps.
 - e. Public and private campgrounds.
 - f. Sewage disposal plants.
 - g. Utilities, provided all principal structures and uses are not less than 50 feet from all district lot lines except business, park and industrial.

(3) *Area, height and yard requirements.* None. No buildings or structures permitted.

C-2 Upland resource conservation district. The primary purpose of this district is to preserve, protect, enhance, and restore all significant woodlands, related scenic areas, submarginal farm lands, other

farmland as allowed by the comprehensive land use plan and abandoned mineral extraction lands within the County. Regulation of these areas will serve to control erosion and sedimentation and will promote and maintain the natural beauty of the County, while seeking to assure the preservation and protection of areas of significant topography, natural watersheds, ground and surface water, potential recreation sites, wildlife habitat, and other natural resource characteristics that contribute to the environmental quality of the County yet permit larger residential lots in these environmentally sensitive areas.

(1) *Principal uses.*

- a. Single-family detached dwellings.
- b. Forest preservation.
- c. Forest and game management.
- d. Parks and recreation areas; arboreta; botanical gardens.

(2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of section 74-38.

- a. Stables.
- b. Residential accessory structures.
- c. Agricultural structures.
- d. Minor home occupation/professional home office.

(3) *Conditional uses.* (See division 4.)

- a. Animal hospitals, shelters and kennels.
- b. Land restoration.
- c. Golf courses.
- d. Ski hills.
- e. Yachting clubs and marinas.
- f. Hunting and fishing clubs.
- g. Recreation camps.
- h. Public or private campgrounds.
- i. Commercial stables.
- j. Planned residential developments.
- k. Sewage disposal plants.
- l. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- m. Governmental and cultural uses such as fire and police stations, community centers,

libraries, public emergency shelters, parks, playgrounds and museums, and park and ride facilities.

- n. Bed and breakfast establishments;
 - o. Conservation development design (five or more dwelling units);
 - p. Commercial arboretum (outside primary environmental corridors);
 - q. Commercial greenhouse (outside primary environmental corridor).
 - r. Home occupations.
 - s. Hobby farms.
- (4) *Conventional design.*

Area, height, and yard requirements:

Lot		Area	Minimum 5 acres
		Width	Minimum 300 feet
Building			
	Dwelling	Height	Maximum 45 feet
Yards			
	Dwelling and accessory	Rear	Minimum 100 feet
	Structures	Side	Minimum 20 feet except structures used for the housing of animals must be 100 feet from side and rear lot lines
		Street:	
		Subdivision road	Minimum 25 feet
		Town road	Minimum 50 feet

		County road	Minimum 65 feet
		State and Federal highway (not including freeways)	Minimum 85 feet
		Shore	Minimum 75 feet
		Animals	Structures used to house animals must be located at least 100 feet from all property lines

(5) *Existing substandard lots. See [section 74-92](#).*

(6) *Conservation developments (five or more dwelling units).*

a. Maximum density: one dwelling unit per five acres.

b. Area, height and yard requirements:

Lot size		Area:	Minimum 20,000 square feet
		Width:	Minimum 100 feet
Building:		Height:	Maximum 45 feet
	Yards:	Rear:	Minimum 20 feet

		Side:	Minimum 10 feet from lot lines In the case of no lot lines minimum 20-foot dwelling separation
		Animals:	Structures used for the housing of animals shall be located at least 100 feet from side and rear property lines
		Street:	
		Subdivision road	Minimum 40 feet
		Town road	Minimum 200 feet
		County road	Minimum 250 feet
		State and Federal highways (not including freeways)	Minimum 300 feet

		Shore:	An absolute minimum shoreyard setback of 75 feet shall be provided Shoreland setback averaging with adjacent parcels shall not be permitted
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- c. Minimum required open space: 60 percent of the net buildable area consistent with the prioritized list of resources to conserve and other design consideration of section 11.9A of the County subdivision ordinance. The Zoning Agency may modify the required open space and/or setback requirements of conservation development design on a site specific basis during the conditional use review if the developer can demonstrate that the requirement cannot be met due to unique shape or characteristic of the property. The district open space and/or setback standards for conservation development design may be modified provided that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. Conservation developments, which are approved with a modification to the open space and/or setback requirements of conservation development design standards, shall not qualify for a density bonus. Modification of the open space and or setback requirements shall be limited to the minimum necessary. Open space shall not be modified greater than 20 percent of the minimum open space percentage requirement of the conservation development design standard. Setbacks shall not be modified below the conventional design standards for the district. Setbacks which are specifically listed as smaller than the conventional design standards by conservation development design standards shall not constitute a modification (i.e. buildings housing animals as specified by conservation development design may be reduced to 25 feet from interior lot lines and not constitute a modification. Setbacks from subdivision roads as listed by conservation design that are less than specified by conventional design shall not constitute a modification).

(The Zoning Agency may modify the interior setback for structures used to house animals to a minimum 25-foot interior setback. The developer must first demonstrate to the County Zoning Agency that the district requirement for agricultural structures cannot be

met due to unique shape or characteristic of the property.)

C-3 Conservancy-residential district. The primary purpose of this district is essentially the same as that of the C-2 district, namely the protection and preservation of environmentally significant uplands. It is intended that this district be applied to those upland environmental corridors which already have been divided into relatively small parcels or which, because of their proximity to urban areas, have a very high residential value potential. It is thus intended that this district recognize and attempt to balance man's need for shelter locations with his need to protect and restore the natural environment. Because of its residential character and smaller lot area minimum, farming and commercial recreation uses are not permitted.

(1) *Principal uses.*

- a. Forest preservation.
- b. Forest and game management.
- c. Single-family detached dwellings.

(2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of section 74-38.

- a. Residential accessory structures.
- b. Minor home occupation/professional home office.

(3) *Conditional uses.*

- a. Animal hospitals, shelters and kennels.
- b. Planned residence developments.
- c. Sewage disposal plants.
- d. Utilities, provided all principal structures and uses are not less than 50 feet from all district lot lines except business, park and industrial.
- e. Governmental and cultural uses, such as fire stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.
- f. Bed and breakfast establishments.
- g. Conservation development design (five or more dwelling units).
- h. Home occupations.

(4) *Conventional design.*

Area, height and yard requirements:

Lot	Area	Minimum 100,000 square feet
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	Width	Minimum 200 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 50 feet
	Side	Minimum 20 feet
	Street:	
	Subdivision:	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highways (not including freeways)	Minimum 85 feet
	Shore	Minimum 75 feet

(5) *Existing substandard lots. See [section 74-92](#).*

(6) *Conservation developments (five or more dwelling units).*

a. Maximum density: One dwelling unit per 100,000 sq. ft.

b. Area, height and yard requirements:

Lot size	Area	Minimum 20,000 square feet
	Width	Minimum 100 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 20 feet

	Side:	Minimum 10 feet from lot lines. In the case of no lot lines minimum 20-foot dwelling separation
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 150 feet
	County road	Minimum 200 feet
	State and Federal highways (not including freeways)	Minimum 250 feet
	Shore	An absolute minimum shoreyard setback of 75 feet shall be provided. Shoreland setback averaging with adjacent parcels shall not be permitted

- c. Minimum required open space: 60 percent of the net buildable area consistent with the prioritized list of resources to conserve and other design consideration of section 11.9A of the County subdivision ordinance. The Zoning Agency may modify the required open space and/or setback requirements of conservation development design on a site specific basis during the conditional use review if the developer can demonstrate that the requirement cannot be met due to unique shape or

characteristic of the property. The district open space and/or setback standards for conservation development design may be modified provided that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. Conservation developments, which are approved with a modification to the open space and/or setback requirements of conservation development design standards, shall not qualify for a density bonus. Modification of the open space and or setback requirements shall be limited to the minimum necessary. Open space shall not be modified greater than 20 percent of the minimum open space percentage requirement of the conservation development design standard. Setbacks shall not be modified below the conventional design standards for the district. Setbacks which are specifically listed as smaller than the conventional design standards by conservation development design standards shall not constitute a modification (i.e. buildings housing animals as specified by conservation development design may be reduced to 25 feet from interior lot lines and not constitute a modification. Setbacks from subdivision roads as listed by conservation design that are less than specified by conventional design shall not constitute a modification).

(Ord. of 6-11-02; Amd. of 1-14-03; Amd. of 7-13-04; Amd. of 5-10-05; Ord. No. 331-01/06, pts. I—III, 1-10-06; Ord. No. 369-07/06, pt. I, 7-11-06; Ord. No. 591-12/09, pt. XIII, 12-15-09; Ord. No. 740-09/12, pt. III, 9-6-12; Ord. No. 940-07/15, pt. II, 7-20-15)

Sec. 74-53. - Park districts.

P-1 Recreational park district. The P-1 district is used to provide for areas where the open space and recreational needs, both public and private, of the citizens can be met without undue disturbance of natural resources and adjacent uses.

(1) *Principal uses.*

- a. Parks, general recreation.
- b. Parks, leisure and ornamental.
- c. Forest reserves.
- d. Boat rentals and boat access sites.
- e. Golf courses.
- f. Gymnasiums and athletic clubs.
- g. Ice skating rink.
- h. Picnic grounds.
- i. Playfields and athletic fields.

- j. Playgrounds.
- k. Play lots and tot lots.
- l. Recreational access ways.
- m. Forest and game management.

(2) *Conditional uses.* (See division 4.)

- a. Golf course country clubs.
- b. Ski hills.
- c. Yachting clubs and marinas.
- d. Hunting and fishing clubs.
- e. Recreation camps.
- f. Public or private campgrounds.
- g. Planned campground developments
- h. Cultural activities.
- i. Amusement activities.
- j. Public assembly uses.
- k. Commercial stables.
- l. Archery ranges.
- m. Golf driving ranges.
- n. Firearm ranges, skeet, trap and rifle.
- o. Sports fields.
- p. Polo fields.
- q. Roller skating rinks.
- r. Sewage disposal plants.
- s. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums, and park and ride facilities.
- t. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- u. Schools and churches.
- v. Recycling centers.
- w. Composting.
- x. Lake management facilities and activities, including equipment and vehicles used in

lake weed harvesting and off-loading activities.

- y. Land restoration.
- z. Caretaker's quarters.
- aa. Commercial stables with horse shows.
- bb. Shared parking.

(3) *Area, height and yard requirements.*

Lot	Area	Minimum, sufficient area for the principal structure and its accessory buildings, off street parking and loading required by sections <u>74-74</u> and <u>74-75</u> , and all required yards
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 50 feet
	Side	Minimum 50 feet
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highways (not including freeways)	Minimum 85 feet

P-2 Institutional park districts. The P-2 district is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use for public purpose is anticipated to be permanent.

(1) *Principal uses.*

- a. Churches, synagogues, and temples.
- b. Rectories and convents.
- c. College dormitories.
- d. Hospitals.
- e. Schools.
- f. Monasteries.
- g. Nursing homes.
- h. Nursery schools and day care centers.
- i. Orphanages.
- j. Retirement homes.
- k. Universities and colleges.
- l. Lodges and fraternal buildings.
- m. Town halls, town garage, police and fire stations.
- n. Golf courses.

(2) *Conditional uses.* (See division 4.)

- a. Golf course country clubs.
- b. Ski hills.
- c. Yachting clubs and marinas.
- d. Recreation camps.
- e. Public or private campgrounds.
- f. Planned campground developments.
- g. Cultural activities.
- h. Public assembly uses.
- i. Commercial stables.
- j. Archery ranges.
- k. Golf driving ranges.
- l. Firearm ranges, skeet, trap, rifle.
- m. Sports fields.
- n. Polo fields.
- o. Sewage disposal plants.
- p. Airports, airstrips, landing fields, and heliports.

- q. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- r. Governmental and cultural uses such as community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
- s. Sanitariums, religious, charitable, penal and correctional institutions, cemeteries, mausoleums, columbaria and crematories.
- t. Recycling centers.
- u. Composting.
- v. Lake management facilities and activities, including equipment and vehicles used in lake weed harvesting and off-loading activities.
- w. Land restoration.
- x. Commercial stables with horse shows.
- y. Shared parking.

(3) *Area, height and yard requirements.*

Lot (Sewered)	Area	Minimum 10,000 square feet
	Width	Minimum 100 feet
Lot (Unsewered)	Width and area of all lots to be determined in accordance with <u>section 74-39</u>	
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet
	Side	Minimum 25 feet
	Street:	
	Subdivision Road	Minimum 25 feet
	Town Road	Minimum 50 feet

	County Road	Minimum 65 feet
	State and Federal Hwys (not including freeways)	Minimum 85 feet

(Ord. of 6-11-02; Amd. of 1-14-03; Ord. No. 466-11/07, pt. III, 11-13-07; Ord. No. 591-12/09, pt. XIV, 12-15-09; Ord. No. 685-08/11, pt. I, 8-9-11; Ord. No. 873-07/14, pt. I, 7-8-14; Ord. No. 1049-06/17, pt. V, 6-13-17; Ord. No. 1171-06/19, pt. VI, 6-11-19)

Sec. 74-54. - Residence districts.

R-1 Single-family residence district (unsewered). The single-family residence district is hereby established to provide locations for and maintain values of low density single-family development only.

(1) *Principal uses.*

a. Single-family detached dwellings on lots not served by public sanitary sewer.

(2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of section 74-38.

a. Residential accessory structures.

b. Minor home occupation/professional home office.

(3) *Conditional uses.* See div. 4.

a. Golf courses and country clubs.

b. Planned residential developments.

c. Home occupations.

d. Sewage disposal plants.

e. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.

f. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.

g. Schools and churches.

h. Bed and breakfast establishments.

- i. Model single-family residences, model single-family condominiums and related temporary real estate sales office located within the model unit.
- j. Conservation development design (five or more dwelling units).

(4) *Conventional design.*

Area, height, and yard requirements.

Lot	Width and area of all lots to be determined in accordance with <u>section 74-39</u>	
	Area	Minimum 40,000 square feet
	Width	150 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet
	Side	Minimum 15 feet
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highways (not including freeways)	Minimum 85 feet
	Shore	Minimum 75 feet

(5) *Existing substandard lots.* See section 74-92.

(6) Conservation developments (five or more dwelling units).

a. Maximum density: One dwelling unit per 40,000 sq. ft.

b. Area, height and yard requirements:

Lot size	Area	Minimum 20,000 square feet
	Width	Minimum 100 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 20 feet
	Side	Minimum 10 feet from lot lines In the case of no lot lines minimum, 20-foot dwelling separation
	Street:	
	Subdivision road	Minimum 15 feet
	Town road	Minimum 100 feet
	County road	Minimum 125 feet
	State and Federal highways (not including freeways)	Minimum 150 feet
	Shore	An absolute minimum shoreyard setback of 75 feet shall be provided. Shoreland setback averaging with adjacent parcels shall not be permitted

c. Minimum required open space: 33 percent of the total area consistent with the prioritized list of resources to conserve and other design consideration of section

11.9-A of the County subdivision ordinance. The Zoning Agency may modify the required open space and/or setback requirements of conservation development design on a site specific basis during the conditional use review if the developer can demonstrate that the requirement cannot be met due to unique shape or characteristic of the property. The district open space and/or setback standards for conservation development design may be modified provided that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. Conservation developments, which are approved with a modification to the open space and/or setback requirements of conservation development design standards, shall not qualify for a density bonus. Modification of the open space and or setback requirements shall be limited to the minimum necessary. Open space shall not be modified greater than 20 percent of the minimum open space percentage requirement of the conservation development design standard. Setbacks shall not be modified below the conventional design standards for the district. Setbacks which are specifically listed as smaller than the conventional design standards by conservation development design standards shall not constitute a modification (i.e. buildings housing animals as specified by conservation development design may be reduced to 25 feet from interior lot lines and not constitute a modification. Setbacks from subdivision roads as listed by conservation design that are less than specified by conventional design shall not constitute a modification).

(7) *Existing substandard lots.* See section 74-92.

R-2 Single-family residence district (sewered). The single-family residence district is hereby established to provide locations for and maintain values of low density single-family development only.

(1) *Principal uses.*

a. Single-family detached dwellings on lots served by public sanitary sewers.

(2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of section 74-38.

a. Residential accessory structures.

b. Minor home occupation/professional home office.

(3) *Conditional uses.* See div. 4.

a. Golf courses and country clubs.

b. Planned residential developments.

c. Home occupations.

- d. Sewage disposal plants.
- e. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
- f. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- g. Schools and churches.
- h. Bed and breakfast establishments.
- i. Model single-family residences, model single-family condominiums and related temporary real estate sales office located within the model unit.
- j. Conservation development design (five or more dwelling units).

(4) *Conventional design.*

Area, height and yard requirements.

Lot	Area	Minimum 15,000 square feet
	Width	Minimum 100 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet
	Side	Minimum 10 feet
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highways (Not including freeways)	Minimum 85 feet

	Shore	Minimum 75 feet
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(5) *Conservation developments (five or more dwelling units).*

a. Maximum density: one dwelling unit per 15,000 sq. ft.

b. Area, height and yard requirements:

Lot size	Area	Minimum 10,000 sq. ft.
	Width	Minimum 65 feet
Building	Height	Maximum 45 feet
Yards:	Rear	Minimum 10 feet
	Side	Minimum 10 Feet from lot lines In the case of no lot lines, minimum 20-foot dwelling separation
	Street:	
	Subdivision road	Minimum 15 feet
	Town road	Minimum 100 feet
	County road	Minimum 125 feet
	State and Federal highways (not including freeways)	Minimum 150 feet
	Shore	An absolute minimum shoreyard setback of 75 feet shall be provided. Shoreland setback averaging with adjacent parcels shall not be permitted

- c. Minimum required open space: 20 percent of the total area consistent with the prioritized list of resources to conserve and other design consideration of section 11.9-A of the county subdivision ordinance. The Zoning Agency may modify the required open space and/or setback requirements of conservation development design on a site specific basis during the conditional use review if the developer can demonstrate that the requirement cannot be met due to unique shape or characteristic of the property. The district open space and/or setback standards for conservation development design may be modified provided that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. Conservation developments, which are approved with a modification to the open space and/or setback requirements of conservation development design standards, shall not qualify for a density bonus. Modification of the open space and or setback requirements shall be limited to the minimum necessary. Open space shall not be modified greater than 20 percent of the minimum open space percentage requirement of the conservation development design standard. Setbacks shall not be modified below the conventional design standards for the district. Setbacks which are specifically listed as smaller than the conventional design standards by conservation development design standards shall not constitute a modification (i.e. Buildings housing animals as specified by conservation development design may be reduced to 25 feet from interior lot lines and not constitute a modification. Setbacks from subdivision roads as listed by conservation design that are less than specified by conventional design shall not constitute a modification).

(6) *Existing substandard lots.* See section 74-92.

R-2A Single-family residence district (sewered). The primary purpose of the R-2A district is to require larger residential sewerred lots in environmentally sensitive areas. Such environmentally sensitive areas may include but not be limited to, environmental corridors, shoreland areas, and significant woodlands.

(1) *Principal uses.*

- a. Single-family detached dwellings on lots served by public sanitary sewers.

(2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of section 74-38.

- a. Residential accessory structures.
- b. Minor home occupation/professional home office.

(3)

Conditional uses: (See division 4.)

- a. Golf courses and country clubs.
- b. Planned residential developments.
- c. Home occupations.
- d. Sewage disposal plants.
- e. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
- f. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- g. Schools and churches.
- h. Bed and breakfast establishments.
- i. Model single-family residences, model single-family condominiums and related temporary real estate sales office located within the model unit.
- j. Conservation development design (five or more dwelling units).

(4) *Conventional design.*

Area, height, and yard requirements:

Lot	Area	Minimum 40,000 square feet
	Width	Minimum 100 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet
	Side	Minimum 10 feet
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet

	State and Federal highways (not including freeways)	Minimum 85 feet
	Shore	Minimum 75 feet

(5) *Conservation developments (five or more dwelling units).*

a. Maximum density: one dwelling unit per 40,000 sq. ft.

b. Area, height and yard requirements:

Lot size	Area	Minimum 15,000 square feet
	Width	Minimum 100 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet
	Side	Min. 10 feet from lot lines. In the case of no lot lines minimum, 20-foot dwelling separation
	Street:	
	Subdivision road	Minimum 15 feet
	Town road	Minimum 100 feet
	County road	Minimum 125 feet
	State and Federal highways (not including freeways)	Minimum 150 feet

	Shore	An absolute minimum shoreyard setback of 75 feet shall be provided. Shoreland setback averaging with adjacent parcels shall not be allowed
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- c. Minimum required open space: 50 percent of the total area consistent with the prioritized list of resources to conserve and other design considerations of section 11.9-A of the county subdivision ordinance. The Zoning Agency may modify the required open space and/or setback requirements of conservation development design on a site specific basis during the conditional use review if the developer can demonstrate that the requirement cannot be met due to unique shape or characteristic of the property. The district open space and/or setback standards for conservation development design may be modified provided that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. Conservation developments, which are approved with a modification to the open space and/or setback requirements of conservation development design standards, shall not qualify for a density bonus. Modification of the open space and or setback requirements shall be limited to the minimum necessary. Open space shall not be modified greater than 20 percent of the minimum open space percentage requirement of the conservation development design standard. Setbacks shall not be modified below the conventional design standards for the district. Setbacks which are specifically listed as smaller than the conventional design standards by conservation development design standards shall not constitute a modification (i.e. Buildings housing animals as specified by conservation development design may be reduced to 25 feet from interior lot lines and not constitute a modification. Setbacks from subdivision roads as listed by conservation design that are less than specified by conventional design shall not constitute a modification).

(6) *Existing substandard lots. See section 74-92.*

R-3 Two-family residence district (sewered or unsewered).

(1) *Principal uses.*

- a. Single-family detached dwellings.
- b. Two-family dwellings (duplex).

(2) *Accessory uses. Accessory uses are permitted but not until their principal structure is*

present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of section 74-38.

- a. Residential accessory structures.
- b. Minor home occupation/professional home office.

(3) *Conditional uses*. See div. 4.

- a. Golf courses and country clubs.
- b. Planned residential developments.
- c. Home occupations.
- d. Sewage disposal plants.
- e. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
- f. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- g. Schools and churches.
- h. Model single-family residences, model single-family condominiums and related temporary real estate sales office located within the model unit.
- i. Model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit.
- j. Conservation development design (five or more dwelling units).

(4) *Conventional design*.

Area, height and yard requirements.

Lot (sewered)	Area	Minimum 15,000 square feet per duplex building
	Width	Minimum 100 feet
Lot (unsewered)	Width and area of all lots to be determined in accordance with <u>section 74-39</u>	
	Area	Minimum 40,000 square feet per dwelling unit

	Width	150 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet
	Side	Minimum 10 feet
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highways (Not including freeways)	Minimum 85 feet
	Shore	Minimum 75 feet

(5) *Conservation developments (five or more dwelling units).*

a. Maximum density: (sewered) one dwelling unit per 7,500 sq. ft. (unsewered) 40,000 sq. ft. per dwelling unit.

b. Area, height and yard requirements:

Lot size (sewered)	Area	Minimum 5,000 square feet per dwelling unit
	Width	Minimum 75 feet
Lot size (unsewered)	Area	Minimum 10,000 square feet per dwelling unit

	Width	Minimum 100 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 15 feet
	Side	Minimum 10 feet from lot lines In the case of no lot lines, minimum 20-foot building separation
	Street:	
	Subdivision road	Minimum 15 feet
	Town road	Minimum 100 feet
	County road	Minimum 125 feet
	State and Federal highways (not including freeways)	Minimum 150 feet
	Shore	An absolute minimum shoreyard setback of 75 feet shall be provided. Shoreland setback averaging with adjacent parcels shall not be allowed

c. Minimum required open space:

Sewered: 20 percent of the total area consistent with the Prioritized List of Resources to Conserve and Other Design Considerations of Section 11.9 A of the Walworth County Subdivision Ordinance. The Zoning Agency may modify the required open

space and/or setback requirements of conservation development design on a site specific basis during the conditional use review if the developer can demonstrate that the requirement cannot be met due to unique shape or characteristic of the property. The district open space and/or setback standards for conservation development design may be modified provided that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. Conservation developments, which are approved with a modification to the open space and/or setback requirements of conservation development design standards, shall not qualify for a density bonus. Modification of the open space and or setback requirements shall be limited to the minimum necessary. Open space shall not be modified greater than 20 percent of the minimum open space percentage requirement of the conservation development design standard. Setbacks shall not be modified below the conventional design standards for the district. Setbacks which are specifically listed as smaller than the conventional design standards by conservation development design standards shall not constitute a modification (i.e. buildings housing animals as specified by conservation development design may be reduced to 25 feet from interior lot lines and not constitute a modification. Setbacks from subdivision roads as listed by conservation design that are less than specified by conventional design shall not constitute a modification).

Unsewered: 50 percent of the total area consistent with the Prioritized List of Resources to Conserve and Other Design Considerations of Section 11.9 A of the Walworth County Subdivision Ordinance. The Zoning Agency may modify the required open space and/or setback requirements of conservation development design on a site specific basis during the conditional use review if the developer can demonstrate that the requirement cannot be met due to unique shape or characteristic of the property. The district open space and/or setback standards for conservation development design may be modified provided that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. Conservation developments, which are approved with a modification to the open space and/or setback requirements of conservation development design standards, shall not qualify for a density bonus. Modification of the open space and or setback requirements shall be limited to the minimum necessary. Open space shall not be modified greater than 20 percent of the minimum open space percentage requirement of the conservation development design standard. Setbacks shall not be modified below the conventional design standards for the district. Setbacks which are specifically listed as smaller than the conventional design standards by conservation

development design standards shall not constitute a modification (i.e. buildings housing animals as specified by conservation development design may be reduced to 25 feet from interior lot lines and not constitute a modification. Setbacks from subdivision roads as listed by conservation design that are less than specified by conventional design shall not constitute a modification).

(6) *Existing substandard lots. See section 74-92.*

R-4 Multiple-family residence district (sewered or unsewered). The R-4 district is intended to provide for multiple-family residential development

(1) *Principal uses.*

a. Single family dwellings.

(2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of section 74-38.

a. Residential accessory structures.

b. Minor home occupation/professional home office.

(3) *Conditional uses.*

a. Two-family dwellings.

b. Multiple-family dwellings.

c. Golf courses and country clubs.

d. Planned residential developments.

e. Lodges and fraternal buildings.

f. Nursery schools and day care centers.

g. Retirement homes, rest homes, homes for the aged.

h. Home occupations.

i. Sewage disposal plants.

j. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.

k. Schools and churches.

l. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.

m. Model apartments, model condominiums and related temporary real estate sales office located within the model unit.

- n. Model single-family residences, model single-family condominiums and related temporary real estate sales office located within the model unit.
- o. Model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit.

(4) *Area, height and yard requirements.*

Multiple-family density		Maximum six dwelling units per net developable acre.
Lot (sewered)	Width	Minimum two-family 80 feet
		Minimum multiple family 100 feet
		Single-family 100 feet
	Area	Minimum two-family 12,000 square feet
		Minimum multiple family 15,000 square feet
		Single-family 15,000 square feet
Lot (unsewered)	Width and area of all lots to be determined in accordance with <u>section 74-39</u>	
	No more than 4 dwelling units per building shall be permitted on an unsewered lot.	
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet
	Side	Minimum 10 feet (sewered)
		Minimum 15 feet (unsewered)

	Street:	
	Subdivision Road	Minimum 25 feet
	Town Road	Minimum 50 feet
	County Road	Minimum 65 feet
	State and Federal Highways (Not including freeways)	Minimum 85 feet

(5) *Park and open space lands.* Park and open space land, exclusive of required yards, access drives, and parking area shall comprise at least 20 percent of the total development area. Such required park and open space land may be placed in more than one location within the development area provided, however, that no single such area shall contain less than one-half acre and that such area shall have its least dimension more than one-fourth its length.

(6) *Existing substandard lots.* See [section 74-92](#).

R-5 Planned residential development district (unsewered). The R-5 district is intended to generally provide for planned developments in an unsewered area with a mixture of residential and business uses.

(1) *Principal uses.* All uses in this district are conditional uses and must be approved in accordance with the procedures established in division 4.

(2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of [section 74-38](#).

a. Residential accessory structures.

- b. Minor home occupation/professional home office.

(3) *Conditional uses.*

- a. One-family detached dwellings.
- b. One-family semi-detached dwellings.
- c. One-family attached dwellings.
- d. Two-family dwellings.
- e. Multiple-family dwellings.
- f. All principal uses permitted in the B-1 local business district, provided that such uses shall not occupy more than 15 percent of the total development area, which include the following: bakeries, barber shops; beauty shops; business offices; clinics; clothing and apparel stores; clubs; confectioneries; delicatessens; drug stores; fish markets; florists; fruit stores; gift stores; grocery stores; hardware stores; hobby shops; lodges; meat markets; optical stores; packaged beverage stores; professional offices; restaurants; self-service and pickup laundry and dry cleaning establishments; sporting goods stores; supermarkets; tobacco stores and vegetable stores.
- g. Golf courses and country clubs.
- h. Ski hills.
- i. Home occupations.
- j. Sewage disposal plants.
- k. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
- l. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- m. Schools and churches.
- n. Reserved.
- o. Model apartments, model condominiums and related temporary real estate sales office located within the model unit.
- p. Model single-family residences, model single-family condominiums and related temporary real estate sales office located within the model unit.
- q. Model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit.

(4) *Development density.*

Unsewered development: 150 feet in width and 40,000 square feet of lot area per dwelling

unit.

- (5) *Park and open space land.* Park and open space land, exclusive of required yards, access drives, and parking areas, shall comprise at least 20 percent of the total development area. Such required park and open space land may be place in more than one location within the development area provided, however, that no single such area shall contain less than one-half acre and that each area shall have its least dimensions more than one-fourth its length.

- (6) *Height and yard requirements.*

Building height		Maximum 45 feet
Yards- Interior	Street	Minimum 25 feet
	Rear	Minimum 40 feet
	Side	Minimum single-family detached 10 feet
	Single-family semi-detached	10 feet from a common wall
	Two-family	10 feet
	Multiple family	15 feet
In cases of no interior lot lines, a minimum building separation shall be maintained equal to twice the interior setback requirement noted above.		
Yards-Perimeter		Minimum 50 feet from the exterior boundary of the development parcel
Yards- Exterior	Street:	
	Subdivision road	Minimum 25 feet

	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal hwys. (not including freeways)	Minimum 85 feet

(7) *Existing substandard lots. See [section 74-92](#).*

R-5A Planned residential development district (sewered). The R-5A district is intended to generally provide for planned developments in a sewered area with a mixture of residential and business uses.

- (1) *Principal uses.* All uses in this district are conditional uses and must be approved in accordance with the procedures established in division 4.
- (2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of [section 74-38](#).
- a. Residential accessory structures.
 - b. Minor home occupation/professional home office.
- (3) *Conditional uses.*
- a. One-family detached dwellings.
 - b. One-family semi-detached dwellings.
 - c. One-family attached dwellings.
 - d. Two-family dwellings.
 - e. Multiple-family dwellings.
 - f. All principal uses permitted in the B-1 local business district, provided that such uses shall not occupy more than 15 percent of the total development area, which include the following: bakeries, barber shops, beauty shops, business offices, clinics, clothing and apparel stores, clubs, confectioneries, delicatessens, drug stores, fish markets, florists, fruit stores, gift stores, grocery stores, hardware stores, hobby shops, lodges, meat markets, optical stores, packaged beverage stores, professional offices, restaurants, self-service and pickup laundry and dry cleaning establishments, sporting goods stores, supermarkets, tobacco stores and vegetable stores.
 - g. Golf courses and country clubs.

- h. Ski hills.
- i. Home occupations.
- j. Sewage disposal plants.
- k. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
- l. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- m. Schools and churches.
- n. Reserved.
- o. Model apartments, model condominiums and related temporary real estate sales office located within the model unit.
- p. Model single-family residences, model single-family condominiums and related temporary real estate sales office located within the model unit.
- q. Model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit.

(4) *Development density.*

Sewered development: Maximum eight dwelling units per net developable acre.

- (5) *Park and open space land.* Park and open space land, exclusive of required yards, access drives, and parking areas, shall comprise at least 20 percent of the total development area. Such required park and open space land may be placed in more than one location within the development area provided, however, that no single such area shall contain less than one-half acre and that each area shall have its least dimensions more than one-fourth its length.

(6) *Height and yard requirements.*

Building	Height	Maximum 45 feet
Yards- Interior	Street	Minimum 25 feet
	Rear	Minimum 40 feet
	Side	Minimum single-family detached 10 feet

		Single-family semi-detached	10 feet from a common wall
		Two-family	10 feet
		Multiple family	15 feet
In cases of no interior lot lines, a minimum building separation shall be maintained equal to twice the interior setback requirement noted above.			
Yards-perimeter		Minimum 50 feet from the exterior boundary of the development parcel	
Yards-exterior	Street:		
	Subdivision road		Minimum 25 feet
	Town road		Minimum 50 feet
	County road		Minimum 65 feet
	State and Federal hwys. (not including freeways)		Minimum 85 feet

(7) *Existing substandard lots.* See [section 74-92](#).

R-6 Planned mobile home park residence district. The R-6 district is intended to generally provide for planned mobile home developments.

- (1) *Principal uses.* All uses in this district are conditional uses and must be approved in accordance with the procedures established in division 4.
- (2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of [section 74-38](#).

- a. Residential accessory structures.
 - b. Minor home occupation/professional home office.
- (3) *Conditional uses.*
- a. Mobile and modular homes.
 - b. Planned residential development.
 - c. Accessory buildings for the purpose of providing laundry and recreational facilities and for the sale of convenience food and related items primarily for and to mobile home residents.
 - d. Golf courses and country clubs.
 - e. Home occupations.
 - f. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
 - g. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
 - h. Schools and churches.
 - i. Model mobile home and related temporary real estate sales office located within the model unit.
 - j. Model single-family residences, model single-family condominiums and related temporary real estate sales office located within the model unit.
 - k. Single-family detached dwellings:
 - 1. (Sewered) 100-foot width and 15,000 sq. ft. per dwelling unit;
 - 2. (Unsewered) 150-foot width and 40,000 sq. ft. per dwelling unit.
- (4) *Mobile home development density.* Maximum five dwelling units per net developable acre.
- (5) *Mobile home area, height and yard requirements.*

Site development	Area	Minimum 10 acres
	Width	Minimum 450 feet
	Open Space	Minimum 20 percent of development area exclusive of required yards and access drives.

Interior	Area per mobile home unit	Minimum 6,950 sq. ft.
	Width	Minimum 50 feet
Structures	Height	Maximum 30 feet
Yards		
Site development	Rear	Minimum 40 feet
	Side	Minimum 40 feet
	Street:	
	Subdivision Road	Minimum 25 feet
	Town Road	Minimum 50 feet
	County Road	Minimum 65 feet
	State and Federal Hwys (Not including freeways)	Minimum 85 feet
Yards: Dwelling (Interior)	Rear	Minimum 20 feet
	Side	Minimum 15 feet
	Street	Minimum 20 feet

(6) *Existing substandard lots. See section 74-92.*

R-7 Mobile home subdivision residence district (sewered or unsewered). The R-7 district is intended to generally provide for the location of mobile home subdivisions in a residential setting.

(1) *Principal uses.*

a. Mobile and modular homes.

- b. Single-family detached dwellings.
- (2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of section 74-38.
- a. Minor home occupation/professional home office.
- (3) *Conditional uses.*
- a. Golf courses and country clubs.
 - b. Planned residential developments.
 - c. Home occupations.
 - d. Sewage disposal plants.
 - e. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
 - f. Schools and churches.
 - g. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
 - h. Parks and playgrounds.
 - i. Model mobile home and related temporary real estate sales office located within the model unit.
 - j. Model single-family residences, model single-family condominiums and related temporary real estate sales office located within the model unit.
- (4) *Area, height and yard requirements.*

Lot (Sewered)	Area	Minimum 15,000 square feet
	Width	Minimum 100 feet
Lot (Unsewered)	Width and area of all lots to be determined in accordance with <u>section 74-39</u> .	
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet

	Side	Minimum 10 feet
	Street:	
	Subdivision Road	Minimum 25 feet
	Town Road	Minimum 50 feet
	County Road	Minimum 65 feet
	State and Federal Hwys (Not including freeways)	Minimum 85 feet

(5) *Existing substandard lots.* See [section 74-92](#).

R-8 Multiple family residence district (sewered or unsewered). The R-8 district is intended to generally provide for multiple family residential development.

(1) *Principal uses.*

a. Multiple family dwelling units.

(2) *Accessory uses.* Accessory uses are permitted but not until their principal structure is present or under construction. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of [section 74-38](#).

a. Residential accessory structures.

b. Minor home occupation/professional home office.

(3) *Conditional uses.*

a. Golf courses and country clubs.

b. Single-family dwellings.

c. Two-family dwellings.

d. Planned residential developments.

e. Home occupations.

f. Sewage disposal plants.

g. Governmental and cultural uses, such as police stations, community centers, libraries, public emergency shelters, museums, and park and ride facilities.

- h. Parks and playgrounds.
- i. Model apartments, model condominiums and related temporary real estate sales office located within the model unit.
- j. Model single-family residences, model single-family condominiums and related temporary real estate sales office located within the model unit.
- k. Model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit.
- l. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- m. Schools and churches.

(4) *Area, height and yard requirements.*

Lot (Sewered)	Width	Minimum 85 feet
	Area	Minimum 10,890 square feet
Lot (Unsewered)	Width and area of all lots to be determined in accordance with <u>section 74-39</u>	
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet
	Side	Minimum 10 feet
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal hwys. (not including freeways)	Minimum 85 feet

- (5) *Development density.* Maximum four dwelling units per net developable acre.
- (6) *Park and open space.* Park and open space land, exclusive of required yards, access drives, and parking areas shall comprise at least 20 percent of the total development area. Such required park and open space land may be placed in more than one location within the development area provided, however, that no single such area shall contain less than one-half acre and that such area shall have its least dimension more than one-fourth its length.
- (7) *Existing substandard lots.* See [section 74-92](#).

(Ord. of 6-11-02; Amd. of 1-14-03; Amd. of 7-13-04; Ord. No. 331-01/06, pts. IV—VII, 1-10-06; Ord. No. 333-01/06, pt. I, 1-10-06; Ord. No. 353-04/06, pt. III, 4-20-06; Ord. No. 436-05/07, pt. I, 5-8-07; Ord. No. 466-11/07, pt. IV, 11-13-07; Ord. No. 591-12/09, pt. XV, 12-15-09; Ord. No. 740-09/12, pt. IV, 9-6-12; Ord. No. 1049-06/17, pt. VI, 6-13-17; Ord. No. 1171-06/19, pt. VII, 6-11-19)

Sec. 74-55. - Business districts.

B-1 Local business district. The B-1 district is intended to generally provide for orderly and appropriate regulations to insure the compatibility of the diverse uses of retail and customer service establishments typically found in a localized general downtown type area.

- (1) *Principal uses.* The following uses are principal uses provided that they shall be retail establishments selling and storing primarily new merchandise.
 - a. Bakeries.
 - b. Barber shops.
 - c. Beauty shops.
 - d. Business offices.
 - e. Clinics.
 - f. Clothing and apparel stores.
 - g. Clubs.
 - h. Confectioneries.
 - i. Delicatessens.
 - j. Drug stores.
 - k. Fish markets.
 - l. Florists.
 - m. Fruit stores.
 - n.

Gift stores.

- o. Grocery stores.
- p. Hardware stores.
- q. Hobby shops.
- r. Library.
- s. Meat markets (retail sales - no slaughtering).
- t. Museum.
- u. Optical stores.
- v. Packaged beverage stores.
- w. Professional offices.
- x. Restaurants.
- y. Self service and pickup laundry and dry cleaning establishments.
- z. Sporting goods stores.
- aa. Supermarkets.
- bb. Tobacco stores.
- cc. Vegetable stores.
- dd. Antique shops.
- ee. One dwelling unit when located within the principal business structure.

(2) *Conditional uses.*

- a. Off-season storage or mini-warehouse facilities.
- b. Lodges and fraternal buildings.
- c. Nursing homes.
- d. Nursery and day care centers.
- e. Retirement homes.
- f. Vehicle sales and services.
- g. Gasoline service stations, provided all gas pumps are not less than 30 feet from any side or rear lot line and 20 feet from any existing or proposed street right of way and further provided that canopy posts over gas pumps shall be at least 30 feet from any side or rear lot line and shall not be less than 20 feet from any existing or proposed street right of way. Canopies shall not be permitted to overhang past the property line. No canopy shall exceed 20 feet in height.
- h. Public parking lots.

- i. Taxi stands.
- j. Sewage disposal plants.
- k. Governmental and cultural uses such as fire and police stations, community centers, public emergency shelters, parks and playgrounds, and park and ride facilities.
- l. Utilities, provided all principal structures and uses are not less than 50 feet from all district lot lines except business, park and industrial.
- m. Schools and churches.
- n. Car washes.
- o. Planned unit developments. Building separation: The minimum building separation shall be 30 unless modified by the Committee, provided the minimum building separation is never reduced below 20 feet.
- p. Shared parking.
- q. One dwelling unit when located outside the principal business structure.
- r. Establishments serving food or beverages for consumption outside the principal structure.

(3) *Area, height and yard requirements.*

Lot (sewered)	Area	Minimum 7,500 square feet
	Width	Minimum 75 feet
Lot (unsewered)	Area	Minimum 40,000 square feet in lot area per principal use or structure and sufficient area to meet off-street parking and loading requirements
	Width	Minimum 150 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 30 feet
	Side	Minimum 10 feet

	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highways (not including freeways)	Minimum 85 feet

B-2 General business district. The B-2 General Business District is intended to provide for more business and trades of a more general nature, normally serving a larger trade area.

(1) *Principal uses.*

- a. All principal uses permitted in the B-1, local business district.
- b. Appliance stores.
- c. Caterers.
- d. Clothing repair shops.
- e. Crockery stores.
- f. Department stores.
- g. Electrical supply.
- h. One dwelling unit when located within the principal business structure.
- i. Financial institutions.
- j. Food lockers.
- k. Furniture stores.
- l. Furniture upholstery shops.
- m. Heating supply.
- n. Hotels and motels.
- o. Laundry and dry cleaning establishments employing not over seven persons.
- p. Library.
- q. Liquor stores, bars, taverns, cocktail lounges.

- r. Museum.
- s. Music stores.
- t. Newspaper office and press rooms.
- u. Night clubs and dance halls.
- v. Office supplies.
- w. Pawn shops.
- x. Personal service establishments.
- y. Pet shops.
- z. Photographic supplies.
- aa. Plumbing supplies.
- bb. Printing.
- cc. Private clubs.
- dd. Publishing.
- ee. Radio broadcasting studios.
- ff. Second-hand stores.
- gg. Television broadcasting studios.
- hh. Trade and contractor's office.
- ii. Upholster's shops.
- jj. Variety stores.
- kk. Boat and marine supplies not including manufacturing.
- ll. Adult entertainment use provided that there is a minimum building separation of 750 feet from the nearest residential structure, residential zoning districts (R-1, R-2, R-2A, R-3, R-4, R-5, R-6, R-7, R-8, A-5, C-3, B-5, B-6), churches, schools, public parks, public playgrounds, public beaches, daycare centers and park zoning districts (P-1, P-2) existing at the time of application for a zoning permit or at the time of establishing an adult entertainment use within existing buildings which are properly zoned and do not require a zoning permit, and further provided that any adult entertainment use be conducted within an enclosed building.

(2) *Conditional uses.*

- a. Animal hospitals, shelters and kennels.
- b. Public assembly uses.
- c. Commercial recreational facilities.
- d. Off-season storage or mini-warehouse facilities.

- e. Lodges and fraternal buildings.
- f. Nursing homes.
- g. Nursery and day care centers.
- h. Retirement homes.
- i. Drive-in theaters.
- j. Funeral homes.
- k. Drive-up banks.
- l. Establishments serving food or beverages for consumption outside the principal structure.
- m. Vehicle sales and services.
- n. Public parking lots.
- o. Public passenger transportation terminals.
- p. Sewage disposal plants.
- q. Building contractors storage yards.
- r. Governmental and cultural uses such as fire and police stations, community centers, public emergency shelters, parks, playgrounds, park and ride facilities.
- s. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- t. Heliports.
- u. Schools and churches.
- v. Hospitals, sanitariums, religious, charitable, penal and correctional institutions, cemeteries, mausoleums, columbaria and crematories.
- w. Packing, packaging, and light assembly of products from furs, glass, metals, paper, leather, plaster, plastics, textiles, and wood.
- x. Tanning studios.
- y. Small engine repair shops.
- z. Flea markets.
- aa. Tattoo parlors.
- bb. Car wash.
- cc. Gasoline service station, provided all gas pumps are not less than 30 feet from any side or rear lot line and 20 feet from any existing or proposed street right of way and further provided that canopy posts over gas pumps shall be at least 30 feet from any side or rear lot line and shall not be less than 20 feet from any existing or proposed

street right of way. Canopies shall not be permitted to overhang past the property line.

No canopy shall exceed 20 feet in height.

dd. Planned unit developments. Building separation: The minimum building separation shall be 30 unless modified by the Committee, provided the minimum building separation is never reduced below 20 feet.

ee. Shared parking.

ff. One dwelling unit when located outside the principal business structure.

(3) *Area, height and yard requirements.*

Lot (sewered)	Area	Minimum 7,500 square feet
	Width	Minimum 75 feet
Lot (unsewered)	Area	Minimum 40,000 square feet in lot area per principal use or structure and sufficient area to meet off-street parking and loading requirements
	Width	Minimum 150 feet
Building	Height	Maximum 55 feet
Yards	Rear	Minimum 30 feet
	Side	Minimum 10 feet
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet

	State and Federal highways (not including freeways)	Minimum 85 feet
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B-3 Waterfront business district. The B-3 district is intended to generally provide for orderly and appropriate regulations to insure the compatibility of the diverse uses of retail and customer service establishments typically found on waterfront property.

(1) *Principal uses.*

- a. Bakery.
- b. Boat rental and boat access (ten or less boats).
- c. Boat liveries (ten or less boats).
- d. Clothing and apparel store.
- e. Clothing repair shop.
- f. Confectioneries retail sales.
- g. Delicatessen.
- h. Fish market.
- i. Florist.
- j. Fruit store.
- k. Fur apparel, retail sales.
- l. Furniture upholstery shop.
- m. Furniture store.
- n. Gift store.
- o. Grocery store.
- p. Hardware store.
- q. Library.
- r. Meat market (retail sales - no slaughtering).
- s. Museum.
- t. Music store.
- u. Office supply store.
- v. Offices, professional.
- w. Office, business.

- x. Office, trade/contractor.
 - y. Restaurant.
 - z. Second-hand store.
 - aa. Sporting goods store.
 - bb. Supermarkets.
 - cc. Supper clubs.
 - dd. Tanning salon.
 - ee. Tobacco store.
 - ff. Vegetable store.
 - gg. Adult entertainment use provided that there is a minimum building separation of 750 feet from the nearest residential structure, residential zoning districts (R-1, R-2, R-2A, R-3, R-4, R-5, R-6, R-7, R-8, A-5, C-3, B-5, B-6), churches, schools, public parks, public playgrounds, public beaches, daycare centers and park zoning districts (P-1, P-2) existing at the time of application for a zoning permit or at the time of establishing an adult entertainment use within existing buildings which are properly zoned and do not require a zoning permit, and further provided that any adult entertainment use be conducted within an enclosed building.
 - hh. One dwelling unit when located within the principal business structure.
- (2) *Conditional uses.*
- a. All principal and conditional uses permitted in the B-1 and B-2 districts.
 - b. Boat rental and boat access sites.
 - c. Boats and marine supplies.
 - d. Bowling alleys.
 - e. Hotels, motels and tourist courts.
 - f. Bait shops.
 - g. Skating rinks.
 - h. Swimming beaches and pools.
 - i. Taverns and bars.
 - j. Yachting clubs and marinas.
 - k. Bath houses.
 - l. Boat liveries.
 - m. Dance halls.
 - n. Public assembly uses.

- o. Commercial recreational facilities.
 - p. Off-season storage or mini-warehouse facilities.
 - q. Lodges and fraternal buildings.
 - r. Nursing homes.
 - s. Nursery and day care centers.
 - t. Retirement homes.
 - u. Establishments serving food or beverages for consumption outside the principal structure.
 - v. Vehicle sales and services.
 - w. Public parking lots.
 - x. Gasoline service station, provided all gas pumps are not less than 30 feet from any side or rear lot line and 20 feet from any existing or proposed street right of way and further provided that canopy posts over gas pumps shall be at least 30 feet from any side or rear lot line and shall not be less than 20 feet from any existing or proposed street right of way. Canopies shall not be permitted to overhang past the property line. No canopy shall exceed 20 feet in height.
 - y. Public passenger transportation terminals
 - z. Sewage disposal plants.
 - aa. Governmental and cultural uses, such as fire and police stations, community centers, public emergency shelters, parks, playgrounds, and park and ride facilities.
 - bb. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
 - cc. Schools and churches.
 - dd. Planned unit developments. Building separation: The minimum building separation shall be 30 unless modified by the Committee, provided the minimum building separation is never reduced below 20 feet.
 - ee. Shared parking.
 - ff. One dwelling unit when located outside the principal business structure.
- (3) *Area, Height and Yard Requirements.*

Lot (sewered)	Area	Minimum, sufficient area for the principal structure and its buildings, off-street parking and loading areas required by sections <u>74-74</u> and <u>74-75</u> , and all required yards
Lot (unsewered)	Area	Minimum 40,000 square feet in lot area per principal use or structure and sufficient area to meet off-street parking and loading requirements
	Width	Minimum 150 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 50 feet
	Side	Minimum 10 feet
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highways (not including freeways)	Minimum 85 feet

B-4 Highway business district. The B-4 district is intended to provide for orderly and appropriate

regulations at appropriate locations along principal highway routes to those businesses and customer services which are logically related to and dependent upon highway traffic or which are specifically designed to serve the needs of such traffic.

(1) *Principal uses.*

- a. Antique shop with no outside storage.
- b. Bait shop.
- c. Bakery.
- d. Beauty shop.
- e. Candy, nut and confectionary store.
- f. Caterer.
- g. Clothing and apparel store.
- h. Clothing repair shop.
- i. Crockery store.
- j. Delicatessen.
- k. Dwelling unit when located within the principal business structure.
- l. Electrical supply store with no outside storage.
- m. Fish market.
- n. Florist.
- o. Food lockers.
- p. Fruit store.
- q. Fur apparel, retail sales.
- r. Furniture upholstery shop.
- s. Furniture store.
- t. Gift store.
- u. Greenhouses, commercial.
- v. Grocery store.
- w. Hardware store.
- x. Heating supply.
- y. Hobby shop.
- z. Laundry and dry cleaning.
- aa. Library.
- bb. Meat market (retail sales - no slaughtering).

- cc. Museum.
- dd. Music store.
- ee. Office supply store.
- ff. Offices, professional.
- gg. Offices, business.
- hh. Offices, trade/contractors.
 - ii. Optical store.
 - jj. Photographic store.
- kk. Plumbing store with no outside storage.
- ll. Restaurant.
- mm. Second-hand store with no outside storage.
- nn. Sporting goods store.
- oo. Supermarket.
- pp. Supper club.
- qq. Tanning salon.
- rr. Tires, batteries and accessory store with no outside storage.
- ss. Tobacco store.
- tt. Upholster's store.
- uu. Variety store.
- vv. Vegetable store.
- ww. Adult entertainment use provided that there is a minimum building separation of 750 feet from the nearest residential structure. Residential zoning districts (R-1, R-2, R-2A, R-3, R-4, R-5, R-6, R-7, R-8, A-5, C-3, B-5, B-6), churches, schools, public parks, public playgrounds, public beaches, daycare centers and park zoning districts (P-1, P-2) existing at the time of application for a zoning permit or at the time of establishing an adult entertainment use within existing buildings which are properly zoned and do not require a zoning permit, and further provided that any adult entertainment use be conducted within an enclosed building.

(2) *Conditional uses.*

- a. All principal and conditional uses permitted in the B-1 and B-2 districts.
- b. Automobile and truck retail services.
- c. Automobile repair services.
- d. Automotive body repair.

- e. Bar and taverns.
- f. Gasoline service stations, provided all gas pumps are not less than 30 feet from any side or rear lot line and 20 feet from any existing or proposed street right of way and further provided that canopy posts over gas pumps shall be at least 30 feet from any side or rear lot line and shall not be less than 20 feet from any existing or proposed street right of way. Canopies shall not be permitted to overhang past the property line. No canopy shall exceed 20 feet in height.
- g. Hotels, motels and tourist courts.
- h. Night clubs and dance halls.
 - i. Service and installation of tires, batteries and accessories.
 - j. One residential dwelling unit when located outside the principal business structure.
- k. Animal hospital, shelters and kennels.
- l. Yachting clubs and marinas.
- m. Public assembly uses.
- n. Commercial recreations facilities.
- o. Off-season storage or mini-warehouse facilities.
- p. Lodges and fraternal buildings.
- q. Nursing homes.
- r. Nursery and day care centers.
- s. Retirement homes.
- t. Establishments serving food or beverages for consumption outside the principal structure.
- u. Drive-up banks.
- v. Vehicle sales and services.
- w. Public parking lots.
- x. Public passenger transportation terminals.
- y. Second hand store with outside storage.
- z. Sewage disposal plants.
- aa. Governmental and cultural uses, such as fire and police stations, community centers, public emergency shelters, parks, playgrounds, and park and ride facilities.
- bb. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- cc. Schools and churches.

- dd. Planned unit developments. Building separation: The minimum building separation shall be 30 unless modified by the Committee, provided the minimum building separation is never reduced below 20 feet.
- ee. Commercial arboretum.
- ff. Shared parking.
- gg. One residential dwelling unit when located outside the principal business structure.
- hh. Tow lot.

(3) *Area, height and yard requirements.*

Lot (sewered)	Area	Minimum sufficient area for the principal structure and its accessory buildings, off-street parking and loading areas required by sections <u>74-74</u> and <u>74-75</u> , and all required yards
Lot (unsewered)	Area	Minimum 40,000 square feet in lot area per principal use or structure and sufficient area to meet off-street parking and loading requirements
	Width:	Minimum 150 feet
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 40 feet
	Side	Minimum 40 feet
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet

	County road	Minimum 65 feet
	State and Federal highways (not including freeways)	Minimum 85 feet

B-5 Planned commercial-recreational business district. The primary purpose of this district is to permit on a planned basis major commercial-recreation development projects, including recreation-related residential land uses. Such planned development projects are likely to include a large number of different individual land uses which are needed to carry on and support the primary commercial-recreational venture.

(1) *Principal uses.* All uses in this district are conditional uses and must be approved in accordance with the procedures established in division 4.

(2) *Conditional uses.*

- a. Aircraft landing and takeoff fields.
- b. Amusement parks and miniature golf courses.
- c. Boat rentals and boat access sites.
- d. Planned campground developments.
- e. Dance halls.
- f. Restaurants, taverns, bars, and night clubs.
- g. Drive-in movies.
- h. Dude ranches.
- i. Fairgrounds.
- j. Health and recreational resorts, including the following uses which may be permitted as a part of the resort complex, provided that either in combination or individually they do not occupy more than 25 percent of the total floor area of the principal resort buildings:

Retail sales.

1. Antiques.
2. Books.
3. Camera and photographic supplies.
4. Candy, nut and confectionery.

5. China, glassware, and metal-ware.
6. Cigars, cigarettes, and tobacco.
7. Flowers.
8. Fur apparel.
9. Gifts stores.
10. Jewelry.
11. Men's and boy's clothing and furnishings
12. Music supplies.
13. Newspapers and magazines.
14. Shoes.
15. Sporting goods.
16. Stationery.
17. Toys.
18. Women's and girl's clothing and furnishings.
19. Drug stores.

Personal services.

1. Artists services.
 2. Barber services.
 3. Beauty services.
 4. Dry cleaning.
 5. Laundry.
 6. Photographic studios.
 7. Shoe repair and cleaning services.
 8. Custom tailoring.
 9. Travel arranging services.
- k. Go-cart tracks.
- l. Golf courses and related facilities.
- m. Hotels and motels.
- n. Penny arcades.
- o. Race tracks.
- p. Commercial stables.

- q. Roller skating rinks.
- r. Skiing and tobogganing.
- s. Snowmobile trails.
- t. Swimming beaches.
- u. Skeet trap and rifle ranges.
- v. Animal hospitals, shelters and kennels.
- w. Golf courses and country clubs.
- x. Ski hills.
- y. Yachting clubs and marinas.
- z. Public or private campgrounds.
- aa. Cultural activities.
- bb. Amusement activities.
- cc. Public assembly uses.
- dd. Archery ranges.
- ee. Golf driving ranges.
- ff. Firearm ranges.
- gg. Sports fields.
- hh. Polo fields.
- ii. Skating rinks.
- jj. Commercial recreational facilities.
- kk. Off-season storage or mini-warehouse facilities.
- ll. Lodges and fraternal buildings.
- mm. Nursing homes.
- nn. Nursery and day care centers.
- oo. Retirement homes.
- pp. Drive-in theaters.
- qq. Motels, hotels and tourist courts.
- rr. Vehicle sales and services.
- ss. Public parking lots.
- tt. Taxi stands.
- uu. Sewage disposal plants.
- vv. Airports, airstrips, landing fields, and heliports.

- ww. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- xx. Schools and churches.
- yy. Commercial water slides.
- zz. Single-family and multiple family dwelling units when located on the same site with health or recreational resorts provided, however, that the transfer of ownership of any dwelling units may only include therewith a fractional interest in the site on which the dwelling units is located, and such transfer shall not result in a subdivision or minor subdivision as defined under the Walworth County Land Division Ordinance. Any permitted dwelling units may be used either for the accommodation of transient guests or exclusively for living quarters for one family.
- aaa. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
- bbb. Shared parking.
- ccc. Special event campground.
- ddd. Establishments serving food or beverages for consumption outside the principal structure.

(3) *Area, height and yard requirements.*

Dwelling unit density (sewered). No planned development approved as a conditional use in the B-5 zone may, with respect to that area exclusively devoted to residential land uses, exceed ten dwelling units per net developable acre.

Building	Height	Maximum, commercial structures 85 feet, residential structures 45 feet
Yards (interior)	Rear	Minimum 40 feet
	Side	Minimum 15 feet
	Street	Minimum 25 feet

Yards (perimeter except shore)		Minimum 100 feet from the exterior boundary of the development parcel
Yards (perimeter shore)		Minimum 75 feet
Yards (street)	Subdivision	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highways (not including freeways)	Minimum 85 feet
Open space		Minimum 70% of total lot area

B-6 Bed and breakfast district. The bed and breakfast district is a commercial district, hereby, established to provide areas to include bed and breakfast establishments which meet all State code requirements for such establishments.

(1) *Principal uses.*

- a. Bed and breakfast establishments-commercial means any place of lodging that:
1. Provides eight or fewer rooms for rent to no more than a total of 20 tourists or transients;
 2. Provides no meals other than breakfast and provides the breakfast only to its lodgers;
 3. Is the owner's personal residence;
 4. Is occupied by the owner at the time of rental;
 5. Was originally built and occupied as a single-family residence, or prior to use as a place of lodging, was converted to use and occupied as a single-family residence; and

6. Has had completed structural additions in accordance with Wis. Stats. § 254.61(1).

(2) *Area, height and yard requirements.*

Lot (sewered)	Area	Minimum 15,000 square feet
	Width	Minimum 100 square feet
Lot (unsewered)	Width and area of all lots to be determined in accordance with <u>section 74-39</u> .	
Building	Height	Maximum 45 feet
Yards	Rear	Minimum 25 feet
	Side	Minimum 15 feet
	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highways (not including freeways)	Minimum 85 feet
	Shore	75 feet

(Ord. of 6-11-02; Amd. of 1-14-03; Amd. of 5-10-05; Ord. No. 369-07/06, pt. II, 7-11-06; Ord. No. 466-11/07, pt. V, 11-13-07; Ord. No. 561-06/09, pt. II, 6-9-09; Ord. No. 563-06/09, pt. I, 6-9-09; Ord. No. 591-12/09, pt. XVI, 12-15-09; Ord. No. 685-08/11, pt. II, 8-9-11; Ord. No. 740-09/12, pt. V, 9-6-12; Ord. No. 978-04/16, pt. I, 4-21-16; Ord. No. 1049-06/17, pt. VII, 6-13-17; Ord. No. 1171-06/19, pt. VIII, 6-11-19; Ord. No. 1273-05/22, pt. II, 5-10-22)

Sec. 74-56. - Industrial districts.

M-1 Industrial district. The M-1 district is intended to provide for manufacturing, industrial and related uses.

(1) *Principal uses.*

- a. Automobile repair.
- b. Automotive upholstery.
- c. Cleaning, pressing and dyeing.
- d. Commercial bakeries.
- e. Commercial greenhouses.
- f. Distributors.
- g. Food locker plants.
- h. Printing.
- i. Publishing.
- j. Trade and contractors offices.
- k. Warehousing.
- l. Wholesaling.
- m. Retail sales and service facilities, such as retail outlet stores, surplus goods stores, and restaurants and food service facilities, when established in conjunction with a permitted manufacturing or processing facility.
- n. Proving grounds.
- o. Manufacture, fabrication, processing or packaging of food but not including, because of noxious odors, cabbage, fish and fish products, meat and meat products, pea vining, and commercial egg production.

(2) *Conditional uses.*

- a. Living quarters for watchman or caretaker.
- b. Farm machinery plants.
- c. Machine shops.
- d. Painting.
- e. Manufacture, fabrication, packing, packaging, and assembly of products from furs, glass, metals, paper, leather, plaster, plastics, textiles, and wood
- f. Automotive body repairs.
- g. Laboratories.

- h. Manufacture and bottling of nonalcoholic beverages.
- i. Storage and sale of machinery and equipment.
- j. Manufacture, fabrication, processing, packaging, and packing of confections; cosmetics; electrical appliances; electronic devices; instruments; jewelry, pharmaceutical; tobacco; and toiletries.
- k. Sewage disposal plants.
- l. Commercial service facility such as restaurants and fueling stations (see section 74-65/74-192).
- m. Building contractors storage yard.
- n. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.
- o. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
- p. Recycling centers.
- q. Composting.
- r. Garbage dumpster rental.
- s. Planned unit developments.
- t. Off-season storage or mini-warehouse facilities.
- u. Shared parking.
- v. Tow lot.
- w. Outside storage and manufacturing areas.

(3) *Area, height and yard requirements.*

Lot (sewered)	Area	Minimum sufficient area for the principal structure and its accessory buildings, off-street parking and loading areas required by sections <u>74-74</u> and <u>74-75</u> , and all required yards
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Lot (unsewered)	Area	Minimum 40,000 square feet in lot area per principal use or structure and sufficient area to meet off-street parking and loading requirements
	Width	Minimum 150 feet
Building	Height	Maximum 55 feet
Yards	Street:	
	Subdivision road	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highway (not including freeways)	Minimum 85 feet
	Rear	Minimum 30 feet, except 50 feet when abutting a residential district
	Side	Minimum 30 feet, except 50 feet when abutting a residential district

M-2 Heavy industrial district. The M-2 district is intended to provide for more intense manufacturing and industrial development.

(1) *Principal uses.*

- a. All principal uses permitted in the M-1 industrial district.
- b. Freight yards, terminals, and transshipment depots.
- c. Inside storage.

d. Breweries.

(2) *Conditional uses.*

a. Living quarters for watchman or caretaker.

b. Crematories.

c. All conditional uses in the M-1 district.

d. Pea vineries.

e. Creameries.

f. Condenseries.

g. Manufacture and processing of abrasives, acetylene, acid, alkalis, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, felt, fish, fuel, furs, gelatin, glucose, gypsum, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oil cloth, paint, paper, peas, perfume, pickle, plaster of Paris, plastics, poison, polish, potash, pulp, pyroxylin, rope, rubber, sausage, shoddy, shoe and lampblackening, size, starch, stove polish, textiles and varnish.

h. Manufacture, processing, and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast.

i. Manufacture and bottling of alcoholic beverages.

j. Bag cleaning, bleacheries, canneries, cold storage warehouses, electric and steam generating plants, electroplating, enameling, forges, foundries, garbage, incinerators, lacquering, lithographing, offal, rubbish, or animal reduction, oil, coal, and bone distillations, refineries, road test facilities, slaughterhouses, smelting, stockyards, tanneries, and weaving.

k. Outside storage and manufacturing areas.

l. Wrecking, junk, demolition, automobile salvage yards, and scrap yards.

m. Commercial service facilities.

n. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums, and park and ride facilities.

o. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.

p. Recycling centers.

- q. Composting.
- r. Planned unit developments.
- s. Off-season storage or mini-warehouse facilities.
- t. Shared parking.
- u. High-bay warehouses using oxygen reduction fire prevention.

(3) *Area, height and yard requirements.*

Lot (sewered)	Area	Minimum sufficient area for the principal structure and its accessory buildings, off-street parking and loading areas required by sections <u>74-74</u> and <u>74-75</u> , and all required yards.
Lot (unsewered)	Area	Minimum 40,000 square feet in lot area per principal use or structure and sufficient area to meet off-street parking and loading requirements.
	Width	Minimum 150 feet
Building	Height	Maximum 70 feet
Yards	Street:	
	Subdivision	Minimum 25 feet
	Town road	Minimum 50 feet
	County road	Minimum 65 feet
	State and Federal highway (not including freeways)	Minimum 85 feet

	Rear	Minimum 30 feet, except 50 feet when abutting a residential district
	Side	Minimum 30 feet, except 50 feet when abutting a residential district

M-3 Mineral extraction, oil or gas exploration or production district.

- (1) *Principal uses.* All uses in this district are conditional uses and must be approved in accordance with the procedures established in division 4.
- (2) *Conditional uses.*
- a. Aggregate or ready-mix plant.
 - b. Clay, ceramic, and refractor minerals mining.
 - c. Crushed and broken stone quarrying.
 - d. Mixing of asphalt.
 - e. Nonmetallic mining services.
 - f. Processing of top soil.
 - g. Sand and gravel quarrying.
 - h. Washing, refining, or processing of rock, slate, gravel, sand or minerals.
 - i. The extension of any existing mineral extraction related uses.
 - j. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks and playgrounds, museums, and park and ride facilities.
 - k. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
 - l. Recycling centers.
 - m. Composting.
 - n. Oil and gas exploration or production.
- (3) *Yard requirements.* All excavations shall be at least 200 feet from the right-of-way of any public or approved private street or property line. The Committee may vary this requirement for shallow clay barrow excavation when the excavation and backfilling is conducted in a continuous phase and the barrow material is replaced on site for the re-establishment of the

original grade after considering such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this Ordinance. In no case shall the setback requirement be reduced to less than 2½ times the proposed maximum depth. All accessories, such as offices, parking areas, and stock piles, shall be at least 100 feet from any right-of-way or property line.

M-4 Sanitary landfill district.

- (1) *Principal uses.* All uses in this district are conditional uses and must be approved in accordance with the procedures established in division 4.
- (2) *Conditional uses.*
 - a. Sanitary landfill operations.
 - b. Incinerators.
 - c. Sewage disposal plants.
 - d. Utilities, provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park and industrial.
 - e. Recycling centers.
 - f. Composting.
 - g. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks and playgrounds, museums, and park and ride facilities.
 - h. Contaminated soil reclamation.

(3) *Yard and height requirements.*

Yard	All operations shall be at least 200 feet from the right-of-way of any public or approved private street or property line.	
Structures	Height	Maximum 45 feet.

(Ord. of 6-11-02; Amd. of 1-14-03; Amd. of 5-10-05; Ord. No. 466-11/07, pt. VI, 11-13-07; Ord. No. 591-12/09, pt. XVII, 12-15-09; Ord. No. 685-08/11, pt. III, 8-9-11; Ord. No. 740-09/12, pt. VI, 9-6-12; Ord. No. 879-09/14, pt. V, 9-4-14; Ord. No. 1049-06/17, pt. VIII, 6-13-17; Ord. No. 1171-06/19, pt. IX, 6-11-19; Ord. No. 1244-09/21, pt. I, 9-14-21)

Sec. 74-57. - Reserved.

Editor's note— Ord. No. 740-09/12, pt. VII, adopted September 6, 2012, amended the Code by repealing former § 74-57 in its entirety. Former § 74-57 pertained to the wellhead protection overlay district of the Town of Bloomfield, and carried no history note.

DIVISION 4. - CONDITIONAL USES

Sec. 74-58. - Application.

Pre-application requests. A pre-application meeting shall be required prior to the submittal of any conditional use request for subdivisions, condominiums or campgrounds of five or more units, or any conditional use request in the A-4, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, or M-4 zone district with buildings 10,000 square foot or greater, or any conditional use requests for land restoration on sites two acres or greater, or any conditional use request for a solar energy system over one megawatt, or upon applicant's request. The pre-application process shall include a sketch plan prepared by a registered land surveyor and the applicable fee. The plans submitted shall be reviewed in a meeting scheduled by the County. The plans shall be reviewed for issues related to, but not limited to, platting, zoning, sanitation, storm water, highway and parks. If a pre-application meeting is held during the changes and amendment (rezone) process, a pre-application meeting is not required during this process.

Application for conditional use permits and amendments shall be made to the County Zoning Administrator on forms furnished by the Administrator and shall include the following where pertinent and necessary for proper review by the Committee:

- (1) *Name and addresses* of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
- (2) *Description of the subject site* by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- (3) *Plat of survey* prepared by a land surveyor registered in the State or other map drawn to scale and approved by the County Zoning Administrator, showing the location, property boundaries, dimensions, elevations, uses, and existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site; soil mapping unit lines; mean and historic highwater lines, on or within 40 feet of the subject premises, and existing and proposed

landscaping.

- (4) *Additional information* as may be required by the Committee, County Zoning Administrator, County land conservation or County Sanitarian, such as ground surface elevations, basement and first floor elevations, utility elevations, historic and probable future floodwater elevations, areas subject to inundation by floodwaters, depths of inundation, floodproofing measures, soil type, slope, storm water consistent with the storm water management ordinance, and boundaries, and plans for proposed structures giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure of its affects and flood flows.
- (5) *Applications.* A party shall not initiate action for a conditional use permit affecting the same land more than twice every 12 months. The 12 months to be calculated from the date of the conclusion of the first County Planning, Zoning, and Sanitation Committee public hearing. If a change in a County zoning ordinance or state statute affects the subject matter of the permit request, the party may apply again even if there have been two actions on the same land within the 12-month period.
- (6) *Submission to township.* A party shall submit a copy of the same application for a conditional use permit to the township where the parcel is located. An applicant shall receive a recommendation from the appropriate township concerning all conditional use applications.
- (7) Applications for conditional use permits and amendments for a Livestock Facility shall follow the procedures and standards as established in Section 74-60 and ATCP 51.30; ATCP 51.32; and ATCP 51.34.

(Amd. of 7-13-04; Amd. of 1-11-05; Ord. No. 419-03/07, pt. I, 3-13-07; Ord. No. 466-11/07, pt. VII, 11-13-07; Ord. No. 740-09/12, pt. VIII, 9-6-12; Ord. No. 879-09/14, pt. VI, 9-4-14; Ord. No. 1049-06/17, pt. IX, 6-13-17; Ord. No. 1171-06/19, pt. X, 6-11-19)

Sec. 74-59. - Review and approval of conditional uses.

The Committee shall review the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effects of the proposed use, structure, operation and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat, and shall hold a public hearing after publishing a Class 2 notice thereof under Wis. Stats. ch. 985. A recommendation from the appropriate township must be received before a public hearing may be held. Township recommendations must be submitted by the applicant to the department no later than one week prior to the scheduled hearing. An applicant may be charged a

re-notice fee if the recommendation of the township is not received one week prior to the scheduled hearing.

The Committee may authorize the County Zoning Administrator to issue a conditional use permit after review and public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this ordinance as outlined in Sections 74-28 and 74-29 of same, and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the County and its communities. Written notice of the proposed conditional use shall be submitted to the Department of Natural Resources ten days prior to said hearing.

Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, light, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, street dedication, certified survey maps, floodproofing, ground cover, diversions, silting basins, terraces, streambank protection, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or additional parking may be required by the Committee upon its finding that these are necessary to fulfill the purpose and intent of this ordinance, the State Water Resources Act of 1965, and to meet the provisions of the State floodplain and shoreland management programs.

Compliance with all other provisions of this ordinance, such as lot width and area, yard, site regulations, height, parking, loading, traffic, highway access, and performance standards shall be required of all conditional uses, unless specifically permitted to be modified by the Committee in the conditional uses division. Variances and special exceptions shall only be granted as provided in division 10.

It is a violation of this ordinance to begin conducting a use identified as a conditional use in any designated zoning district after the effective date of this ordinance without first obtaining the required zoning and conditional use permits. Furthermore, it is a violation of this ordinance to operate a conditional use activity in violation of the conditions of a conditional use permit approved by the Committee.

Decisions. The Committee may make a decision on conditional use applications at the next regularly scheduled meeting of the Committee.

Amendments. The Committee may make a decision to amend a conditional use decision if the Committee finds the amendment is in keeping with the purpose and intent of the original conditional use decision and receives town approval. Any reconstruction, structural alteration, parking change or signage change that is consistent with the conditional use permit and does not cause an increase of intensity may

be reviewed by staff. Any use of the site not capable of being discerned by staff as consistent with the conditional use is subject to additional Committee review. Any addition or alteration to structures or improvements which exceed 25 percent of the structure size or increase by 25 percent or more of the intensity of use shall be subject to a new conditional use process.

Appeals. All appeals regarding conditional uses shall be made to the Walworth County Circuit Court via certiorari. Appeals must be commenced seeking the remedy available by certiorari within 30 days after the filing of the decision by the Committee.

Existing uses. All uses existing at the effective date of this ordinance which would be classified as conditional uses in the particular zoning district concerned if they were to be established after the effective date of this ordinance, are hereby declared to be conforming conditional uses. Any proposed change to the existing use, shall be subject to the conditional use procedures as if such use were being established anew. Also, any addition or alteration to existing structures or improvements which exceed 25 percent of the prior structure size or increase by 25 percent or more prior intensity of use shall be subject to the conditional use procedures as if such use were being established anew. Other than as above restricted, additions, alterations, or extensions to existing structures or improvements are not prohibited provided such changes do not result in a change in the existing use or otherwise violate any provision of the applicable zoning ordinances of Walworth County, Wisconsin. Campgrounds; salvage, wrecking, junk, demolition, and scrap yards; mineral extraction and related uses; and sanitary landfill uses shall be, unless a waiver is granted by the Administrator, additionally subject to the registration regulations set forth in section 74-62, 74-65, 74-67 and 74-68 respectively.

A copy of all conditional use permits shall be transmitted to the State Department of Natural Resources within ten days after the issuance of the decision.

(Amd. of 7-13-04; Amd. of 1-11-05; Ord. No. 591-12/09, pt. XVIII, 12-15-09; Ord. No. 613-05/10, pt. II, 5-11-10; Ord. No. 740-09/12, pt. IX, 9-6-12; Ord. No. 819-12/13, pt. I, 12-10-13; Ord. No. 879-09/14, pt. VII, 9-4-14; Ord. No. 1049-06/17, pt. X, 6-13-17; Ord. No. 1130-07/08, pt. I, 7-10-18; Ord. No. 1194-11/19, pt. III, 11-12-19)

Sec. 74-60. - Reserved.

Editor's note— Ord. No. 1194-11/19, pt. IV, adopted November 12, 2019, amended the Code by repealing former § 74-60, which pertained to livestock facility siting, and derived from Ord. No. 879-09/14, adopted September 4, 2014.

Sec. 74-61. - Agricultural and related uses.

Except where specifically permitted as a principal use in division 3, the following agricultural and

related uses shall be conditional uses and may be permitted as specified. All conditional uses in the A-1 district (farmland preservation district) are limited to those where the use and its location are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; the use is reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use; 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; and construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible. In approving or disapproving the location of a conditional use, the County Zoning Agency shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance set forth in sections 74-28 and 74-29 and upon the particular land use problems related to development of the site or sites proposed.

- (1) Single-family dwellings exceeding one per farm parcel in A-2, and A-3 districts provided, however, that such dwellings may only be permitted when consistent with an agricultural use and that are occupied by an owner of the parcel, or a person who, or a family of which at least one adult member earns the majority of his or her gross income from conducting the farm operations on the parcel, or a parent or child of an owner who conducts the majority of the farm operations on the parcel, or a parent or child of an owner who resides on the parcel and who previously conducted the majority of the farm operations on the parcel and laborers principally engaged in a principal or approved conditional use and only when the need for such additional units to support and carry on the principal or approved conditional use has been established. If conditional use approval is granted for one or more additional dwellings, such dwellings may be separated from the farm lot provided however, that any parcel so created conforms with all regulations set forth in sections 74-39 and 74-40 of this ordinance, except that no such parcel shall be less than 40,000 square feet in area nor greater than the larger of either five acres in area or the acreage necessary to maintain the minimum required.
- (2) Farm residence exceeding one per farm parcel in the A-1 district is subject to the following requirements:
 - a. The location and size of the proposed additional farm residence will not do any of the following:
 - i. Convert prime farmland from agricultural use or convert land previously used as crop land, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or a nonfarm residence.

- ii. Significantly impair or limit the current or future agricultural use of other protected farmland.
 - iii. The approval for more than one farm residence is limited to one per 35 acres of A-1 zoned land, for the owner or operator of the farm, a parent or child of an owner or operator of the farm, an individual who earns more than 50 percent of his or her gross income from the farm. The remnant acreage shall be deed restricted; it shall not leave the balance of the land in a substandard condition; and the property owner will be required to record deed restrictions on both the residence parcel and on a parcel which meets the minimum required by the applicable zoning district, which directly adjoins or abuts the majority of the farm residence separation parcel, and which meets the intent of these provisions. A plat of survey for said parcel shall be prepared by a registered land surveyor licensed in the State of Wisconsin. Said deed restriction shall state that no structures may be placed on the remnant acreage without first obtaining a conditional use permit from the Committee and that no land may be deeded to the separation parcel which increases its size above that outlined above without first obtaining proper approval which may include a rezone.
- (3) A migrant labor camp for migratory or seasonal farm workers in the A-1 district certified under Wis. Stats. § 103.92 provided the location will not convert prime farmland from agricultural use or convert land previously used as crop land, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location and will not significantly impair or limit the current or future agricultural use of other protected farmland.
- (4) Housing for migratory or seasonal farm workers in the A-2 and A-3 Districts.
- (5) Mobile home in the A-1 district for a farm labor who earns more than 50 percent of his or her gross income from the farm, limited to one per 35 acres of A-1 zoned land provided the location will not convert prime farmland from agricultural use or convert land previously used as crop land, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location and will not significantly impair or limit the current or future agricultural use of other protected farmland.
- (6) Mobile home in the A-2, A-3 district for a farm labor who earns more than 50 percent of his or her gross income from the farm.
- (7) Livestock sales facilities in the A-1, A-1NC, A-2, A-3 and A-4 districts.
- (8) Animal hospitals, shelters, and kennels in the A-2, A-3, A-4 and A-5 agricultural districts, C-2, C-3 and the B-2, B-3, B-4 and B-5 business districts provided that the lot area is not less than five acres and further provided that, if animals are to be housed outside, there is

a minimum building separation of 1,000 feet from the nearest residential structure existing at the time of the issuance of a zoning permit.

- (9) Veterinarian facilities in the A-1, A-2 and A-4 districts.
- (10) Commercial stables in the A-2, A-4, C-2, P-1, P-2 and B-5 districts. Tack rooms associated with commercial stables shall be used only by the owner and boarders.
- (11) Commercial stables with horse shows and tack shop that permits off-site retail sales in the A-4 and P-1 districts.
- (12) Fur farms, wild, in the A-1, A-2, and A-3 districts.
- (13) Land restoration in the A-1, A-2, A-3, A-4, and C-2 districts when conducted in accordance with the County conservation standards. Any project designed and certified by NRCS, Land Conservation or the Department of Natural Resource Fish and Wildlife or water quality ponds may be exempt from the conditional use process.
- (14) Agricultural-related manufacturing, warehousing, and marketing activities in the A-4 district, including contract sorting, grading, and packaging services for fruits and vegetables; corn shelling, hay baling, and threshing services; spring water bottling; grist mill services; horticultural services; poultry hatchery services; production of animal and marine fat and oil; canning of fruits, vegetables, preserves, jams, and jellies; canning of specialty foods; preparation of cereals; production of natural and processed cheese; production of chocolate and cocoa products; coffee roasting and production of coffee products; production of condensed and evaporated milk; wet milling of corn, cottonseed oil milling; production of creamery butter; drying and dehydrating fruits and vegetables; preparation of feeds for animal and fowl; production of flour and other grain mill products; blending and preparing of flour; fluid milk processing; production of frozen fruits, fruit juices, vegetables, and other specialties; malt production; meat packing; fruit and vegetable pickling, vegetable sauces and seasoning, and salad dressing preparation; poultry and small game dressing and packing, providing that all operations be conducted within an enclosed building; milling of rice; production of sausages and other meat products; providing that all operations be conducted within an enclosed building; production of shortening, table oils, margarine and other edible fats and oils; milling of soy bean oil; milling of vegetable oil; sugar processing and production; farm food service; livestock sales facilities; grain elevators and bulk storage of feed grain; fertilizer production, sales, mixing, storage and blending; sales or maintenance of farm implements and related equipment; and transportation-related activities primarily serving the basic agricultural industry. Any outside storage or display areas in conjunction with the above commercial and related uses may be permitted by the Committee after considering such evidence as may be presented at the public hearing bearing upon the general purpose and

intent of this ordinance. In no case shall the area be closer than 25 feet to any right-of-way.

- (15) Placement of any structures in the A-1 prime agricultural land district, A-2 agricultural land district and A-3 agricultural holding district on remnant parcels where the separation of farm structures has been approved and separated.
- (16) Farm family business in the A-1, Prime Agricultural Land District and the A-2, Agricultural Land District is a use which is accessory to an agricultural use consisting of uses listed in the A-4 district except the production, packing, packaging, and light assembly of products from glass, metals, plaster, and plastics. A farm family business may be permitted as a conditional use for farm owners if limited to existing farm residence or farm structures not dedicated to agricultural uses. No more than two persons who are not members of the resident farm family may be employed in the farm family business and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
- (17) Farm family business wedding barn in the A-1, Prime Agricultural Land District and the A-2, Agricultural Land District is a use which is accessory to an agricultural use. No more than two persons who are not members of the resident farm family may be employed in the farm family business and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland. Caterers and band members shall not be considered employees of the farm family business if hired by the family renting the barn. The use shall not require any additional buildings, structures or improvements other than those existing on the farm. Farm family business events shall be limited to 12 per year. All food and beverage shall be brought on site by the family renting the barn for the specific family event or by a caterer hired by the family renting the barn. No liquor license shall be applied for or issued for use of the barn for family events. No retail sales shall be allowed on site. Outside use of farm family business wedding barn shall be limited to the outside area identified on a plan for review and approval by the Committee. Parking shall be made available on site during the use of the barn for family events. There shall be no parking on the public or private streets. Exclusive (non-burdened) access to the parking area must be provided. All parking shall meet the size, setback and separation distances of this ordinance.
- (18) Signage for approved business on A-4 provided the sign is located at least five feet from property lines.
- (19) Off-season storage facilities for boats, and other recreational vehicles, such as campers, travel trailers, snowmobiles, off-road vehicles, and motor homes in the A-4 district. Any outside storage or display areas in conjunction with this use may be permitted by the Committee after considering such evidence as may be presented at the public hearing

bearing upon the general purpose and intent of this ordinance. In no case shall areas be closer than 25 feet to any right-of-way.

- (20) Microbreweries, and the production of wine, brandy and brandy spirits in the A-4 district. Any bottling or packaging on site shall be conducted solely for the beer, wine, brandy and brandy spirits produced on site. The Committee must approve any service of alcohol on site. Any alcohol served shall be limited to products produced on site unless otherwise approved by the Committee. Any service of alcohol shall be for tasting, promotional, and/or educational purposes and such activity must be discernible from a bar or tavern. The Committee may consider limited quantities served, site design, or other operational methods to make such a distinction. Any retail sales of ancillary items are subject to a detailed list of those items approved by the Committee. All outdoor activities are subject to Committee review and approval. The Committee may approve the use of food trucks during agricultural related events at a density of one food truck on parcels less than one-half acre, two food trucks on parcels of one-half acre to one acre, and three food trucks on parcels over one acre. Food trucks shall be parked at least 25 feet from a road right-of-way, at least 75 feet from an ordinary high water mark, and at least 25 feet from any R-1, R-2, R-2A, R-3, R-4, R-5, R-5A, R-6, R-7, and A-5 district lot line.
- (21) Mini-warehouse facilities in the A-4 zoning district.
- (22) Hunting and fishing club land without structures in the A-1 zoning districts.
- (23) Retail sales related to those agricultural uses listed in A-4. The retail sales of ancillary non-agricultural items is subject to detailed plan approval by the Committee. The Committee may approve the use of food trucks during agricultural related events at a density of one food truck on parcels less than one half acre, two food trucks on parcels of one half acre to one acre, and three food trucks on parcels over one acre. Food trucks shall be parked at least 25 feet from a road right-of-way, at least 75 feet from an ordinary high water mark, and at least 25 feet from any R-1, R-2, R-2A, R-3, R-4, R-5, R-5A, R-6, R-7, and A-5 district lot line.
- (24) Home occupations in the A-1 district, not to exceed 25 percent of the area of any floor of a building on the parcel. Such operations shall not involve any external alteration that would effect a substantial change in the residential character of the building or parcel, may include employees and stock and trade may be kept or sold from the premises after considering such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance.
- (25) Airports, airstrips, and landing fields, excluding heliports, in the A-1 district, provided the parcel is at least 35 acres in size and the same is related to agricultural activities.
- (26)

Directional signs that exceed three in number in the A-1, A-2, A-3, and A-4 districts.

- (27) Heliports in the A-1 district, provided that the parcel is at least 35 acres in size and the same is related to agricultural activities and that the principal structures and uses are not less than 100 feet from any residential district boundary.
- (28) Governmental and cultural uses in the A-1 district such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums in the A-1 district if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- (29) Utilities in the A-1 district provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park, and industrial, which will require a ten-foot setback if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible. Utilities required to obtain a certificate of convenience and public necessity from the Wisconsin Public Service Commission or those utilities required to obtain a Federal Energy Regulatory Commission certificate shall be exempt from obtaining a conditional use permit.
- (30) Public, parochial, and private elementary and secondary schools in the A-1 district provided the lot area is not less than two acres and all principal structures and uses are not less than 50 feet from any lot line if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in

the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

- (31) Churches in the A-1 district provided the lot area is not less than two acres and all principal structures and uses are not less than 50 feet from any lot line if the Committee determines that all of the following apply: The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- (32) Hobby farm: On a hobby farm zoned A-1, A-2, A-3, A-4, A-5, and C-2, that is not abutting an R-1, R-2, R-2A, R-3, R-4, R-5, R-5A, R-6, R-7, R-8, and C-3 residential district existing at the time of the conditional use request, the County Zoning Agency may modify the rear and side yard setbacks for buildings used to house animals to a 50-foot rear yard setback and a 35-foot side yard setback provided the animal units do not exceed one animal unit per usable acre with a deed restriction being filed with the Register of Deeds office to assure the animal unit/acre restriction is complied with. The Committee may modify and approve the number of animal units on parcels less than two acres in size to two animal units when the Committee finds that two animals are necessary for companionship. The Committee may also condition the request to assure compliance with the purpose and intent of the zoning ordinance such as manure stacking and well code provisions. In approving or disapproving the hobby farm, the Committee shall also consider such evidence and deed restriction as may be presented at the public hearing bearing upon the general purpose of this ordinance set forth in section 74-28/74-29 or 74-153/74-154 and upon the particular land use problems related to development of the parcel as proposed.
- (33) Solar energy systems in the A-1 district provided all structures and uses associated with the system are at least 50 feet from all property lines and 75 feet from the ordinary high water mark. The Committee may modify the 50-foot setback from side and rear property

lines shared by parcels supporting the same solar energy system. When considering a solar energy system, the Committee must determine that all of the following apply: The use and its location in the farmland preservation zoning district is consistent with the purposes of the farmland preservation zoning district; the use and its location in the farmland preservation zoning district is reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law; 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; 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; construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible. Solar energy systems required to obtain a certificate of convenience and public necessity from the Wisconsin Public Service Commission or those utilities required to obtain a Federal Energy Regulatory Commission certificate shall be exempt from obtaining a conditional use permit.

(Ord. of 6-11-02; Amd. of 1-14-03; Amd. of 1-11-05; Amd. of 3-8-05; Amd. of 5-10-05; Amd. of 8-9-05; Ord. No. 315-09/05, pt. II, 9-8-05; Ord. No. 353-04/06, pt. IV, 4-20-06; Ord. No. 591-12/09, pt. XIX, 12-15-09; Ord. No. 673-03/11, pt. II, 3-8-11; Ord. No. 740-09/12, pt. X, 9-6-12; Ord. No. 879-09/14, pt. IX, 9-4-14; Ord. No. 938-07/15, pt. IV, 7-14-15; Ord. No. 940-07/15, pt. III, 7-20-15; Ord. No. 996-07/16, pt. II, 7-28-16; Ord. No. 1049-06/17, pt. XI, 6-13-17; Ord. No. 1074-11/17, pt. II, 11-6-17; Ord. No. 1129-07/18, pt. III, 7-10-18; Ord. No. 1194-11/19, pt. V, 11-12-19; Ord. No. 1273-05/22, pt. III, 5-10-22)

Sec. 74-62. - Recreational and related uses.

Except where specifically permitted as a principal use in division 3, the following recreational related uses shall be conditional uses and may be permitted as specified. In approving or disapproving the location of a conditional use, the Committee shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance set forth in sections 74-28 and 74-29 and upon the particular problems related to development of the site or sites as proposed.

- (1) *Golf courses and country clubs* in all residential and park districts, the C-2 conservancy district, and the B-5 district.
- (2) *Ski hills* in the A-2, A-3, P-1, P-2, C-2, R-5 and B-5 districts.
- (3) *Yachting clubs and marinas* in the P-1, P-2, C-1, C-2, B-3, B-4 and B-5 Districts.
- (4) *Hunting and fishing clubs* in the A-2, C-1, C-2 and P-1 districts.
- (5) *Recreational camps* in the A-2, P-1, P-2, C-1 and C-2 districts subject to the following regulations, ATCP 78, and such other regulations as the Committee may deem appropriate

after viewing the site or sites and considering evidence presented at the hearing.

- a. *Yards.* There shall be a yard on each side of a recreational camp as follows:
 1. Street: Minimum 100 feet.
 2. Rear: Minimum 100 feet.
 3. Side: Minimum 50 feet.
 - b. *Screening.* There shall be a condition of the granting of the permit for a recreational camp, and a continuing condition for the operation of the same, that the natural vegetation of the area, including grass, flowers, shrubs, and trees, be allowed to grow and develop in all required yards, except noxious plants, weeds, and trees, or that vegetation of equivalent density be planted therein so as to provide a natural screen between a camp and neighboring areas and so that required yards shall be unused and unusable for general purposes of camp operation.
 - c. *Off-street parking:* Off-street parking shall be provided on the premises of any such recreational camp, but not in any required yard, equal to not less than one parking space for each camping unit, plus one additional parking space for each motor vehicle operated in connection with such camping.
 - d. *Sewage disposal:* Where public sanitary sewer service is not available, sanitary sewage and waste disposal facilities shall be provided as required by Chapter SPS 383 and ATCP 78/79 of the Wisconsin Administrative Code and constructed and maintained as required by the County sanitary ordinance.
 - e. *Water supply:* Where public water is not available, the well or well supplying any camping area shall comply with Chapter DHS 178 of the Wisconsin Administrative Code, except that well pits or pump pits shall not be permitted.
- (6) *Public or private campgrounds* in the P-1, P-2, C-2 and B-5 districts subject to the following regulations, ATCP 78/79, and such other regulations as the Committee may deem appropriate after viewing the site or sites and considering evidence presented at the hearing.
- a. *Camping area location.* The temporary accommodation of persons providing their own means of shelter is permitted only in the locations approved on the site development plan, as required under section 74-58 of this ordinance. In approving such locations, the Park and Planning Commission shall view the proposed site and consider the general purpose and intent of this zoning ordinance to promote the public health, safety, and general welfare and to prevent overcrowding and the development of unhealthful or unsanitary conditions on the premises. Occupancy of a camping unit on a continuous year-round basis or utilization of a camping unit as a permanent abode

or legal place of residence shall be prohibited.

Within the camping areas approved on the site plan, every camping unit shall be located on a generally well-drained ground, and no camping unit nor any building or structure related to the operation of such camping area, shall be located on ground on which storm or other surface waters accumulate, or on ground which is substantially wet or muddy due to subsoil moisture. No camping area, nor any camping unit within such camping area, shall be so located as to be subject at any time to the flow of surface waters from a barn yard, or other source of pollution. No camping unit shall be located more than 400 feet from a toilet or service building.

- b. *Camping unit definition.* Camping unit as used in this section shall mean any "recreational vehicle," including travel trailer, pick-up coach, motor home, camping trailer, and tent. A camping unit shall not exceed a maximum living area of 400 square feet.
- c. *Minimum camping unit site area.* There shall be not less than 4,000 square feet of land per camping unit exclusive of required yards, parking lots, and areas devoted to permanent buildings and their grounds. Camping unit site areas shall be located and spaced at least 75 feet center to center. No camping unit shall be located within 50 feet of any other camping unit. Group camping shall be permitted only in an area designated for such use on the approval site development plan. Automobiles, except self-propelled camping units, shall not be parked in any such designed group camping area except for loading and unloading purposes.
 1. *Yards.* A yard shall be provided along each side of the camp except that part which fronts on a lake or stream course.
 2. *Street:* Minimum 100 feet.
 3. *Rear:* Minimum 100 feet.
 4. *Side:* Minimum 50 feet.
- d. *Screening.* It shall be a condition of the granting of the permit for such camp and a continuing condition for its operation, that the natural vegetation, including grasses, flowers, shrubs, and trees be allowed to grow and develop in all required yards, or that vegetation of equivalent density be planted therein, so as to provide a natural screen between such camp and adjacent properties.
- e. *Off-street parking.* Off-street parking shall be provided on the premises of all camping areas in the ratio of not less than one parking space for each camping unit. Each such parking space shall be not less than 12 feet in width and of a length sufficient to accommodate the longest vehicle or vehicles to be parked therein.

- f. *Water supply.* There shall be an adequate source of pure water with supply outlets for drinking and domestic purposes located not more than 300 feet from any camping unit. Where a public water supply is not available, the well or wells supplying any camping area shall comply with ATCP 78 and the Wisconsin Well Construction Code; except that well pits or pump pits shall not be permitted. Supply outlets may be located in a service building if separate from toilet or laundry rooms. No common drinking vessels shall be permitted, nor shall any drinking water faucets be placed in any toilet rooms.
- g. *Sewage disposal.* Sanitary sewage and waste disposal facilities shall be provided as required by ATCP 78/79 and Chapter SPS 383 of the Wisconsin Administrative Code, and constructed and maintained as required by the sanitary ordinance.
- h. *Drives and walkways.* There shall be a system of driveways and walkways connecting every camp unit within any camping area with a public street or highway. Such driveways shall be not less than 16 feet in width and such walkways shall be not less than five feet in width. All driveways, walkways, and parking areas shall be so constructed and maintained as to prevent the accumulation of surface waters and the formation of substantial muddy areas. Driveways shall be well lighted at night and shall be unobstructed at any time.
- i. *Maintenance:* It shall be a condition on the granting of a permit for the camping area, and a continuing condition for the operation of the same that:
1. Drainage of the area shall be maintained and camping units placed on well drained ground.
 2. Required yards shall be maintained.
 3. Water supply, sanitary sewage, and waste disposal facilities shall be maintained.
 4. Driveways, walkways, and parking areas shall be maintained.
 5. All requirements of ATCP 78 of the Wisconsin Administrative Code shall be met and maintained.
- j. *Permit renewal.* Any conditional use permit issued for a campground, including permits issued to existing operations, shall be in effect for a one-year time period and shall be subject to annual renewal. Modifications to previous conditions or additional conditions may be imposed upon an application for renewal provided, however, that such modifications or additional conditions must recognize existing lawful nonconforming uses and may only be imposed by the County Park and Planning Commission after a public hearing.
- k. *Existing operations.* Within 60 days after the effective date of this ordinance, all

existing campground operations in a town shall be required to register with the County Zoning Administrator, and shall submit pertinent data relative to the present operation, including the boundaries of the operation, ownership data maps showing existing campground layout, and such other data as may be necessary to enable the County Zoning Administrator to create a permanent file establishing the size, layout, and operational characteristics of the existing operation. A permit shall be granted by the County Zoning Administrator to such existing operations for the extent of the existing operation only. Any existing operation which does not comply with this registration requirement shall be penalized in accordance with provisions in sections 74-46 and 74-47. Notwithstanding the foregoing, however, the County Zoning Administrator may make a finding that an adequate file already exists concerning an existing operation, and may accordingly waive the registration requirement and issue a permit on his own motion.

(7) *Planned campground developments.* Planned campground developments are conditional uses in the P-1, P-2, and B-5 zoning district subject to the following regulations, ATCP 78/79, and such other regulations as the Committee may deem appropriate after viewing the site or sites and considering evidence presented at the hearing:

a. *Planned campground development area location.* In approving such locations, the Committee shall view the proposed site and consider the general purpose and intent of this zoning ordinance to promote the public health, safety, and general welfare and to prevent overcrowding and the development of unhealthful or unsanitary conditions on the premises.

Occupancy of a camping unit on a continuous year-round basis or utilization of a camping unit as a permanent abode or legal place of residence shall be prohibited. Compliance with this requirement shall be the responsibility of the campground association.

Within the camping areas approved on the site plan, every camping unit shall be located on generally well-drained ground, and no camping unit nor any building or structure related to the operation of such camping area, shall be located on ground on which storm or other surface waters accumulate, or on ground which is substantially wet or muddy due to subsoil moisture. Any grade changes or retaining walls of more than six inches, not included in the original approved development plan, is subject to conditional use review by the County Zoning Agency. No camping area, nor any camping unit within such camping area, shall be so located as to be subject at any time to the flow of surface waters from a barn yard, or other source of pollution.

- b. *Camping unit definition.* Camping unit as used in this section shall mean any "recreational vehicle," including travel trailer, pick-up coach, motorhome, camping trailer and park model. A camping unit shall not exceed a maximum living area of 400 square feet. All camping units shall remain mobile. The original wheel assembly shall not be removed, wheels shall be in contact with the pad, the pad shall not exceed six inches above the original grade and the unit shall not be installed upon footings nor a foundation.
- c. *Perimeter yards.* There shall be a bufferyard on all sides of a planned campground development as follows:
 - 1. Street: Minimum 100 feet.
 - 2. Rear: Minimum 100 feet.
 - 3. Side: Minimum 50 feet.
- d. *Screening.* There shall be a condition if granting the permit for a planned campground development and a continuing condition for the operation of the same, that the natural vegetation of the area, including grass, flowers, shrubs and trees be allowed to grow and develop in all perimeter yards (except noxious plants, weeds and trees), or the vegetation of equivalent density be planted therein so as to provide a natural screen between the campground and neighboring areas and so that perimeter yards shall be unused and unusable for general purposes of the camp operation.
- e. *Off-street parking.* Off-street parking shall be provided on the premises of all camping areas in the ratio of not less than one parking space for each camping unit, plus one additional parking space for each motor vehicle operating in connection with such camping, but not to be located in any required yard. Each such parking space shall not be less than 12 feet in width and of a length sufficient to accommodate the longest vehicle or vehicles to be parked therein.
- f. *Sewage disposal.* Where public sanitary sewer service is not available, sanitary sewage and waste disposal facilities shall be provided as required by chapter SPS 383 of the Wisconsin Administrative Code and constructed and maintained as required by the County sanitary ordinance. No camping unit shall be located more than 400 feet from a toilet or service building.
- g. *Water supply.* There shall be an adequate source of pure water with water outlets for drinking and domestic purposes located not more than 300 feet from any camping unit. Where a public water supply is not available, the well or wells supplying any camping area shall comply with the Wisconsin Well Construction Code; except that well pits or pump pits shall not be permitted. Supply outlets may be located in a service

building if separate from toilet or laundry rooms. No common drinking vessels shall be permitted nor shall any drinking water faucets be placed in any toilet rooms.

- h. *Interior roadways and walkways.* There shall be a system of roadways and walkways connecting every unit within any camping area with a public street or highway. Such roadways shall be not less than 16 feet in width and such walkways shall be not less than five feet in width, unless by means of a conditional use permit, the width of the roadway(s) or walkway(s) within the planned campground are modified by the County Zoning Agency. All roadways, walkways, and parking areas shall be so constructed and maintained as to prevent the accumulation of surface waters and the formation of substantial muddy areas. Roadways shall be well lit at night and shall be unobstructed at all times.
- i. *Interior setback requirements.*
 - 1. Ten foot street yard setback requirement from edge of pavement of the interior roadways. (Corner lots require two streetyard setbacks.)
 - 2. Five foot side yard setback requirement.
 - 3. Five foot rear yard setback requirement.
 - 4. 75 foot shore yard setback requirement.
- j. *Storage sheds.*
 - 1. The storage shed shall be freestanding in its construction.
 - 2. Maximum size not to exceed 150 square feet total.
 - 3. Height not to exceed 12 feet from original grade to peak.
 - 4. If located in the rear yard shall be located at least three feet from lot lines.
 - 5. If located in the street yard shall be located at least ten feet from the pavement of the interior roadway and five feet from the side lot line.
 - 6. If located in the side yard shall be located at least five feet from the lot lines.
 - 7. If located in the shore yard shall be located at least five feet from the side property line and 75 feet from the ordinary high water mark.
- k. *Structures (including but not limited to enclosures, porches, decks, stairways, and gazebos).*
 - 1. The structure shall be freestanding in its construction and shall not be installed upon footings nor a foundation. A nonpermanent weather/storm seal may be used to adjoin the camping unit to the enclosure, deck, and/or gazebo.
 - 2. Structures shall be required to maintain the interior setback requirements as listed above.

3. HVAC, plumbing and electrical shall be subject to all applicable codes.
 4. Height not to exceed 17 feet or the height of the ridge line of the camping units original roof whichever is less.
 5. A combination of structures not to exceed the size/square footage of the existing camping unit is permitted subject to meeting setback requirements.
 6. Any detached enclosure or porch (not a deck, stairway, gazebo or an enclosure enjoined to the camping unit by a weather seal) is only permitted through the conditional use process.
 7. If a unit is replaced with a smaller unit and the structures remaining exceed the unit size, the continued location of those structures exceeding the unit size are subject to County Zoning Agency review and approval.
- l. Structures, limited to those listed below, are exempt from the size limitations listed above and zoning permit requirement, provided:
1. Essential service structures limited to the minimum necessary to screen or enclose utilities to protect from the weather. The structure shall not be used for additional storage.
 2. Temporary gazebo tent limited to 150 square feet in size, shall be located on existing grade, and further provided the side wall components shall be constructed of fabric, screening or shall be open sided and the roofing material shall also consist of fabric and shall provide for zero dead load, live load and snow load, except for the skeleton of the roof. The skeleton of the structure shall not be made of wood or concrete. All fabric and screening shall be removed from November through March. No overnight stays are permitted in the gazebo.
 3. Interior fencing shall be limited to dog and essential service fencing not to exceed a 15-foot by 15-foot enclosure and no more than three feet in height. Fencing may not be anchored by a frost footing. Essential service fencing shall not exceed the necessary dimensions to conceal the services.
- m. *Maintenance.* It shall be a condition on the granting of a permit for the camping area, and the continuing condition for the operation of the same that:
1. Drainage of the area shall be maintained and camping units placed on well drained ground.
 2. Required yards shall be maintained.
 3. Water supply, sanitary sewage, and waste disposal facilities shall be maintained.
 4. Roadways, walkways, and parking areas shall be maintained.

5. All requirements of ATCP 78/79 of the Wisconsin Administrative Code shall be met and maintained.
 - n. *Permit renewal.* Any conditional use permit issued for a planned campground development including permits issued to existing operations, shall be in effect for a one-year period and shall be subject to annual renewal. Modifications to previous conditions or additional conditions may be imposed upon an application for renewal provided, however, that such modifications or additional conditions must recognize existing lawful nonconforming uses and may only be imposed by the Committee after a public hearing.
 - o. *Existing operations.* Within 60 days after the effective date of the adopted policy dated February 20, 1998, all existing campground operations shall be required to register with the County Zoning Administrator and shall submit pertinent data relative to the present operation, including the boundaries of the operation, ownership date, maps showing existing campground layout, and such other data as may be necessary to enable the County Zoning Administrator to create a permanent file establishing the size, layout, and operational characteristics of the existing operation. A permit shall be granted by the Zoning Administrator to such existing operations for the extent of the existing operation only. Any site within the existing operation which does not comply with this registration requirement shall be required to meet current ordinance requirements.
- (8) *Cultural activities*, such as aquariums, art galleries, botanical gardens, arboreta, historic and monument sites, libraries, museums, planetaria, and zoos in the P-1, P-2 and B-5 districts.
 - (9) *Amusement activities* such as fair grounds, roller skating rinks, go-cart tracks, race tracks, and recreation centers in the P-1 and B-5 districts. The use of food trucks may be allowed at a density of one food truck on parcels less than one-half acre, two food trucks on parcels of one-half acre to one acre, and three food trucks on parcels over one acre. Food trucks shall be parked at least 25 feet from a road right-of-way, at least 75 feet from an ordinary high water mark, and at least 25 feet from any R-1, R-2, R-2A, R-3, R-4, R-5, R-5A, R-6, R-7, and A-5 district lot line.
 - (10) *Public assembly uses* such as amphitheatres, arenas, field houses, gymnasiums, natatoriums, auditoriums, exhibition halls, music halls, legitimate theaters, motion picture theaters, and stadiums in the P-1, P-2, B-2, B-3, B-4 and B-5 districts. The use of food trucks may be allowed at a density of one food truck on parcels less than one-half acre, two food trucks on parcels of one-half acre to one acre, and three food trucks on parcels over one acre. Food trucks shall be parked at least 25 feet from a road right-of-way, at least 75 feet

from an ordinary high water mark, and at least 25 feet from any R-1, R-2, R-2A, R-3, R-4, R-5, R-5A, R-6, R-7, and A-5 district lot line.

- (11) *Commercial stables* in the A-2, C-2, P-1, P-2 and B-5 districts.
- (12) *Archery ranges, golf driving ranges, firearm ranges, sports fields, polo fields, and skating rinks* in the P-1, P-2 and B-5 districts.
- (13) *Commercial recreation facilities*, such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, Turkish baths, skating rinks, and theaters in the B-2, B-3, B-4 and B-5 business districts.
- (14) *Off-season storage facilities for boats and other recreational vehicles*, such as campers, travel trailers, snowmobiles, off-road vehicles, and motor homes, in the B-1, B-2, B-3, B-4, M-1, M-2 and A-4 districts. Any outside storage or display areas in conjunction with this use may be permitted by the Committee after considering such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance. In no case shall areas be closer than 25 feet to any right-of-way.
- (15) *Hotels, motels and tourist courts* in the B-3, B-4 and B-5 districts.
- (16) *Commercial arboretum* in the C-2 districts outside environmental corridors and in the B-4 district.
- (17) Special event campgrounds in the B-5 district subject to the special event campground regulations of DHS 178.

(Ord. of 6-11-02; Ord. No. 315-09/05, pt. III, 9-8-05; Ord. No. 369-07/06, pt. III, 7-11-06; Ord. No. 561-06/09, pt. II, 6-9-09; Ord. No. 591-12/09, pt. XX, 12-15-09; Ord. No. 740-09/12, pt. XI, 9-6-12; Ord. No. 873-07/14, pt. II, 7-8-14; Ord. No. 974-03/16, pt. I, 3-8-16; Ord. No. 978-04/16, pt. II, 4-21-16; Ord. No. 999-09/16, pt. I, 9-6-16; Ord. No. 1049-06/17, pt. XII, 6-13-17; Ord. No. 1171-06/19, pt. XI, 6-11-19; Ord. No. 1273-05/22, pt. IV, 5-10-22)

Sec. 74-63. - Residential and related uses.

Except where specifically permitted as a principal use in division 3 the following residential and quasi-residential uses shall be conditional uses and may be permitted as specified. In approving or disapproving the location of a conditional use, the Committee shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance set forth in sections 74-28 and 74-29 and upon the particular land use problems related to development of the site or sites as proposed.

- (1) Conservation development design.

- a. Applicability. Conservation development design may be used on a voluntary basis for all residential developments with five or more dwellings in the A-2, C-2, C-3, R-1, R-2, R-2A and R-3 zoning districts and requires conditional use approval.
- b. Intent.
 1. To conserve conservation land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodlands and wetlands, by protecting them from development. Where applicable, conservation land shall be laid out in general accordance with the wide, open space networks advocated by the Southeastern Wisconsin Regional Planning Commission, to encourage protection of an interconnected system of conservation lands.
 2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs and the amount of paving required for residential development.
 3. To reduce erosion and sedimentation by the retention of existing vegetation, and by minimizing development on steep slopes.
 4. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained.
 5. To conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the adopted County Land Use Plan.
 6. To create neighborhoods with direct access to open land, with amenities in the form of conservation land.
 7. To provide for the conservation and maintenance of conservation land within the County to achieve the above-mentioned goals and for active or passive recreational use by residents.
 8. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, floodlands, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls.
 9. To provide standards that preserve the unique characteristics of individual properties so that their special or noteworthy features may be designed around and conserved.
 10. To encourage the protection of the elements of the county's beauty and rural

character.

- c. General regulations for conservation development design: The design of all new subdivisions and other development projects using conservation design shall be governed by the following requirements for the A-2, C-2, C-3, R-1, R-2, R-2A, and R-3 districts:
1. Conservation development application, procedure, and approval process: The developer/applicant must follow the conservation development application, procedure, and approval process as identified in section 4.11 of the county subdivision control ordinance.
 2. Site design. A site context map, existing resources and site analysis map, and sketch plan overlay sheet shall be prepared, as required by sections 5-A., 5-A.1, 5-A.2, and 5-A.3 of the county subdivision control ordinance. All conservation-design development projects shall use the four-step design process for conservation subdivision set forth in section 5-A.4 of the subdivision control ordinance.
 3. The calculation of site capacity, or the number of dwelling units permitted on a site, shall be based on net buildable area (NBA). The site capacity shall be obtained by dividing the net buildable area within each district by the residential density allowed in the district. Fractional dwelling yield totals may not be combined between different zoning district. The applicant shall determine the net buildable area (NBA) using the following method, substantiated by sufficient plans and data to verify the calculations:

Gross tract area: ____ acres

From the gross tract area, subtract the following:

All lands located within existing and proposed street rights-of-way: ____ acres

All wetland areas: ____ acres

All of the area located within a pond, lake, or stream channel: ____ acres

The result is the net buildable area (NBA): ____ acres

Note: Where two or more categories overlap, the overlapping acreage shall be counted only once, using the most restrictive classification.
- d. Uses for the A-2, C-2, C-3, R-1, R-2, R-2A, and R-3 districts:
1. All residential accessory structures are permitted subject to limitations of division

2.

2. Accessory uses permitted on conservation lands are limited to the following:
 - i. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).
 - ii. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles unless specifically approved in the conditional use permit, rifle ranges, and other uses similar in character.
 - iii. Active noncommercial public and private recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required conservation land or five acres, whichever is less. Playing fields, playgrounds and courts shall not be located within 100 feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be graded and dust-free, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces.
 - iv. Golf courses, provided they do not comprise more than half of the minimum required conservation land, but not including driving ranges or miniature golf. Their parking areas and any associated structures shall not be included within the minimum conservation land requirement; their parking and access ways may be paved and lighted.
 - v. Water supply and sewage disposal systems and storm water detention areas designed, landscaped, and available for use as an integral part of the conservation land and also designed to maximize infiltration and groundwater recharge. Individual private wells and/or septic system disposal fields (filter beds) may be located within the common open space in conservation developments, in which case their maintenance responsibility shall lie with the owner of the dwelling to which it is connected. In such situations, the owners association shall be responsible for pumping the septic tanks (which may be located within individual house lots) on a periodic basis, according to the county sanitary ordinance.
 - vi. Easements for drainage access sewer or water lines, or other public purposes.
 - vii. Underground utility rights-of-way, aboveground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required conservation land.

3. Uses limited to conservation lands of five acres or more zoned for agricultural uses for the A-2, and C-2 districts:
 - i. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, and associated buildings, except residential buildings. Also specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce offensive odors.
 - ii. Pastureland for horse, commercial equestrian facilities shall be permitted but may not consume more than half of the minimum required conservation land.
 - iii. Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry.
- e. Frontage for the A-2, C-2, C-3, R-1, R-2, R-2A, and R-3 districts: For dwellings served by public or central water and sewer, dwellings may front directly onto a park or common open space area, provided they are served by a rear street access.
- f. Up to 50 percent of the minimum required conservation lands may be contained within individual, private conservancy lots which are ten acres or greater in size for the A-2, C-2, C-3, R-1, R-2, R-2A, and R-3 districts.
- g. Buffers for adjacent public parkland, land trust preserves, or active farmland: Where the proposed development adjoins public parkland, conservation parcels owned by land trusts, or active farmland, a natural conservation land buffer at least 150 feet deep shall be provided within the development along its common boundary with the parkland, land trust preserve, or lands zoned A-1. Within this buffer no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction). Where this buffer is not wooded, the Zoning Agency may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive alien plant and tree species.
- h. Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes in accordance with this ordinance, shall be provided to conservation land in accordance with the following requirements:
 1. Each development shall provide one centrally located access point per 15 lots, a minimum of 25 feet in width.
 2. Access to conservation land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
- i. A density bonus shall be allowed at the specified rate for each of the following up to a 20 percent site capacity maximum:

1. A ten percent density bonus shall be allowed for increasing the total shoreyard setback to 150 feet from the ordinary high-water mark of navigable lakes, ponds, flowages and streams.
2. A five percent density bonus shall be allowed for increasing the total shoreyard setback to 100 feet from the ordinary high-water mark of navigable lakes, ponds, flowages and streams.
3. A ten percent density bonus shall be allowed for providing a 75-foot buffer (setback) from the entire edge of a non-zoned (isolated) wetland. To qualify for this bonus the applicant shall meet conservation standards as determined by the land conservation Committee.
4. A five percent density bonus shall be allowed for developments that preserve intact, with the exception of allowable open space uses, areas designated as environmental corridors. To qualify for this bonus there shall be a minimum of ten percent of the project site within the environmental corridor.
5. A five percent density bonus shall be allowed for providing ten percent greater conservation land (open space) than required for the development.
6. A ten percent density bonus shall be provided if the owner provides, fee simple dedication of an access easement for public use of parks and/or trails to a public agency with approved acceptance pursuant to section 11.9-B(b)(3) of the subdivision control ordinance.
7. A five percent density bonus shall be provided if the owner provides a conservation easement to a public agency with approved acceptance pursuant to section 11.9-B(b)(4) of the subdivision ordinance.
8. A five percent density bonus shall be provided if the owner provides permanent preservation of a significant archaeological site not already required to be preserved by state or Federal preservation requirements.
9. A five percent density bonus shall be provided if the owner provides for restoration or rehabilitation with active maintenance of native plant species on 50 percent or greater of the required open space/conservation lands. Active maintenance must be part of a Land Stewardship plan as specified in section 11.9-B(d) of the subdivision ordinance.
10. A five percent density bonus shall be provided if the owner provides a fee simple dedication to a nonprofit conservation organization or the dedication of a conservation easement to a nonprofit conservation organization pursuant to subsections 11.9-B(b)(5) and (6) of the subdivision control ordinance.

11. A five percent density bonus shall be provided if a nonprofit conservation organization or public agency holds a conservation easement on the conservation land and the subdivider has created a stewardship fund or endowment sufficient to generate annual interest to cover the costs that the nonprofit conservation organization or public agency incur for monitoring the conservation land annually and taking the appropriate enforcement actions for violations or encroachment within the conservation land. The endowment fund may also be used to cover the cost of any insurance required of the holder of the conservation easement. This density bonus is only considered when a conservation easement is held on undivided conservation land. A density bonus can not be considered when a conservation easement is obtained on an individual subdivision lot or lots. The county and the local unit of government shall review any maintenance agreement and endowment fund established by the subdivider and the nonprofit conservation organization or public agency.
12. A five percent density bonus shall be allowed for providing for the reuse or preservation of historical structure(s) located on a site. The structure(s) must be on the state or Federal register of historic places. The U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Properties shall apply.
13. A five percent density bonus shall be allowed for providing affordable housing, to include a minimum of 25 percent of all units that would be affordable to moderate-income household, as defined by the U.S. Department of Housing and Urban Development.

The minimum conservation land requirement must be met when using the density bonus.

- j. Intersections and access: New intersections with existing public streets shall be minimized.
- k. The conservation design review standards as specified in section 11.9-A of the County subdivision control ordinance shall be followed in design of a conservation development for the A-2, C-2, C-3, R-1, R-2, R-2A, and R-3 districts. Section 11.9-A of the subdivision ordinance provides the prioritized list of resources to be conserved and other design considerations for the development.
- l. The common conservation lands, including common elements or outlots, shall be deed restricted and conditioned by the conditional use approval to remain open, jointly owned by undivided percentage interest and appurtenant to each buildable lot/units created by the conservation development design. The developer/applicant shall follow

the conservation land ownership and maintenance standards as specified in section 11.9-B of the County subdivision control ordinance for the A-2, C-2, C-3, R-1, R-2, R-2A, and R-3 districts. This section provides for the permanent protection of the conservation land, ownership, the maintenance and operation of the conservation land, the land stewardship plan.

- (2) *Planned residential developments* in the A5, R-1, R-2, R-2A, R-3, R-4, R-5, R-5A, R-6, R-7, R-8, C-2, C-3 and B-5 districts, provided that no planned development shall be approved which includes residential uses not permitted as a principal use in the given district. The district regulations, excluding exterior district setback requirements, may be modified provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. Parking stall and interior driveway requirements to private right of ways for property located in the R-5, R-5A, R-6 and B-5 planned districts may be modified by the Committee provided barriers (i.e. curbed landscaped islands, striping) are installed to define those private right of ways and further provided that any modification be in accordance with the purpose and intent of this ordinance. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design shall be assured by deed restriction. All common structures, facilities, essential services, access and open spaces shall also be assured by deed restrictions.

The following district regulations may be modified by the Committee but never below the following minimums:

Area (sewered)	Minimum of $\frac{2}{3}$ of the minimum lot area for the district in which located	
Area (unsewered)	Minimum 20,000 sq. ft. and adequate sanitation	
Width (sewered)	Minimum of $\frac{2}{3}$ of the minimum lot width for the district in which located	
Width (unsewered)	Minimum consistent with conservation design standards or $\frac{2}{3}$ of the minimum lot width for the district in which located	
Yards	Street: (Interior)	Minimum 10 feet

	Rear	Minimum 5 feet or 10 feet separation
	Side	Minimum 5 feet or 10 feet separation

- (3) *Fraternities, lodges, and meeting structures* of a noncommercial nature in the R-4 residential, and all business districts provided all principal structures and uses are not less than 25 feet from any lot line.
- (4) *Rest Homes, nursing homes, home for the aged, clinics, and children's nurseries or day care centers* in the R-4 residential and all business districts provided all principal structures and uses are not less than 50 feet from any lot line.
- (5) *Barbering and beauty culture* operations in all residential districts, not to exceed 25 percent of the total floor area. Such operations shall not involve any external alteration that would effect a substantial change in the residential character of the building.
- (6) *Home occupations* in the A-2, A-3, A-5, C-2, C-3, R-1, R-2, R-2A, R-3, R-4, R-5, R-5A, R-6, R-7, R-8 districts, not to exceed 25 percent of the area of any floor of a building on the parcel. Such operations shall not involve any external alteration that would effect a substantial change in the residential character of the building or parcel, may include employees and stock and trade may be kept or sold from the premises after considering such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance.
- (7) *Mobile homes*, in the A-2 and A-3 districts when necessary and essential to the principal or conditional permitted use.
- (8) *Two-family dwellings and multi-family dwellings* in the R-4 residential district.
- (9) *One-family detached dwellings, one-family semi detached dwellings; one-family attached dwellings; two-family dwellings; multiple-family dwellings; and all principal uses permitted* in the B-1 local business district, provided that such business uses shall not occupy more than 15 percent of the total development area, in the R-5 planned residential development district.
- (10) *Mobile home dwellings and single-family dwellings* in the R-6 planned mobile home park residence district.
- (11) *One dwelling unit* in the B-1, B-2, B-3 and B-4 business districts when located detached

from the principal business structure. This provision is established to provide Committee review of detached residences that existed prior to 1994 and for special circumstances where a residence can not be located within the primary business structure.

- (12) *Model apartments*, model condominiums and related temporary real estate sales office located within the model unit and related temporary real estate sales office trailers in the R-4, R-5 and R-8 districts, model mobile home and related temporary real estate sales office located within the model unit in the R-6 and R-7 district, model single-family homes and model single-family condominiums and related temporary real estate sales office located within the model unit and related temporary real estate sales office trailers in the R-1, R-2, R-2A, R-3, R-4, R-5, R-6, R-7 and R-8 districts, model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit and temporary real estate sales office trailers in the R-3, R-4, R-5 and R-8 districts, may be permitted as a conditional use if limited to the following:
- a. Models may be located in all new subdivisions for a period not to exceed three years from the date of issuance of a zoning permit.
 - b. Models shall not be used as a real estate office other than incidental to showing the model dwelling.
 - c. Models shall be designed in such a manner as to blend with existing neighborhood environments.
 - d. Models shall not be open beyond 9:00 p.m.
 - e. One sign may be permitted provided, however, that it is no larger than four feet by six feet and further provided that in the event that said sign is lighted, there is no flashing or traveling lights associated with said sign.
 - f. Models shall be completely landscaped and have a paved driveway within one year from the date of issuance of the zoning permit.
 - g. No parking lots shall be created that would not normally be found in a single-family development.
 - h. Sufficient parking shall be provided in model home driveways and may be provided on subdivision roads, but in no case shall the parking be allowed on any Federal, State, County or Town highway. Any parking on subdivision roads shall be done in such a manner as to minimize congestion to the surrounding neighborhood.
- (13) *Bed and breakfast establishments* in the A-2, A-3, A-5, C-2, C-3, R-1, R-2, R-2A, districts provided the owner of the bed and breakfast establishment resides in the establishment. No bedrooms shall be permitted to be located in an accessory structure. No more than four bedrooms shall be rented to no more than a total of ten tourists or transients.

Individual rentals shall not exceed 14 consecutive days in length. No retail sales shall occur in a bed and breakfast establishment. No meal except breakfast is served and the breakfast is provided only to lodgers. The establishment was originally built and occupied as a single-family residence or, prior to the use as a place of lodging, was converted to use and occupied as a single-family residence. One exterior advertising sign, not exceeding nine square feet in area, may be erected on the premises (see sections 74-82/74-211).

(Ord. of 6-11-02; Amd. of 1-14-03; Amd. of 7-13-04; Amd. of 5-10-05; Ord. No. 436-05/07, pt. II, 5-8-07; Ord. No. 462-10/07, pt. I, 10-9-07; Ord. No. 466-11/07, pt. VIII, 11-13-07; Ord. No. 563-06/09, pt. II, 6-9-09; Ord. No. 591-12/09, pt. XXI, 12-15-09; Ord. No. 819-12/13, pt. II, 12-10-13; Ord. No. 879-09/14, pt. X, 9-4-14; Ord. No. 1049-06/17, pt. XIII, 6-13-17)

Sec. 74-64. - Commercial and related uses.

Except where specifically permitted as a principal use in division 3 the following commercial and related uses shall be conditional uses and may be permitted as specified. Any outside storage or display areas in conjunction with the following commercial and related uses may be permitted by the Committee after considering such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance. In no case shall areas be closer than 25 feet to any right-of-way. In approving or disapproving the location of a conditional use the Committee shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance set forth in section 74-28 and 74-29 and upon the particular land use problems related to development of the site or sites as proposed.

- (1) *Drive-in theaters* in the B-2 and B-5 districts provided that a planting screen at least 25 feet wide is created along any side abutting a residential district.
- (2) *Establishments* serving food or beverages for consumption outside the principal structure in the B-1, B-2, B-3, B-4 and B-5 districts. Compliant parking must be provided to accommodate the outdoor use of the property. The use of food trucks may be allowed at a density of one food truck on parcels less than one-half acre, two food trucks on parcels of one-half acre to one acre, and three food trucks on parcels over one acre. Food trucks shall be parked at least 25 feet from a road right-of-way, at least 75 feet from an ordinary high water mark, and at least 25 feet from any R-1, R-2, R-2A, R-3, R-4, R-5, R-5A, R-6, R-7, and A-5 district lot line.
- (3) *Funeral homes* in the B-2 district provided all principal structures and uses are not less than 25 feet from any lot line.
- (4) *Drive-up banks* in the B-2 and B-4 districts.
- (5) *Vehicle sales, service, washing, and repair stations, gasoline service stations, garages, taxi*

stands, and public parking lots, in all business districts. Car wash facilities shall be installed in such a manner as not to cause spray or run-off water to encroach upon any adjoining properties or public right-of-ways.

- (6) *Boats and marine supplies*, not including manufacturing; bait shops; taverns; bars; swimming beaches; bath houses; and yachting clubs in the B-3 waterfront business district.
- (7) *Automobile and truck retail services*. Automobile repair services; tow lots; bars, taverns, night clubs, and dance halls; gasoline service stations; souvenir sales; and service, and installation of tires, batteries, and accessories in the B-4 highway business district.
- (8) *Planned commercial recreation facilities* in the B-5 planned commercial recreation business district, including aircraft landing and takeoff fields; amusement parks and miniature golf courses; boat rentals and boat access sites; campgrounds; dance halls; restaurants, taverns, bars, night clubs; drive-in movies; dude ranches; fair grounds; health and recreational resorts; retail sales of antiques, books, cameras, and photographic supplies, candy, nut, and confectionery, china, glassware, and metalware, cigars, cigarettes, and tobacco, flowers, fur apparel, gifts, novelties, and souvenirs, jewelry, men's and boy's clothing and furnishings, music supplies, newspapers and magazines, shoes, sporting goods, stationery, toys, women's and girl's clothing and furnishings, and drug stores; personal services, including artists services, barber services, beauty services, dry cleaning, photographic studios, shoe repairing cleaning services, custom tailoring, and travel arranging services; go-cart tracks; golf courses and related facilities; hotels and motels; penny arcades; race tracks; riding stables; roller skating rinks; skiing and tobogganing; snowmobile trails; swimming beaches; skeet, trap, and rifle ranges; and single-family and multiple-family dwelling units when located on the same site with health or recreational resorts, provided that the transfer of any dwelling units may only include therewith a fractional interest in the site on which the dwelling unit is located.
- (9) *Business directory signs* exceeding three per business in all agricultural districts.
- (10) *Flea markets* in the A-4, B-2, B-3 and B-4 districts.
- (11) *Commercial greenhouse* in the A-4, C-2 (outside primary environmental corridors) and B-4 districts.
- (12) *Hotels, motels and tourist courts* in the B-3, B-4, and B-5 districts.
- (13) *Signage provisions* under section 74-86 for on-premise signs in the B-1, B-2, B-3, B-4, B-5 zoning districts may be modified by the Committee but no sign shall be closer than five feet to any property line.
- (14) *Planned unit developments* in the B-1, B-2, B-3, and B-4 districts, provided that no planned

unit development shall be approved which includes uses not permitted in the given district. The district regulations, excluding exterior district setback requirements, may be modified by the Committee provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. The proper preservation, care and maintenance by the original and all subsequent owners of the exterior design shall be assured by deed restriction. All common structures, facilities, essential services, access and open spaces shall also be assured by deed restrictions. Area, width and yard requirements of the district shall apply. Building separation: The minimum building separation shall be 30 feet unless modified by the Committee, provided the minimum building separation is never reduced below 20 feet.

- (15) *Off-season storage facilities* for boats and other recreational vehicles such as campers, travel trailers, snowmobiles, off-road vehicles, and motor homes, in the B-1, B-2, B-3, B-4, M-1, M-2 and A-4 districts. Any outside storage or display areas in conjunction with this use may be permitted by the Committee after considering such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance. In no case shall areas be closer than 25 feet to any right-of-way.
- (16) *Mini-warehouse facilities* in the B-1, B-2, B-3, B-4, B-5 zoning districts.
- (17) *Building contractors storage yard* in the B-2, B-4, M-1, M-2, and A-4 districts.
- (18) *Shared parking*. County Zoning Agency may grant conditional use approval for shared parking in the B-1, B-2, B-3, B-4, and B-5 districts after public hearing and review. The Committee may authorize as much as a 40 percent reduction in the area to be paved for non-residential off-street parking stalls when parking is shared by two or more uses provided:
 - a. The uses that are sharing parking have peak parking demand at different times.
 - b. Pedestrian sidewalks or paths are provided as safe connections between any uses sharing the parking area.
 - c. Land-banking of reserved area: When a parking reduction has been authorized, the Committee shall require that sufficient area on the property be held in reserve for the potential future development of paved off-street parking to meet the full requirements. When required, this reserve off-street parking area shall be shown and noted on the site plan, maintained as open space, and developed with paved off-street parking spaces when the County determines that such off-street parking is necessary due to parking demand on the property which exceeds original expectations. The reserve area may not be counted as part of any required green space area. The County may require that a letter of credit or other approved financial surety be provided at the

time of permit issuance in an amount not to exceed 125 percent of the estimated cost of parking lot completion, to be exercised at County discretion, should the need for parking lot completion be determined.

- d. If shared parking is approved by the Committee, a shared parking agreement, signed by all parties, shall be recorded with the Register of Deeds. The agreement shall state a minimum time frame for the agreement to be in force; provide for ingress/egress easements; and state safe and proper maintenance provisions for driveways, parking and pedestrian connections.
- e. Compliance with all other provisions of this ordinance shall be required of all conditional uses (section 74-59/74-186).

(Ord. of 6-11-02; Amd. of 1-11-05; Amd. of 5-10-05; Ord. No. 369-07/06, pt. IV, 7-11-06; Ord. No. 466-11/07, pt. IX, 11-13-07; Ord. No. 591-12/09, pt. XXII, 12-15-09; Ord. No. 685-08/11, pt. IV, 8-9-11; Ord. No. 740-09/12, pt. XII, 9-6-12; Ord. No. 1049-06/17, pt. XIV, 6-13-17; Ord. No. 1171-06/19, pt. XIII, 6-11-19; Ord. No. 1273-05/22, pt. V, 5-10-22)

Sec. 74-65. - Industrial and related uses.

Except where specifically permitted as a principal use in division 3 the following industrial and related uses shall be conditional uses and may be permitted as specified. In approving or disapproving the location of a conditional use, the Committee shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing upon the general purpose and intent of this ordinance set forth in sections 74-28 and 74-29 and upon the particular land use problems related to development of the site or sites as proposed.

- (1) *Sewage disposal plants* in all districts.
- (2) *Pea vineries, creameries, and condenseries* in the A-4 and M-2 districts.
- (3) *Manufacture and processing* of abrasives, acetylene, acid, alkalis, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, felt, fish, fuel, furs, gelatin, glucose, gypsum, hair products, ice, ink, insecticide, lamp-black, lime, lime products, linoleum, matches, meat, oil cloth, paint, paper, peas, perfume, pickle, plaster of Paris, plastics, poison, polish, potash, pulp, pyroxylin, rope, rubber, sausage, shoddy, shoe and lampblacking, size, starch, stove polish, textiles, and varnish in the M-2 district.
- (4) *Manufacturing, processing, and storage* of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar, and yeast in the M-2 district.

- (5) *Manufacture and bottling* of alcoholic beverages in the M-2 district.
- (6) *Bag cleaning*, bleacheries, canneries, cold storage warehouses; electric and steam generating plants; electroplating, enameling; forges; foundries; garbage; incinerators; lacquering; lithographing; offal, rubbish or animal reduction, oil, coal, and bone distillation; refineries; road test facilities; slaughterhouses; smelting; stock-yards; tanneries; and weaving in the M-2 district.
- (7) *Outside storage and manufacturing areas* in the M-1 and M-2 districts.
- (8) *Wrecking, junk, demolition, automobile salvage yards and scrap yards* in the M-2 district subject to the following regulations and such other regulations as the Committee may deem appropriate after viewing the site or sites and considering evidence presented at the hearing.
 - a. *Location*. Every wrecking, junk, demolition, automobile salvage yard or scrap yard shall be located at least 1,000 feet from the boundary of any Residential or park district or the B-1 business district, and shall further be located at least 1,000 feet from the nearest residence, not including the residence of the owner or operator of the yard.
 - b. *Street yard*. No wrecking, junk, demolition, or scrap yard operation shall be conducted within 150 feet of any existing or proposed street, road, or highway right-of-way line.
 - c. *Screening*. Every wrecking, junk, demolition, or scrap yard shall be surrounded by a suitable fence or dense evergreen planting screen which shall completely prevent a view of the yard operations from any other property or public right-of-way. Such fence or screen shall be at least six feet in height, and shall have no openings more than two inches in width other than approved entrances or exits. Such fence or screen shall be kept in proper repair at all times.
 - d. *Operations*. All junk, scrap, salvage, and other material shall be kept within the fence or screen, but shall not be piled against it.
 - e. *Permit renewal*. Any conditional use permit issued for a wrecking, junk, demolition, or scrap yard, including permits issued to existing operations, shall be in effect for a one-year time period and shall be subject to annual renewal. Modifications to previous conditions or additional conditions may be imposed upon an application for renewal provided, however, that such modifications or additional conditions must recognize existing lawful nonconforming uses and may only be imposed by the County Park and Planning Commission after a public hearing.
 - f. *Existing operations*. Within 60 days after the effective date of this ordinance, all existing wrecking, junk, demolition, and scrap yards in a town shall be required to register with the County Zoning Administrator and shall submit pertinent data relative

to the present operation, including the boundaries of the operation, ownership data, maps showing the location of existing buildings and operational areas, and such other data as may be necessary to enable the County Zoning Administrator to create a permanent file establishing the size, layout, and operational characteristics of the existing operation. A permit shall be granted by the Zoning Administrator to such existing operations for the extent of the existing operation only. Any existing operation which does not comply with this registration requirement shall be penalized in accordance with provisions in sections 74-46 and 74-47. Notwithstanding the foregoing, however, the County Zoning Administrator may make a finding that an adequate file already exists concerning an existing operation, and may accordingly waive the registration requirement and issue a permit on his own motion.

g. *Revocation of permit.* Upon the complaint of the County Zoning Administrator or any interested person, the Committee shall hold a public hearing to determine whether a wrecking, junk, demolition, automobile salvage yard or scrap yard permit shall be revoked, notice of such hearing to be given to all interested parties, including the town board concerned. After such public hearing, the Committee may order the permit revoked, if evidence presented at such hearing discloses that the provisions of this ordinance are being willfully violated.

- (9) *Commercial service facilities*, such as restaurants and fueling stations, in the M-1, and M-2 districts provided all such services are physically and otherwise oriented toward industrial district users and employees and other users are only incidental customers. The use of food trucks may be allowed at a density of one food truck on parcels less than one-half acre, two food trucks on parcels of one-half acre to one acre, and three food trucks on parcels over one acre. Food trucks shall be parked at least 25 feet from a road right-of-way, at least 75 feet from an ordinary high water mark, and at least 25 feet from any R-1, R-2, R-2A, R-3, R-4, R-5, R-5A, R-6, R-7, and A-5 district lot line.
- (10) *Living quarters for watchmen or caretakers* in the M-1 and M-2 industrial districts and the A-4 agricultural district.
- (11) *Building contractor storage yards* in the B-2, B-4, M-1, M-2 and A-4 districts.
- (12) *Electric power generation plants* in the M-2 district.
- (13) *Planned unit developments* in the M-1 and M-2 districts, provided that no planned unit development shall be approved which includes uses not permitted in the given district. The district regulations, excluding exterior district setback requirements, may be modified by the Committee provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. The proper preservation, care and maintenance by the original and all

subsequent owners of the exterior design shall be assured by deed restriction. All common structures, facilities, essential services, access and open spaces shall also be assured by deed restrictions.

Area, width and yard requirements of the district shall apply.

Building separation: The minimum building separation shall be 30 feet unless modified by the Committee, provided the minimum building separation is never reduced below 20 feet.

- (14) *Signage provisions* under section 74-86 for on-premise signs in the M-1, M-2, M-3 and M-4 zoning districts may be modified by the Committee but no sign shall be closer than five feet to any property line.
- (15) *Off-season storage facilities* for boats and other recreational vehicles such as campers, travel trailers, snowmobiles, off-road vehicles, and motor homes, in the B-1, B-2, B-3, B-4, M-1, M-2 and A-4 districts. Any outside storage or display areas in conjunction with this use may be permitted by the Committee after considering such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance. In no case shall areas be closer than 25 feet to any right-of-way.
- (16) *Mini-warehouse facilities* in the M-1 and M-2 zoning districts.
- (17) *Shared parking*. County Zoning Agency may grant conditional use approval for shared parking in the M-1 and M-2 districts after public hearing and review. The Committee may authorize as much as a 40 percent reduction in the area to be paved for non-residential off-street parking stalls when parking is shared by two or more uses provided:
 - a. The uses that are sharing parking have peak parking demand at different times.
 - b. Pedestrian sidewalks or paths are provided as safe connections between any uses sharing the parking area.
 - c.

Land-banking of reserved area: When a parking reduction has been authorized, the Committee shall require that sufficient area on the property be held in reserve for the potential future development of paved off-street parking to meet the full requirements. When required, this reserve off-street parking area shall be shown and noted on the site plan, maintained as open space, and developed with paved off-street parking spaces when the County determines that such off-street parking is necessary due to parking demand on the property which exceeds original expectations. The reserve area may not be counted as part of any required green space area. The County may require that a letter of credit or other approved financial surety be provided at the time of permit issuance in an amount not to exceed 125 percent of the estimated cost of parking lot completion, to be exercised at County discretion, should the need for parking lot completion be determined.

- d. If shared parking is approved by the Committee, a shared parking agreement, signed by all parties, shall be recorded with the Register of Deeds. The agreement shall state a minimum time frame for the agreement to be in force; provide for ingress/egress easements; and state safe and proper maintenance provisions for driveways, parking and pedestrian connections.
- e. Compliance with all other provisions of this section shall be required of all conditional uses (section 74-59/74-186).

(18) *High-bay warehouses* using oxygen reduction fire prevention in the M-2 district. The County Zoning Agency may deny such a request or limit the maximum height if the community providing primary fire protection is not able to serve the proposed structures with existing equipment.

(Amd. of 1-11-05; Amd. of 5-10-05; Ord. No. 591-12/09, pt. XXIII, 12-15-09; Ord. No. 685-08/11, pt. V, 8-9-11; Ord. No. 1049-06/17, pt. XV, 6-13-17; Ord. No. 1171-06/19, pt. XIII, 6-11-19; Ord. No. 1244-09/21, pt. II, 9-14-21; Ord. No. 1273-05/22, pt. VI, 5-10-22)

Sec. 74-66. - Public and semi-public uses.

Except where specifically permitted as a principal use in division 3 the following public and semi-public uses shall be conditional uses and may be permitted as specified. In approving or disapproving the location of a conditional use, the Committee shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this ordinance set forth in sections 74-28 and 74-29 and upon the particular land use problems related to development of the site or sites as proposed.

- (1) Airports, airstrips, and landing fields, excluding heliports, in the A-2, A-3, A-4 districts and the P-2 and B-5 districts, provided, that the site area is not less than 20 acres.
- (2) Heliports in the A-2, A-3, A-4 districts, and the P2, B-2 and B-5 districts, provided that the

principal structures and uses are not less than 100 feet from any residential district boundary.

- (3) Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums in all districts (except A-1). In the A-1 district see section 74-61.
- (4) Utilities in all districts (except A-1) provided all principal structures and uses associated with the utility are not less than 50 feet from all district lot lines except business, park, and industrial, which will require a ten-foot setback. Utilities required to obtain a certificate of convenience and public necessity from the Wisconsin Public Service Commission or those utilities required to obtain a Federal Energy Regulatory Commission certificate shall be exempt from obtaining a conditional use permit. In the A-1 district see section 74-61.
- (5) Public passenger transportation terminals such as bus, taxi and rail depots, except airports, airstrips, and landing fields, are allowed in the B-2, B-3, and B-4 district, provided that all principal structures and uses are not less than 100 feet from any residential district boundary.
- (6) Public, parochial, and private elementary and secondary schools in all residential, business, agricultural (except A-1) and P-1 districts, provided the lot area is not less than two acres and all principal structures and uses are not less than 50 feet from any lot line. In the A-1 district see section 74-61.
- (7) Churches in all residential, business, agricultural (except A-1) and P-1 districts, provided the lot area is not less than two acres and all principal structures and uses are not less than 50 feet from any lot line. In the A-1 district see section 74-61.
- (8) Sanitariums; religious, charitable, penal and correctional institutions, cemeteries, mausoleums, columbaria and crematories in the P-2, B-2 and B-4 districts provided all principal structures and uses are not less than 50 feet from any lot line.
- (9) Hospitals in the B-2, B-3, B-4 districts provided all principal structures and uses are not less than 50 feet from any lot line.
- (10) Lake management facilities and activities including equipment and vehicles used in lake weed harvesting and off loading activities in the P-1 and P-2 districts.
- (11) *Shared parking*. County Zoning Agency may grant conditional use approval for shared parking in the P-1 and P-2 districts after public hearing and review. The Committee may authorize as much as a 40 percent reduction in the area to be paved for non-residential off-street parking stalls when parking is shared by two or more uses provided:
 - a. The uses that are sharing parking have peak parking demand at different times.
 - b. Pedestrian sidewalks or paths are provided as safe connections between any uses

sharing the parking area.

- c. Land-banking of reserved area: When a parking reduction has been authorized, the Committee shall require that sufficient area on the property be held in reserve for the potential future development of paved off-street parking to meet the full requirements. When required, this reserve off-street parking area shall be shown and noted on the site plan, maintained as open space, and developed with paved off-street parking spaces when the County determines that such off-street parking is necessary due to parking demand on the property which exceeds original expectations. The reserve area may not be counted as part of any required green space area. The County may require that a letter of credit or other approved financial surety be provided at the time of permit issuance in an amount not to exceed 125 percent of the estimated cost of parking lot completion, to be exercised at County discretion, should the need for parking lot completion be determined.
 - d. If shared parking is approved by the Committee, a shared parking agreement, signed by all parties, shall be recorded with the Register of Deeds. The agreement shall state a minimum time frame for the agreement to be in force; provide for ingress/egress easements; and state safe and proper maintenance provisions for driveways, parking and pedestrian connections.
 - e. Compliance with all other provisions of this ordinance shall be required of all conditional uses (section 74-59/74-186).
- (12) Signage provisions for on-premise signs as specified in Section 74-85 for churches, schools, subdivisions or development signs may be modified by the Committee but no sign shall be closer than five feet to any property line.
- (13) Solar energy systems per chapter 65 of the Walworth County Code of Ordinances- Renewable Energy. Solar energy systems that are required to obtain a certificate of convenience and public necessity from the Wisconsin Public Service Commission or those renewable energy systems required to obtain a Federal Energy Regulatory Commission certificate shall be exempt from obtaining a conditional use permit. In the A-1 district see section 74-61.

(Ord. of 6-11-02; Amd. of 1-14-03; Ord. No. 332-01/06, pt. I, 1-10-06; Ord. No. 591-12/09, pt. XXIV, 12-15-09; Ord. No. 685-08/11, pt. VI, 8-9-11; Ord. No. 879-09/14, pt. XI, 9-4-14; Ord. No. 938-07/15, pt. V, 7-14-15; Ord. No. 1049-06/17, pt. XVI, 6-13-17; Ord. No. 1129-07/18, pt. I, 7-10-18; Ord. No. 1171-06/19, pt. XIV, 6-11-19)

Sec. 74-67. - Mineral extraction, oil and gas exploration or production and related uses.

Mineral extraction related uses in the M-3 mineral extraction district, including aggregate or ready-mix plants; clay, ceramic, and refractor minerals mining; crushed and broken stone quarrying; mixing of asphalt; nonmetallic mining services; processing of top soil; sand and gravel quarrying; washing, refining, or reprocessing of rock, slate, gravel, sand, or mineral; the extension of any existing mineral extraction related uses and oil and gas exploration or production.

All of the above stated mineral extraction and related uses shall be subject to the following regulations and such other regulations as the Committee may deem appropriate after viewing the site or sites and considering evidence presented at the hearing.

- (1) *Plat of survey.* Submittal of a plat of survey showing, as appropriate, the data and information set forth in section 74-58, topographic data (minimum contour interval of five feet vertical), existing natural resource base data, the location of existing and proposed access roads, and the depth of existing and proposed excavations and an approved reclamation plan.
- (2) *Operations plan.* Submittal of an operations plan, including at least a description of the operational methods proposed to be used; a list of equipment, machinery, and structures to be used and constructed; a description of the source, quantity, and disposition of water to be used; a description of proposed noise and dust control procedures; reclamation plan and proposed hours of operation.
- (3) *Restoration plan.* Submittal of a restoration plan, which shall include all pertinent data related to proposed restoration of the site. Elements of the plan may include identification of natural features to be protected, proposed final contours (minimum contour interval of five feet vertical), type of fill, depth of restored topsoil, planting or reforestation, sodding or seeding, timing and completion data, or any other data applicable to the subject site. The restoration plan shall conform to the requirements of Article 6 Chapter 26 of the Nonmetallic Mining Reclamation Ordinance.
- (4) *Permit duration.* Any conditional use permit issued for a mineral extraction or related use under this section shall be in effect for a time period that shall be specified on the approved operations plan. Any variances in operations from those specified under the operations plan, or any expansion of an approved mineral extraction site or operation, shall require a new conditional use permit in accordance with the procedures set forth in sections 74-58 and 74-59. In this context, the term "expansion" shall refer both to new geographical areas of operation and to new or different operational methods and procedures.
- (5) *Existing operations:* Within 60 days after the effective date of this ordinance, all existing mineral extraction uses in a town shall be required to register with the County Zoning

Administrator and shall submit pertinent data relative to the present operation, including the boundaries of the operation, ownership data, maps showing the location of existing buildings and operational areas, and such other data as may be necessary to enable the County Zoning Administrator to create a permanent file establishing the size, layout, and operational characteristics of the existing operation. A permit shall be granted by the Zoning Administrator to such existing operations for the extent of the existing operation only. Any existing operation which does not comply with this registration requirement shall be penalized in accordance with provisions in section 74-47. Notwithstanding the foregoing, however, the County Zoning Administrator may make a finding that an adequate file already exists concerning an existing operation, and may accordingly waive the registration requirement and issue a permit on his own motion.

(6) *Licensing.* A license from the State of Wisconsin Department of Natural Resources under Wis. Stats. ch. 295, subchapter 11 for oil and gas exploration or production is required.

(Ord. of 6-11-02; Ord. No. 740-09/12, pt. XIII, 9-6-12; Ord. No. 879-09/14, pt. XII, 9-4-14)

Sec. 74-68. - Sanitary landfill uses.

Sanitary landfill operations and incinerators in the M-4 sanitary landfill district.

All such operations shall be subject to the following regulations and such other regulations as the Committee may deem appropriate after viewing the site or sites and considering evidence presented at the hearing:

Uses to comply with Wisconsin Administrative Code, applicable State statutes and Walworth County Solid Waste Management Plan. All sanitary landfill operations must be conducted in strict accordance with the provisions of the Wisconsin Administrative Code, and Wis. Stats. ch. 289. Any proposal must also demonstrate its compatibility with the Walworth County Solid Waste Management Plan.

Plat of survey. Applicants shall submit a plat of survey showing as appropriate, the data and information set forth in section 74-58, topographic data (minimum contour interval two feet), existing natural resource base data, the location of existing and proposed excavation and fills. Subsurface investigation: Including subsoil description and groundwater depth and movement.

Operations plan. All applications shall submit an operations plan that shall include at least a description of the operational methods proposed to be used; a list of equipment, machinery, and structures to be used and constructed: a description of the source, quantity, and disposition of the water to be used; a description of proposed leachate, litter, noise, rodent and dust control procedures; and proposed hours of operation.

Restoration plan. All applications shall submit a restoration plan showing at least proposed contours

(minimum contour interval of two feet), a type of fill depth of restored topsoil, planting or reforestation, and timing and completion date.

Permit renewal. Any conditional use permit issued for a use permitted in this section, including permits issued to existing operations, shall be in effect for a specified time period, but not to exceed two years. Such permit may be renewed upon application for successive periods, not to exceed two years each. Modifications to previous conditions or additional conditions may be imposed upon application for renewal, provided, however, that such modifications or additional conditions must recognize existing lawful nonconforming uses and may only be imposed by the County Park and Planning Commission after a public hearing.

Existing operations. Within 60 days after the effective date of this ordinance, all existing sanitary landfill operations in a town shall be required to register with the County Zoning Administrator and shall submit pertinent data relative to the present operation, including the boundaries of the operation, ownership data, maps showing the location of existing buildings and operational areas, and such other data as may be necessary to enable the County Zoning Administrator to create a permanent file establishing the size, layout, and operational characteristics of the existing operation. A permit shall be granted by the Zoning Administrator to such existing operations for the extent of the existing operations only. Any existing operation which does not comply with provisions in section 74-35 and 74-36 shall be penalized in accordance with provisions in section 74-47. Notwithstanding the foregoing, however, the County Zoning Administrator may make a finding that an adequate file already exists concerning an existing operation, and may accordingly waive the registration requirement and issue a permit on his own motion.

Sec. 74-69. - Recycling in the P-1, P-2, M-1, M-2, M-3 and M-4.

Materials are not to be stored longer than six months on property. Materials are to be containerized or stored in buildings. The following information will be required as part of the conditional use application:

- (1) A legal description of the property and the facility boundaries.
- (2) The present ownership of the proposed facility property.
- (3) Surrounding land uses.
- (4) The area served, including population.
- (5) The consistency of facility development with area wide solid waste plans and land use plans.
- (6) The types of vehicles and access routes used to transport solid waste to and from the facility.

- (7) The persons responsible for facility construction and operation.
- (8) Any additional procedures for the control of dust, odors, fire, vermin, insects, rodents, filth, and windblown materials, if appropriate.
- (9) The names and locations of all solid waste disposal facilities at which solid waste will be disposed.
- (10) Overall facility layout.
- (11) Potential markets for the recyclables.
- (12) A timetable for construction and operation.
- (13) The tentative operating schedule for the facility.
- (14) Provisions for protection of groundwater and surface waters during facility construction and operation.
- (15) An estimate of the quantities and characteristics of the waste to be processed.
- (16) A discussion of operating personnel responsibilities; hours of operation; methods of controlling fire, odors, and windblown materials; methods of controlling access. Persons responsible for operation and record keeping; names of facility licensee and owner; record keeping. Names and locations of solid waste disposal facilities at which any waste generated by the recycling operation will be disposed.

Sec. 74-70. - Yard waste composting in the A-1, A-2, A-3, A-4, P-1, P-2, M-1, M-2, M-3, and M-4.

Yard waste composting sites are regulated under the Wisconsin State Natural Resources Code NR Ch. 502 and have the following locational standards:

- (1) No person may establish, construct, operate, maintain or permit the use of property for any facility regulated under this chapter within the following areas, unless a waiver from the Department of Natural Resources has been granted:
 - a. Within 1,000 feet of any navigable lake, pond or flowage.
 - b. Within 300 feet of any navigable river or stream.
 - c. Within a floodplain.
 - d. Within 1,000 feet of the nearest edge of the right-of-way of any State trunk highway, interstate or Federal aid primary highway or the boundary of any public park unless the facility is screened by natural objects, plantings, fences or other appropriate means so that it is not visible from the highway or park.
 - e. Within 10,000 feet of any airport runway used or planned to be used by turbojet aircraft or within 5,000 feet of any airport runway used only by piston type aircraft or within other areas where a substantial bird hazard to aircraft would be created. This

criterion is applicable only when the facility will be used for handling putrescible waste.

- f. Within 1,200 feet of any public or private supply well.

In addition to the required DNR site approval the County zoning ordinance requires a conditional use hearing on any compost facility over 20 cubic yards. (A backyard or neighborhood compost site under 20 cubic yards is exempt from the conditional use requirement.) The following information will be required as part of the conditional use application:

- a. A legal description of the property and the facility boundaries.
- b. The present ownership of the proposed facility property.
- c. Land use within $\frac{1}{4}$ mile of the proposed facility. Particular note shall be made of parks, hospitals, nursing homes and areas of archaeological and historical significance.
- d. The area served, including population.
- e. The consistency of facility development with area wide solid waste plans and land use plans.
- f. The predominant types of vegetation and wildlife within the proposed facility boundaries.
- g. The types of vehicles and access routes used to transport solid waste to and from the facility.
- h. The persons responsible for facility construction and operation.
 - i. Any additional procedures for the control of dust, odors, fire and windblown materials, if appropriate.
 - j. The names and locations of all solid waste disposal facilities at which solid waste will be disposed.
- k. Overall facility layout.
 - l. Potential markets for the compost.
- m. A timetable for construction and operation.
- n. The tentative operating schedule for the facility.
- o. Provisions for protection of groundwater and surface waters during facility construction and operation.
- p.

A discussion of facility features such as: residence time and process temperatures for the compost; configuration of the facility; sizing of surface water drainage control structures; methods of controlling windblown materials; and methods of controlling windblown materials; and methods of screening the facility from the surrounding area, if appropriate.

- q. An estimate of the quantities and characteristics of the waste to be processed.
- r. A discussion of operating personnel responsibilities; hours of operation; methods of controlling fire, odors, and windblown materials; methods of controlling access. Persons responsible for operation and record keeping; names of facility licensee and owner; record keeping. Names and location of solid waste disposal facilities at which any waste generated by the composting operation will be disposed.

- (2) *Plans.* The plan of operation shall include a map which contains the following information: An existing conditions map, which shows the entire facility and the area within ½ mile. A USGS map can be used to satisfy this requirement. This map shall include the proposed facility boundary, property lines, easements and right-of-way, roads, utilities, and other structures, topography, drainage swales, surface waters, wetlands, floodplains and similar drainage features; wooded areas; screening, means of access control, areas to be cleared of vegetation, and other site features; and other features as appropriate.

Not to include solid waste and sludge composting which require a different DNR license.

Sec. 74-71. - Nonconforming uses.

When a principal nonconforming structure is damaged by fire, explosion, flood or other calamity to the extent of more than 50 percent of its current assessed value, it shall not be restored except so as to comply with the provisions of this ordinance, except that such principle nonconforming structure may be restored, in all zoning districts, after obtaining conditional use approval from the Committee. Such Committee shall not be allowed to give conditional use approval if there is a code compliant location or if the restoration exceeds the overall area and height of the damaged structure prior to said structure being damaged, unless a larger structure is necessary to comply with applicable State or Federal requirements by granting the minimum relief necessary to comply. Additionally, such conditional use approval shall require insofar as practical, that the restored structure conform with the established building setback lines along arterial streets, highways, and yards.

(Ord. No. 938-07/15, pt. VI, 7-14-15)

Sec. 74-71.1. - Revocation.

Grounds for revocation of the conditional use permit, pursuant to section 74-37 and division 4 of this

ordinance, shall be limited to one of the following findings:

- (1) The owner/applicant of such site fails to comply with the requirements of this ordinance as it existed at the time of the issuance of the conditional use permit;
- (2) The owner/applicant has failed to comply with the conditions of approval imposed.
- (3) If the Zoning Agency approved the conditional use for a specified amount of time with a known expiration date then, the conditional use shall be automatically revoked upon passing of the expiration date without implementation of the revocation process. The property owner may petition for an extension of the conditional use prior to the expiration date.
- (4) Conditional use permits that have not been actively exercised on a yearly basis since issuance may be subject to dismissal without prejudice. Dismissal without prejudice shall occur without implementation of the revocation process. In order to dismiss a conditional use without prejudice the County Zoning Administrator or designee shall provide certified notice to the current property owner indicating dismissal of the conditional use shall occur after 60 days of the notice. The notice shall state that the dismissal is the result of the owner's failure to actively exercise the conditional use activity on a yearly basis. The property owner may contest the dismissal by providing a written request of appeal before the County Zoning Agency within 30 days of the notice issuance. It shall be the responsibility of the property owner to verify the continued conditional use activity on a yearly basis before the County Zoning Agency. The owner shall be required to pay an associated review fee as established by the County Zoning Agency. Conditional use permits for livestock operations may be dismissed without prejudice according to the same notice procedure stated above if the permit holder fails to do the following within two years after issuance: begin populating the new or expanded livestock facility; begin construction on all of the new structures proposed by the permit.

(Ord. No. 364-06/06, pt. I, 6-13-06; Ord. No. 1171-06/19, pt. XV, 6-11-19)

Sec. 74-71.2. - Revocation process.

- (a) The owner/applicant of such site shall be notified by certified mail of noncompliance by the Walworth County Department of Planning, Zoning and Sanitation.
- (b) The owner/applicant shall comply with such notice within 30 days to the satisfaction of the Walworth County Planning, Zoning and Sanitation Department.
- (c) If compliance is not obtained within 30 days, the Walworth County Department of Planning, Zoning and Sanitation shall notify the Committee of the noncompliance and request permission to proceed with the revocation process. (This time period may be extended by staff

to adjust for seasonal limitations.)

- (d) The Walworth County Planning, Zoning and Sanitation Department shall petition the Walworth County Board for a public hearing before the Committee following publication of a class 2 notice in the legal newspaper of Walworth County.
- (e) A copy of a hearing notice shall be mailed certified to the owner of record of the property at least two weeks prior to the hearing date.
- (f) A representative of the Walworth County Planning, Zoning and Sanitation Department shall appear at the hearing before the Committee to present the evidence of noncompliance. All other interested parties may also give testimony to the Committee.
- (g) In compliance with the procedures of a conditional use hearing, a written decision of the Committee will be made.

DIVISION 7. - NONCONFORMING USES, STRUCTURES, AND LOTS

Sec. 74-89. - Existing nonconforming uses and structures.

The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this ordinance may be continued although the use does not conform with the provisions of this ordinance, except that:

Only that portion of the land or water in actual use may be so continued and the nonconforming use may not be extended, enlarged, substituted or moved.

Total lifetime structural repairs or alterations to a nonconforming structure shall not exceed 50 percent of the municipality's assessed value of the structure over the life of the structure established upon application for the first zoning permit for any addition and/or alteration identifying a legal nonconforming use, unless it is permanently changed to conform to the use provisions of this ordinance.

Substitution of new equipment may be permitted by the Board of Adjustment if such equipment will reduce the incompatibility of the nonconforming use or structure with the neighboring uses.

If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water, shall conform to the provisions of this ordinance.

When a principal nonconforming structure is damaged by fire, explosion, flood or other calamity to the extent of more than 50 percent of its current assessed value, it shall not be restored except so as to comply with the provisions of this ordinance or except as provided in section 74-71.

Once a nonconforming use or structure has been changed or altered so as to comply with the provisions of this ordinance, it shall not revert back to a nonconforming use or structure. Once the Board

of Adjustment has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board.

A current file of all nonconforming uses and structures shall be maintained by the Zoning Administrator listing the following: property location, use of the structure, land, or water; and assessed value of the structure.

(Ord. of 6-11-02; Ord. No. 1171-06/19, pt. XVI, 6-11-19)

Sec. 74-90. - Existing substandard structures.

The legal use of a structure (principal, conditional or accessory) existing at the time of the adoption or the amendment of this ordinance may be continued although the structure's size and or location does not conform to the required yard, height, traffic, parking, access, frontage and lot area provisions of this ordinance.

- (1) Additions and enlargements to existing substandard structures (principal and/or accessory) are permitted and shall conform with the established building setback line of all side yard, street yard and rear yards, but may never be closer than five feet to any lot line, and shall conform to the required shoreyard, height, traffic, parking, and access provisions of this ordinance.
- (2) Existing substandard structures (principal and/or accessory) which are damaged or destroyed by fire, explosion, flood, or other calamity, may be reconstructed to their original design (building envelope) and location (footprint) and any proposed additions and enlargements to the original design (building envelope) and/or location (footprint) shall conform with the established building setback lines of all side yard, street yard, and rear yards, but may never be closer than five feet to any lot line. Any proposed additions and enlargements shall conform to the required shoreyard, height, traffic, parking, and access provisions of this ordinance.
- (3) Existing substandard structures (principal and/or accessory) may be moved, removed, razed, and reconstructed, or replaced to their original design (building envelope) and location (footprint) and any proposed additions and enlargements to the original design (building envelope) and/or location (footprint) shall conform with the established building setback lines of all side yard, street yard, and rear yards, but may never be closer than five feet to any lot line. Any proposed additions and enlargements shall conform to the required shoreyard, height, traffic, parking, and access provision of this ordinance.
- (4) Any structure used for a principal or conditional use may maintain any substandard yards if that use is substituted with a principal use or conditional use in the same zone district

provided the proposed structure or use requires lesser or equal setback requirements than the existing structure or use.

- (5) The provisions of this section are applicable only if the lot or parcel conforms to the existing sanitary code requirements or is serviced by public sanitary sewer.

(Ord. of 6-11-02; Amd. of 1-14-03; Ord. No. 613-05/10, pt. III, 5-11-10; Ord. No. 740-09/12, pt. XVI, 9-6-12)

Sec. 74-91. - Changes and substitutions.

Once a nonconforming use has been changed to a conforming use or a substandard structure has been altered so as to comply with the yard, height, parking, loading, and access provisions of this ordinance, it shall not revert back to a nonconforming use or substandard structure. Once the Board of Adjustment has permitted the substitution of a more restrictive nonconforming use for the existing nonconforming use, the prior existing use shall lose its status as a legal nonconforming use and a substituted use shall become subject to all the conditions required by the Board.

Sec. 74-92. - Existing substandard lots.

A legally created lot or parcel of record in the County Register of Deeds office before the effective date or amendment of this ordinance that met any applicable lot size requirements when created but does not meet current lot size requirements may be used as a building site, if all of the following apply:

- (a) 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.
- (b) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
- (c) The substandard lot or parcel is developed to comply with all other ordinance requirements, including but not limited to core living area and foundation requirements, vision triangle, yard setbacks, height, parking, etc.

Yards	Street	Minimum 25 feet; corner lots shall have two such yards.
	Rear	Minimum 25 feet from lot line.
(Sewered)	Side:	10 feet

(Unsewered)		Minimum 16 percent of the lot width on each side but not less than five feet from the lot line. See <u>section 74-107</u> .
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(Ord. of 6-11-02; Ord. No. 353-04/06, pt. V, 4-20-06; Ord. No. 591-12/09, pt. XXVI, 12-15-09; Ord. No. 740-09/12, pt. XVII, 9-6-12; Ord. No. 1130-07/08, pt. II, 7-10-18)

DIVISION 13. - DEFINITIONS

Sec. 74-131. - Definitions.

For the purpose of this ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not discretionary.

A zones: Areas of potential flooding shown on a County's "Flood Insurance Rate Map" or "Flood Hazard Boundary Map" which would be inundated by the regional flood as defined herein. These areas may be numbered or be unnumbered A zones. The A zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

Abandoned sign: Any sign located on a property which becomes vacant and is unoccupied for a period of 30 days or more; any sign which pertains to a time, event or purpose which no longer applies; or a sign which no longer directs attention to a business activity, service or product sold on the premises.

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

Accessory use or structure: A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure. An accessory structure cannot contain a separate dwelling unit, nor be used for overnight stays.

Adult entertainment use: An establishment consisting of, including, or having the characteristics of any or all of the following:

- (1) *Adult bookstore:* An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, publications, tapes, or films that are distinguished or

characterized by their emphasis on matter depicting, describing, or relating to sexual activities or specified anatomical areas, as defined herein.*

(2) *Adult cabaret:*

- a. An establishment devoted to adult entertainment either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or specified anatomical areas, as defined herein;*
- b. A cabaret that features topless and/or bottomless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or specified anatomical areas, as defined herein*, for observation by patrons.

(3) *Adult mini motion picture theater:* An enclosed building with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or specified anatomical areas, as defined herein.*

(4) *Adult motion picture theater:* An enclosed building with a capacity for fifty or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or specified anatomical areas, as defined herein.*

(5) *Adult oriented establishment:* Shall include, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments or adult cabarets and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or specified anatomical areas, as defined herein*, to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

**Specified anatomical areas:* Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

**Specified sexual activities:* Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochism, fellatio or cunnilingus. Fondling or erotic touching of human genitals, pubic region, or buttock or female breast.

Agricultural animal: means bovine animals, equine animals, goats, poultry, sheep, bison, mink, swine,

farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish. (Wis. Stats. ch. 91)

Agricultural use: means any of the following activities conducted for the purpose of producing an income or livelihood: aquaculture; beekeeping; commercial feedlots; dairying; egg production; floriculture; fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses, Christmas tree production, and nurseries; poultry raising; crop or forage production; raising of fruits, nuts and berries; sod farming; placing land in Federal programs in return for payments in kind lands that are part of other State and Federal conservation programs; participating in the milk production termination program under 7 USC 1446 (d); and vegetable raising. (Wis. Stats. §§ 91.01, 92.10)

AH zone: See "area of shallow flooding."

Airport, public: Any airport which complies with the definition contained in Wis. Stats. § 114.002(18m)(a), or any airport which serves or offers to serve any common carriers engaged in air transport.

Alley: A special public or private right-of-way affording only secondary access to abutting properties.

Amusement activities: Uses such as, but not limited to, fair grounds, roller skating rinks, go-cart tracks, race tracks, and recreation centers.

Animal unit: Has the meaning given in NR-243.03. For animal units not listed, the equivalency to animal units shall be based on live animal weights. In these cases, 1,000 pounds of live weight is equivalent to one animal unit. The current NR243 rules should be consulted for any changes to the equivalents.

AO zone: See "area of shallow flooding."

Aquaculture: is the farming of aquatic organisms such as fish, shellfish and even plants.

Area of shallow flooding: A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

Area, net developable: Those lands within a development parcel remaining after the deletion of floodlands, wetlands, lands densely covered with trees and shrub growth on slopes of 12 percent or greater, all lands having slopes of 20 percent or greater, and all lands proposed for commercial or business land uses.

Area, total lot: The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Arterial street: A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways, as well as arterial streets, highways, and parkways.

Attached or attachment: The minimum requirement for attachments shall include all of the following:

- (1) The attachment, must extend from original grade to the roof line of one or more of the connected structures;
- (2) The attachment must be completely enclosed by a roof, walls, and floor (openings only for windows, skylights, doors, etc., are allowed);
- (3) The attachment must be accessible from all connecting structures;
- (4) The attachment as well as the connecting structures must meet applicable Uniform Dwelling Codes for foundation requirements; and
- (5) The attachment should be similar in design and materials to the connected structure(s).

Automotive proving grounds: An area used for testing and measuring the durability, safety, performance, emissions and related functions of passenger vehicles, light-duty trucks, and multi-purpose vehicles which functions are consistent with the design, development, engineering, manufacturing, and marketing of such vehicles and the administration of the same, but does not include public performance and racing whether by paid admission or otherwise, of motorcycles, go-carts, or race cars.

Automobile salvage yard: Any premises on which more than one self-propelled vehicle, not in running and/or operating condition, is not stored within an enclosed building. Running and/or operating conditions shall be a vehicle currently licensed, registered and operating in accordance with all applicable regulations of the Department of Motor Vehicles for the State of Wisconsin.

Banner: Any sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentation applied to paper, plastic or fabric of any kind. Flags, shall not be considered banners for the purpose of this chapter.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement: That portion of any structure located partly below the average adjoining lot grade.

Bed and breakfast establishment: Any place of lodging, in compliance with Wis. Stats. 254.61(1), that provides four or fewer rooms for rent, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.

Bed and breakfast establishment—commercial: Any place of lodging, in compliance with Wis. Stats. § 254.61(1), that provides eight or fewer rooms for rent to no more than a total of 20 tourist or transients in the B-6 district, is the owner's personal residence, is occupied by the owner at the time of rental, and

in which the only meal served to guests is breakfast.

Billboard: Any off-premises sign, except political signage, exceeding 12 square feet in area.

Boardinghouse: A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

Building: Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

Building area: The total living area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.

Building envelope: The three-dimensional space within which a structure is built on a lot and that may be defined by maximum height regulations and minimum yard setbacks.

Building height: The vertical distance, measured from the lowest finished grade along the street yard elevation of the structure, to the ridge of the highest roof line of the structure; including the roofs of architectural projections such as cupolas, domes, steeples, and gables. Flat roofs shall be measured to the highest point of the roof surface including such architectural projections as railings and walls.

Building inspector: A person certified by the Department of Commerce to engage in the administration and enforcement of the Uniform Dwelling Code for the State of Wisconsin.

Building officer: A person other than a certified building inspector having duties that do not include the administration and enforcement of the uniform dwelling code.

Building, detached: A principal building surrounded by open space on the same lot.

Building, principal: A building in which the principal use of the lot on which it is located is conducted.

Building line: A line between which any street line, no buildings or parts of buildings may be erected, altered, or maintained except as otherwise provided for in this ordinance.

Buildable lot area: That portion of a lot remaining after required yards have been provided.

Bulkhead line: A boundary line established along any section of the shore of any navigable waters by a municipal ordinance approved by the State Department of Natural Resources, pursuant to Wis. Stats. § 30.11. Filling and development is only permitted on the landward side of such bulkhead line.

Business: An occupation, employment or enterprise which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.

Campground, planned campground development: A parcel or tract of land maintained, intended, or

used for the purpose of supplying nonpermanent overnight accommodations to persons in a recreational vehicle, no more than 400 square feet in area, including travel trailer, pick-up coach, motorhome, camping trailer, and park model, as well as other permitted structures as specified in section 74-62(7)/74-189(7).

Campground, public or private: Any parcel or tract of land maintained, intended, or used for the purpose of supplying non-permanent overnight accommodations to persons providing their own means of shelter in a portable device or recreational vehicle, no more than 400 square feet in area, including travel trailer, pick-up coach, motorhome, camping trailer, park model, buses, automobiles, tents or sleeping bags.

Camping: Any parcel or tract of land maintained, intended or used for the purposes of supplying temporary or overnight accommodations to the public for the placement of trailers, tents, buses, automobiles, recreational vehicles or sleeping bags.

Camping unit: Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van pick-up truck, tent or other mobile recreational vehicle.

Carport: A structure having a roof, with or without supporting walls, posts or columns, used, designed or intended to be used for the protection or shelter of private motor vehicles. For the purpose of this ordinance, a carport shall be considered to be the equivalent of a garage.

Car washes: Any facility used for the washing of vehicles requiring the installation of special equipment or machinery and plumbing affixed to or affixed separate of a structure.

Cemetery: As defined in Wis. Stats. ch. 157.

Centralized sanitary sewerage system: A system designed to collect, convey, and treat sanitary and other wastes from a number of individual waste sources and which operates a sewage treatment facility approved by the Wisconsin Department of Natural Resources. A septic tank, whether serving one or several waste sources, is not a sewage treatment facility. Any sewerage system served by a septic tank shall not, therefore, be termed or classified as a centralized sanitary sewerage system. Such centralized sanitary sewerage systems may be publicly or privately owned and operated, but in every case is subject to the rules and regulations for the Wisconsin Department of Natural Resources.

Certificate of compliance: A floodplain certification issued by the Zoning Administrator stating that the use of land or a building, the elevation of the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

Changeable copy sign: A sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or the surface of the sign. Such sign shall not contain,

include or be illuminated by a flashing or moving light or be composed of any animated part. Each change of message shall be accomplished in one second or less and each message shall remain in a fixed position for at least two seconds. The use of traveling messages or segmented messages is prohibited.

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

Channeling: The act or action which results in an interconnection of two bodies of water, usually navigable by surface craft.

Clinic: An establishment for the medical examination and treatment of patients, but without provision for keeping such patients overnight on the premises. For the purposes of this ordinance, a doctor's or dentist's office in his own home, when it complies with the requirements of this ordinance relating to such offices, shall not be considered a clinic, but any doctor's or dentist's office which is not a part of his own home, or the office of two or more doctors or dentists, whether in a residence or not, shall be considered a clinic.

Clothing repair shops: Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but not employing over five persons.

Clothing stores: Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery, and millinery shops.

Club: An association of persons using a building or group of buildings for some common purpose but not including groups organized primarily to render a service which is customarily carried on as a business.

Cluster treatment systems: A cluster treatment system collects, conveys and treats sanitary waste and other waste water from a number of individual waste sources and is operated by a governmental unit with sanitary powers. A cluster treatment system shall include treatment systems that employ an aerated lagoon, together with a spray irrigation system. Such systems shall include those that involve a traditional septic field serving multiple homes which is thereafter collected into the cluster system. Effluent may be transported via a combination of pressure collection and local holding tank contract hauling. Cluster treatment systems are designed specifically as a means to replace or provide for failed or sub-code private sewerage systems installed prior to the availability of the new cluster system service. As such they are not designed to serve all properties within a community. Neither the properties served by the clusters nor others within the governmental district shall be considered as served by a public or centralized sanitary sewerage system for purpose of invoking any of the sewered zoning categories.

Commercial arboretum: A place where many kinds of trees and shrubs are grown for exhibition, study and retail sale.

Commercial greenhouse: A structure or nursery used to raise vegetables, flowers, and similar materials for retail sale excluding roadside stands.

Commercial recreation facilities: Such as but not limited to arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, Turkish baths, skating rinks, and theaters.

Commercial stable: A building or premises used for the boarding, riding, driving, jumping or training of horses or animals as a business. Commercial stables may not have retail sales but may have a tack room that would allow sales of items to the boarders as part of the fee they pay for boarding.

Commercial stable with horse shows: A building or premises used for the boarding, riding, driving, jumping, training or showing of horses or animals as a business. This stable and horse show may have off site retail sales in a tack shop.

Committee: That Commission, also known as the Walworth County Zoning Agency, created and designated by the County Board under Wis. Stats. § 59.69 to act in matters pertaining to County planning and zoning.

Composting: A controlled process of degrading organic material by micro-organisms (not to include solid waste and sludge composting).

Condominium: A property subject to a condominium declaration established in accordance with Wis. Stats. ch. 703.

Conservation area/unbuildable. That portion of the proposed subdivision parcel within the identified conservation land (open space) of the proposed development containing floodlands, wetlands, lands densely covered with trees and shrub growth on slopes of 12 percent or greater, and all lands having slopes of 20 percent or greater.

Conservation development. A residential development in which dwellings are located in a manner that reduces the area of land needed to be cleared, graded, and converted from agricultural, woodland, or wildlife habitat uses to building sites, driveways, and yard space. In such developments, lot sizes, dimensions, and setbacks are reduced from those typically required for conventional developments, although the total number of dwellings is not increased (unless provided for through density bonuses specifically authorized under the County zoning ordinance). This term shall also encompass the concept of "conservation subdivision" and "conservation condominium".

Conservation easement. A legal agreement between a landowner and a government agency or a qualified tax-exempt nonprofit conservation organization, such as a land trust or conservancy that permanently limits uses of the land in order to protect its conservation or natural resource values. A conservation easement runs with the chain of title, in perpetuity and specifies the various conservation

uses that may occur on the property. Land subject to a conservation easement remains privately owned and managed by the landowner, but monitoring and enforcement of the easement restrictions becomes the permanent responsibility and legal right of the holder of the conservation easement.

Conservation land. That portion of a tract that is set aside for the protection of sensitive natural features, land capable of use for agriculture, horticulture or silviculture, scenic views, and other unique or noteworthy features. Conservation land may be accessible to the residents of the development and/or public, or may be lands, which are not accessible to the public.

Conservation lot. A large, (ten acres or greater in size) privately owned lot-comprising part of an area of conservation land. The purpose of the conservation lot is to provide surrounding residents with visual access to conservation land, while keeping the land under private ownership and maintenance. Only a small portion of a conservation lot may be developed; the remainder must be protected through conservation easements and used in conformance with standards for conservation land. Public access to conservancy lots is not required.

Conservation plan: A plan which is developed to protect existing natural resources as to conformance with soil conservation standards, or other equivalent engineering data.

Conservation standards means design criteria, standards and specifications for soil and water conservation practices and management used by the County Conservation Division enumerated in the Wisconsin Administrative Code, the technical guide prepared by the USDA Natural Resource Conservation Service adopted by the County Land Conservation Committee, and other technical standards and specifications adopted by the State Standards Oversight Council and the County Land Conservation Committee.

Construction sign: Any sign giving the name or names of principal contractors, architects and lending institutions responsible for construction on the site where the sign is placed, together with other pertinent information included thereon.

Contractors storage yard: Outside and/or inside storage of equipment, commercial vehicles, and/or supplies for contractors such as plumbers, heating and air conditioning contractors, excavators, carpenters, landscapers, painting contractors, wastewater treatment system contractors, electricians, well drillers and similar uses.

Core living area: That area or space within a dwelling unit, devoted to the principal residential use of the structure, excluding attached garages, porches, sheds, and other appurtenances.

Cultural activities: Uses such as, but not limited to, aquariums, art galleries, botanical gardens, arboreta, historic and monument sites, planetaria and zoos.

Demolition yard: See "junk yard."

Development: Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements or repairs to buildings, other structures, or accessory uses, subdivision layout and site plan preparation, storage of material or equipment, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Development area: A parcel of land where a structure, land, water, or air is used, intended to be used, is located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered.

Directional sign: A sign which designates entrances, exits, parking areas and similar functions without advertising.

Ditching: The process of excavation for purposes of surface water drainage and removal; a shall channel, not navigable, used for the conductance of waters.

Drain: A surface ditch or underground tile line constructed for the purpose of lowering the water table so that land may be farmed or used for other purposes.

Drain tile laying: The placement of tile for the purpose of removing excess waters from the soil, either for agricultural purposes or for the removal of waters around building foundations.

Drainage basin: A geographic area the general configuration of which causes surface waters to flow in a specified direction; the area, contained by a naturally defined watershed, draining all surface waters.

Drainageway: Any natural or artificial water course, including but not limited to streams, rivers, creeks, ditches, channels, canals, conduits, culverts, streams, waterways, gullies, ravines, or washes, in which waters flow in a definite direction or course, either continuously or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

Dredging: The process of which bottom materials are removed from bodies of water for the purposes of deepening the body of water.

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

Dwelling: A structure or portion thereof that is designed or arranged for human habitation, which may be a short term rental, but does not include boarding houses, lodges, motels, hotels, or camping units.

Dwelling, detached, single-family: A structure containing one dwelling unit that is not attached to any other dwelling by any means and is surrounded by open space or yards.

Dwelling, multiple-family: A structure containing three or more dwelling units.

Dwelling, single-family: A structure containing one dwelling unit, which is designed or arranged for use as living quarters for one family. "Single-family dwelling" includes a manufactured home which contains only one dwelling unit.

Dwelling, two-family: A structure on a single lot, which contains two dwelling units.

Dwelling unit: A group of rooms containing but not limited to living area(s), bathroom area(s), and food preparation area(s).

Earth moving: Any process which physically alters the existing topography by means of mechanical or hydraulic equipment and devoiding the soils of vegetative cover so as to make the same soil susceptible to erosion.

Efficiency: A dwelling unit consisting of one principal room with no separate sleeping rooms.

Egg production, commercial: A livestock facility used or designed for the raising of poultry for egg production having a capacity of 500 or more animal units.

Election campaign period: A sign which shall have the meaning as set forth in Wis. Stats. § 12.04.

Election sign: A temporary sign supporting a candidate for office or urging action on any other matter on the ballot of a primary, general or special election.

Emergency shelter: Public or private enclosures designed to protect people from aerial, radiological, biological, or chemical warfare; fire, flood, windstorm, riots, and invasions.

Erosion: The process by which the ground surface is worn away by action of wind or water.

Erosion control plan: A written description of control measures designed to prevent excess movement of soil, sediment or rock fragments caused by water, wind, ice or gravity. Plan shall include erosion control measures such as; grading, excavating, fills, open cuts, side slopes and other land disturbances to be mulched, seeded, sodded, riprapped, or otherwise protected as a temporary or permanent erosion control measure. Such control measures will be designed and installed also with the intent to protect surface water, man made and natural drainage ways and subsurface water. Design and installation will be performed meeting minimum standards SCS Technical Guide, or other approved engineering data which meet approval of the Walworth County Planning Office.

Essential services means services provided by public and private utilities, necessary for the exercise of the principal, accessory, or conditional use or service of the principal, accessory or conditional structure. These services include underground, surface, or overhead gas, electrical, steam water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

These services may also include privileges in streets in accordance with Wis. Stats. § 66.0425 and as amended from time to time.

Excavation: The act by which soil, earth, sand, gravel, rock, or any similar material is cut into, dug, quarried, uncovered, removed, displace, relocated, or bulldozed and shall include the conditions resulting therefrom.

Expressway: A divided arterial street or highway with full or partial control of access and with or without grade separated intersections.

Family: One person, or group of individuals related by blood, marriage, adoption, or guardianship as defined by State statutes, and not to exceed four persons not so related, living together in a dwelling unit as a single housekeeping unit with an intentional structured relationship. The individuals shall have common use of, and access to all living areas, bathrooms, and food preparation areas.

Farm: means all land under common ownership that is primarily devoted to agricultural use.

Farm acreage: means size of a farm in acres.

Farm family business: Any lawful activity, except a farm operation, consisting of uses which are accessory to an agricultural use listed in the A-4 district except the production, packing, packaging, and light assembly of products from glass, metals, plaster, and plastics, conducted primarily for any of the following:

- (1) The purchase, sale, lease or rental of personal or real property;
- (2) The manufacture, processing or marketing of products, commodities or any other personal property;
- (3) The sale of services.

Farm family business wedding barn: A farm family business in an agricultural barn (that has existed for at least five years) with potential outdoor use(s) subject to approval by the Committee on lands zoned A-1 and A-2 for seasonal rental for family events such as weddings, baby showers, anniversaries, family reunions, and similar family related events.

Farm food service: The preparation, serving and sale of agricultural food products produced on the farm in a meal setting.

Farmland preservation area: means an area that is planned primarily for agricultural use or agriculture-related use or both, identified under Wis. Stats. § 91.10(1)(d) in a farmland preservation plan described in § Wis. Stats. 91.12(2).

Farmland preservation plan: means a plan for the preservation of farmland in a County, including an agricultural preservation plan under Wis. Stats. ch. 91, subch. IV.

Farmland preservation zoning district: means a farmland preservation zoning district (A-1) designated under § 91.38(1)(c) in an ordinance described in § 91.32(2).

Farm residence: A single family dwelling that is the only residential structure on the farm or is occupied by any of the following:

- An owner or operator of the farm
- A parent or child of an owner or operator of the farm
- An individual who earns more than 50 percent of his or her gross income from the farm.

Farm stand: See "roadside stand."

Feed lot, commercial: An agricultural animal confinement facility used or designed for the feeding or holding of 500 or more animal units for a period of 30 days or more.

Feed lot structure, commercial: A building or other structure used to house or feed agricultural animals, to confine agricultural animals for feeding other than grazing, to store feed, or to collect or store waste generated at a commercial feed lot. Commercial feed lot structure includes but is not limited to a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. A commercial feed lot structure does not include a pasture, a fence surrounding a pasture, a livestock watering facility in a pasture, or a machine shed or like facility that is not used for agricultural animals.

FEMA: Federal Emergency Management Agency, the Federal agency that administers the national Flood Insurance Program.

Fence: An artificially constructed barrier of any material or combination to enclose, screen, or separate areas.

Fill: Any act by which clean uncontaminated soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, pulled, or transported, and shall include the conditions resulting therefrom.

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

Flood hazard boundary map: A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

Flood Insurance Rate Map (FIRM): A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency

Management Agency.

Flood insurance study: A technical engineering examination, evaluation, and determination of flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-zones. Flood insurance rate maps, that accompany the flood insurance study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

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

- (1) The overflow or rise of inland waters;
- (2) The rapid accumulations or runoff of surface waters from any source;
- (3) The inundation caused by waves or currents or water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- (4) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

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

Flood protection elevation: An elevation two feet of freeboard above the water surface profile elevation designated for the regional flood. This safety factor, also called a "free-board", is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action, obstructions of bridge openings, and floodways, the effects of watershed urbanization, and loss of flood storage areas.

Flood stage: The elevation of the floodwater surface above an officially established datum plane. In Southeastern Wisconsin, it is recommended that the datum plan used by Mean Sea Level, 1929 adjustment (NGVD) or the datum plan used by Mean Sea Level, 1988 adjustment (NAVD).

Flood storage district: That area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

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

Floodplain: Land which has been or may be covered by flood water during the regional flood. It includes the floodway, floodfringe, flood storage, shallow depth flooding and coastal floodplain areas, and may include other designated floodplain areas for regulatory purposes.

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

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

Floodproofing: any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

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

Floor area, business, commercial, and industrial buildings: For the purpose of determining off-street parking and off-street loading requirements.

Floor area: The sum of gross horizontal areas of several floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space, such as counters, racks, or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

Floor area, gross: The sum of the gross horizontal areas of all floors measured in square feet, not including the basement floor, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area of a building includes elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment—open or closed—located on a roof or in a basement), penthouses, attic space having a headroom of seven feet ten inches or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses.

Food truck means a self-contained mobile food establishment where food and/or beverages are served from a movable vehicle or trailer which periodically changes location.

Freestanding sign: Any sign which is attached to or part of a completely self-supporting structure other than a building that has a structural base of less than 75 percent of the width of the area of the sign.

Freeway: An expressway with full control of access and with fully grade separated intersections.

Frontage: The smallest dimension of a lot abutting a public street or other officially approved way measured along the street line (see [section 74-39](#)).

Fur farm, wild. The breeding, propagating and dealing with furbearing animals in accordance with NR16.18.

Garage, private: An accessory building or accessory portion of the main building, used or designed or intended to be used for the storage of private motor vehicles. See also "Carport."

Garage, public: Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing, or public parking of motor vehicles.

Gift stores: Retail stores where items such as art, antiques, jewelry, books, and notions are sold.

Grading: Any stripping, excavating, filling, stockpiling, or any combination thereof, including the land in its excavated or filled condition.

Gross farm revenues for farmland preservation tax purposes: Has the meaning given in Wis. Stats. § 71.613(1)(g).

Habitable structure: Any legal structure, or portion thereof, designed, used, intended and fit for human habitation per Wis. Stats. § 66.0413.

Hardware stores: Retail stores where items such as plumbing, heating, carpentry and electrical supplies; sporting goods; and paints are sold.

Height of sign: The overall height of a sign or sign structure as measured from the adjacent ground surface to the highest point of the sign. In the case where a sign is to be located on a berm, the grade shall be determined by the average of the grades measured at the toes of slope at the front and back of the berm.

High flood damage potential: Potential damage as a result of flooding that is associated with any danger to life or health or any significant economic loss to a structure or building and its contents.

High-water elevation: The average annual high-water level of a pond, stream, lake, flowage or wetland references to an established datum plane or if where such elevation is not available, the elevation of the line up to which the presence of the water is so continuous as to leave a distinct mark by erosion, change in or destruction of vegetation or other easily recognized topographic, geologic, or vegetative characteristics.

Historic structure: Any structure that is either listed individually in the National Register of Historic Places, or certified by the Secretary of the Interior as contributing to the historical significance of a registered historic district, or individually listed on the State inventory of historic places in a program approved by the Secretary of the Interior, or individually listed on a local inventory of historic places in a

program certified by an approved State program as determined by the Secretary of Interior.

Hobby farm: An existing legal parcel of land ten acres or less in size zoned A-1, A-2, A-3, A-4, A-5, or C-2 where the farm operation on the parcel does not provide the majority of income and where building(s) used to house animals are approved by the CZA at less than the 100-foot setback requirement.

Home occupations: Any occupation for gain or support conducted entirely within buildings on the parcel by resident occupants which is customarily incidental to the principal use of the premises, does not exceed 25 percent of the area of any floor, and may include up to two additional employees who are not resident occupants. A home occupation may include uses such as barbering, beauty culture, house cleaning service, laundry, ironing, photography, real estate brokerage, drivers education and shall not include any use with outside storage.

Hospital: An institution where patients are lodged overnight providing primary health services and medical or surgical care to persons, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

Hotel: A building where rooms, with or without meals, are supplied to the transient public, or to anyone who may apply, for compensation.

Household: A family living together in a single dwelling unit, with common access to, and use of all living and dining areas, bathrooms, food preparation and serving areas.

Housing of animals: The act of providing animals shelter, to harbor, cover, as a place of protection from elements.

Increase in regional flood height: A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Interchange: A grade separated intersection with one or more turning lanes for travel between intersections legs.

Isolated natural resource areas: Smaller concentrations of natural resource base elements, as detailed in the 2035 Land Use Plan, which are at least five acres in size and that are separated physically from the environmental corridors by intensive urban or agricultural land uses. Although separated from the environmental corridor network, these isolated natural resource areas contain other smaller pockets of wetlands, woodlands, surface water, or wildlife habitat existing within the region. Widely scattered throughout the County, isolated natural resource areas may provide the only available wildlife habitat in

an area, usually provide good locations for local parks, and lend unique aesthetic character and natural diversity to an area.

Joint Extraterritorial Zoning Committee: Any Zoning Committee established in accordance with Wis. Stats. § 62.23(7a).

Junk yard means any premises on which there is an accumulation of scrap metal, paper, rags, glass, lumber, plastic, inoperable machinery, inoperable vehicles, tires, or other materials stored or customarily stored for salvage, buying, selling, exchanging, dealing, disassembling, packing, bailing, wrecking, or handling unless such accumulation is housed in a completely enclosed building.

kennel: The use of land, with related buildings or structures, for the breeding, rearing, or boarding of more than four dogs.

Laboratory: A place where scientific experiments and research are carried on, or where drugs, chemicals, etc., are made or tested for purity or strength.

Laboratory, experimental: An establishment devoted to the development of and fabricating of preliminary or pilot models, but specifically not to include any mass production from the result of the experimental work.

Lagoon: A water body in a depression back of an offshore bar, a beach ridge, or shore dune, with these geomorphic features, either natural or manmade, acting as barriers or dams. Also, a shallow pond, channel, or impoundment connected to a larger body of water.

Lagooning: The act of creating a lagoon.

Land restoration. Land disturbance activities of 25,000 square feet or more which require large scale grading and filling for the re-establishment or stabilization of unstable soil contours resulting from non-agricultural practices.

Land stewardship plan. A site plan, narrative and supporting documents and details, depicting, specifying and describing the proposed conservation measures and methods required to protect and improve the natural, cultural, historic and scenic elements of the conservation land. The land stewardship plan must include objectives, as stated in section 11.9-B(d)(2) of the County subdivision ordinance, for the resources and areas within the conservation land. The land stewardship plan must identify monitoring, operation and maintenance activities needed to maintain the quality and the stability of the resources on the conservation land. The cost and schedule for implementing the proposed conservation measures and methods must be included in the land stewardship plan.

Livestock: For the purpose of livestock siting, domestic animals traditionally used in this state in the production of food, fiber or other animal products. Livestock includes animals such as cattle, swine, poultry, sheep and goats. Livestock does not include animals such as equine animals, bison, farm-raised

deer, fish, captive game birds, ratites, camelids or mink.

For the purpose of Wis. Stats. ch. 91, "livestock" means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish (Wis. Stats. ch. 91)

Livestock facility: A commercial feedlot, dairy farm or other operation where livestock of 500 or more animal units are or will be fed, confined, maintained or stabled for a total of 90 days or more in any 12-month period. A "livestock facility" includes all of the tax parcels on which the facility is located, but does not include an entire tax parcel used only for pasture. Two or more livestock facilities constitute a single livestock facility, for purposes of this chapter, if the same person owns or manages all of the facilities and any of the following apply:

- (1) The facilities are adjacent. Adjacent means livestock facilities that are located on adjacent tax parcels, or on tax parcels that are separated only by a river, stream, or transportation or utility right-of-way.
- (2) Common livestock structures are used to collect or store manure or other waste from the facilities.
- (3) Manure or other waste from the facilities is applied to the same tax parcel of land, or under the same nutrient management plan.

Livestock sales facility: Any premises open to the public for the purposes of buying or selling livestock and that have facilities to keep, feed, and water livestock prior to sale.

Livestock structure: A building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. Livestock structure includes but is not limited to a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. Livestock structure does not include a pasture, a fence surrounding a pasture, a livestock watering facility in a pasture, or a machine shed or like facility that is not used for livestock.

Living rooms: All rooms within a dwelling except closets, foyers, storage areas, utility rooms, and bathrooms.

Loading areas: A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to public street or alley.

Lodge: A building or group of buildings under single management containing both rooms and dwelling units available for rental to transient individuals or families.

Lodging facility: A structure or part thereof rented, used or advertised for stays by transients including but not limited to hotel, motel, tourist court, cabin, lodge, rooming house, lodging house, bed and

breakfast, and short term rental. The use of any building or structure for transients deems the structure to be a lodging facility.

Lodging house: A building other than a hotel, where lodging is provided for compensation, for five or more persons not members of a family.

Lot: A parcel of land having frontage on a public street or other officially approved means of access, per section 74-39, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this ordinance.

Lot, corner: A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

Lot, flag: A lot configured such that its conventional length and width does not abut directly onto a public or private street or right-of-way, and where access to the street is by a narrow driveway, access easement, or similar extension.

Lot, interior: A lot situated on a single street which is bounded by adjacent lots along each of its other lines.

Lot, substandard: A parcel of land having frontage on a public street occupied or intended to be occupied by a principal building or structure together with accessory buildings, and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, frontage or other open space provisions of this ordinance.

Lot, through: A lot which has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

Lot coverage: The area under a roof and enclosed by the exterior permanent walls.

Lot lines and area: The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Lot width: The width of a parcel of land measured at the rear of the specified street yard.

Machine shops: Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating and electrical repair and overhaul shops.

Maintenance: The act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with the equivalent fixtures, systems or structures.

Maintenance easement: A limited right of vehicle ingress/egress to unmanned utilities, dams, cell

towers, renewable energy, sanitary sewers, etc. necessary to provide a needed public service. The limited access easement is to facilitate repairs and maintenance only. The limited access easement shall connect to a street or other officially approved way.

Manufactured home: A structure certified and labeled as a manufactured home under 42 US Code §§ 5401 to 5406 which, when placed on a site:

- (1) Is set on an enclosed foundation in accordance with Wis. Stats. § 70.043(1), which meets the standards set forth in subchapters III, IV, and V of chap. ILHR 21, Wis. Adm. Code, or is set on a comparable enclosed foundation system approved by the building inspector. In townships that utilize a building officer, that officer shall require a plan certified by a registered architect, registered professional engineer, or building inspector to be submitted in order to ascertain that a proposed comparable foundation system provides proper support for the structure.
- (2) Is installed in accordance with the manufacturer's instructions.
- (3) Is properly connected to utilities.
- (4) Shall have a minimum width of 22 feet.
- (5) Shall have a core area of living space at least 22 feet by 22 feet in size.

Marina means the use of a building, structure or place for the rental of watercraft or the rental of mooring space that consists of a pier, pier slips, wharfs, mooring structures, or a combination of the same for securing watercraft.

Microbrewery: A brewery with a system size of ten or less barrels of beer producing no more than 2,000 barrels of beer per year.

Mini-warehouse: A structure containing separate, individual, and private storage spaces of varying sizes leased or rented with individual leases for varying periods of time.

Minor home occupation: An occupation for gain or support conducted entirely within the residence by resident occupants only, which is customarily incidental to the principal use of the premises, and does not exceed 25 percent of the area of any floor.

Minor structures: Any small, 100 square feet or less, movable accessory erection or construction, such as birdhouses, pethouses, play equipment, and arbors.

Mobile home: A vehicle manufactured or assemble before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, which has an overall length in excess of 45 feet. "Mobile home" includes the structure, its plumbing, heating, air conditioning and electrical systems, all appliances and all other equipment carrying a manufacturer's warranty. The removal of the wheels, axles, or other

components of the running gear and/or the mounting of such a structure or vehicle on a foundation or over a basement shall not be deemed to change its status from that of a mobile home. A structure manufactured after June 15, 1976, which is certified and labeled as a manufactured home under 42 US Code sections 5401 to 5406 but which is not set on an enclosed foundation in the manner described in the definition of manufactured home shall be deemed to be a mobile home under this zoning ordinance.

Mobile home lot: A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

Mobile home park: A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation.

Mobile recreational vehicle: A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including parcel model homes, do not fall within the definition of "mobile recreational vehicles."

Modular home: A structure which is partially pre-assembled at a manufacturing plant and placed on a lot or parcel as a dwelling unit or units. Also called "pre-fabricated" or "pre-cut" homes or "double-wide" units. For purposes of this ordinance, the term manufactured home shall generally be used to describe this type of structure. It shall be further distinguished from the term mobile home. (See definitions of "manufactured home" and "mobile home.")

Monument sign: Any sign independent from any building that has a structural base of not less than 75 percent of the width of the sign.

Motel: A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests, for compensation.

NAVD: North American Vertical Datum, elevations referenced to mean sea level datum, 1988 adjustment.

Net buildable area. The gross tract area minus all lands located within existing and proposed street right-of-ways, all lands located within railway right-of-ways or easements, all wetlands, and all of the area located within a pond, lake, or stream channel.

Net developable acre: Those lands within a development parcel remaining after the deletion of wooded slopes of 12 percent or greater, any slopes 20 percent or greater, wetlands, and existing and proposed streets.

NGVD: National Geodetic Vertical Datum, elevations referenced to mean sea level datum, 1929 adjustment

Non-common conservation land. Land designated as permanent open space, but not subject to common ownership by an association. Non-common conservation land is typically situated within large conservation lots or limited common element" at least ten acres in size, or within nonresidential lots used for compatible rural resource uses such as agriculture, horticulture, silviculture, or equestrian boarding not including building areas and required building setbacks.

Nonconforming structure: Any lawful structure, by virtue of the use to which it is put, which does not comply with the use provision of this ordinance for the district in which it is located, such as but not limited to, structures in the floodplain, wetland, right of way, or those structures lying on or across a parcel line.

Nonconforming use: Any land or water lawfully used or occupied at the time of the effective date of this ordinance which does not conform to the regulations of this ordinance or amendments thereto pertaining to uses.

Nonprofit conservation organization. A qualified tax-exempt conservation organization, organized as a nonprofit organization under Federal tax laws that, in all or part of its mission, actively works to conserve lands by undertaking or assisting direct land transactions. Nonprofit conservation organizations purchase land or acquire conservation easements on land for its natural, recreational, scenic, historic and productive value.

Nursery: Land or greenhouses used to raise flowers, shrubs, vegetable and plants not for retail sale.

Nursing home: A building or institution for the care of the aged, the infirm or the sick, provided the same shall comply with the further definitions and with the regulations contained in the rules of the Wisconsin Department of Health and Social Services.

Obstruction of flow: Any development which physically blocks the conveyance of flood waters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

Off-premise sign: Any sign which is not appurtenant to the use of the property where the sign is located, or to a product sold or a service offered upon the property where the sign is located and which does not identify the place of business where the sign is located as a purveyor of the merchandise or services advertised upon the sign.

On-premise sign: Any sign that is not an off-premise sign.

Open space: Land within a development area exclusive of required yards (excluding perimeter yards adjacent to open space), access drives, and parking area. Such open space may be placed in more than

one location within the development area provided, however, that no single area shall contain less than one-half acre and that such area shall have its least dimensions more than one-fourth its length.

Outlot: A parcel of land, so designated on the plat, which meets one of the following criteria:

- (1) Substandard sized lot appurtenant to a lot or lots or as an area designated for road or storm water drainage;
- (2) Common area open space as part of a planned development;
- (3) Other possible uses, which require county zoning agency approval and which must be specifically identified on the plat.

Owner: means a person who has an ownership interest in land.

Owners association (OA). A legal and recorded membership organization, established by the subdivider, of all owners of interests within development. The OA is established and operated with a financial subsidy from the developer, before any sale of any building area within the development. Membership of the OA of all owners and their successors within a development is mandatory and automatic and is accomplished by making membership a condition of sale and the membership document must be signed by the purchaser at the closing or settlement. The OA is governed by bylaws which must authorize the OA to collect dues and fees and place liens on the real property of members who fail to pay their dues and fees. The OA may hold undivided land, including conservation land, in common. The term owners association is synonymous with such associations as a property owners association, homeowners association and condominium association.

Parcel: A lot, lots, or tract of land legally recorded in the register of deeds office. Those platted lots assigned multiple tax key numbers as a result of such things as a school district, town, county, or municipal boundaries shall constitute one parcel.

Park, amusement: An area, publicly or privately owned, containing amusement and recreation facilities and devices, whether operated for profit or not.

Park, public: An area owned by the County or a municipality within the County, operated for the convenience and recreation of the public, and containing such facilities as the owning municipality shall see fit.

Parking lot: A structure on premises containing ten or more parking spaces open to the public for rent or a fee.

Parking space: A graded and surfaced area of not less than 180 square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress or egress to a public street or alley.

Parties in interest: Includes all abutting property owners, all property owners within 100 feet, and all property owners of opposite frontages.

Party wall: A wall containing no opening which extends from the elevation of building footings to the elevation of the other surface of the roof or above, and which separates contiguous buildings but is in joint use for each building.

Pasture: An area of land where animals graze or otherwise seek feed in a manner that maintains the vegetative cover over all the grazing area, which does not have grazing at a density greater than one animal unit per acre and where the vegetative cover is the primary food source for the animals.

Patio: A terrace extending not more than six inches above the average level of the ground at its margins; provided that no fixed walls or roof shall be erected on or over any patio or similar structure that is located in a required yard.

Permanent sign: Any sign which is intended to be and is so constructed as to be of lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear) and position, and in permanent manner affixed to the ground, wall or building.

Permitted use: means a use that is allowed without a conditional use permit, special exception, or other special zoning permission.

Person: Except when otherwise indicated by the context, the word "person" shall include the plural, or a company, firm, corporation or partnership.

Personal service establishments: Includes uses such as but not limited to artists services, barber services, beauty services, dry cleaning, laundry, photographic studios, shoe repair and cleaning services, custom tailoring, travel arranging services and day spas.

Pets, household: Animals commonly found in residences as pets, such as dogs, cats, song birds, and other small animals, providing that they are not raised or reared for commercial resale or as a source of staple supplement. Household pets shall not include horses, chickens, cows, goats, sheep, hogs, or other animals not commonly found in residences.

Pierhead line: A boundary line established along any section of the shore of any navigable waters by a municipal ordinance approved by the State Department of Natural Resources, pursuant to Wis. Stats. § 30.13. Piers and wharves are only permitted to the landward side of such pierhead line unless a permit has been obtained pursuant to Wis. Stats. § 30.12(2).

Planned residential development: Any residential development to be created as a single entity which permits improved environmental design and innovative uses of land and structures which are consistent with the overall intent of the Walworth County Zoning Ordinance.

Primary environmental corridors: The primary environmental corridors in the County include a variety of important natural resource and resource-related elements, as detailed in the 2035 Land Use Plan and are at least 400 acres in size, two miles in length, and 200 feet in width and are primarily located along

major stream valleys, around major lakes, and along the Kettle Moraine. These primary environmental corridors contain almost all of the best remaining woodlands, wetlands, and wildlife habitat areas in the County, and represent a composite of the best remaining elements of the natural resource base.

Prime farmland: means any of the following:

- a) An area with a class I, II or III land capability classification as identified by the natural resources conservation service of the Federal Department of Agriculture.
- b) Land, other than land described in paragraph (a) that is identified as prime farmland in a certified farmland preservation plan.

Private right-of-way: A right-of-way that supports no more than one dwelling unit, lot, or outlot for ingress or egress purposes.

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

Professional home office: Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, lawyers, professional engineers, registered land surveyors, artists, teachers, authors, musicians, or other recognized professions used to conduct their professions without employees.

Projecting sign: Any sign other than a wall sign affixed to any building or wall, whose leading edge extends beyond such building or wall.

Property: An unimproved parcel, a parcel together with improvements on it, or improvements without the underlying land.

Protected farmland: means land that is located in a farmland preservation zoning district (A-1 zoning district), is covered by a farmland preservation agreement, or is otherwise legally protected from nonagricultural development.

Public assembly uses: uses such as, but not limited to, amphitheatres, arenas, field houses, gymnasiums, natatoriums, auditoriums, exhibition halls, music halls, legitimate theaters, motion picture theaters, and stadiums.

Public passenger transportation terminals: Bus, taxi or rail depots.

Public right-of-way: A right-of-way that supports a minimum of 2 dwelling units, lots, or outlots for ingress or egress purposes.

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

Real estate signs: A sign pertaining to the lease, hire or sale of land, building or part thereof upon which the sign is located.

Reasonably safe from flooding: Base flood waters will not inundate the land or damage structures to be removed from the flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

Recreational camp: An area containing one or more permanent buildings and cabins used for the overnight accommodation of members or guests of associations or groups for recreational, educational, or religious purposes and subject to the regulations of ATCP 78.

Recycling: The process by which waste products such as metal cans, glass, newspaper, document paper, cardboard, plastic, are collected and/or reduced to raw material for the transformation into new and different products (not to include automobile salvage, wrecking, junk, demolition, toxic and hazardous/medical waste, and scrap yards which are governed in division 4 of this ordinance) which are governed in division 4 of this ordinance.

Regional flood: A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Rendering plant: A plant for reduction of dead animals, or slaughtered animals not suitable for human consumption, to by-products, such as hide, skin, grease, bones, glue and soap, and for the storage of such by-products.

Rent: Compensation, money, or other consideration, whether or not received, given in return for occupancy, possession or use of property.

Residential accessory structures: Including but not limited to detached garages, detached personal storage structures, swimming pools, hot tubs, tennis courts, etc.

Retirement home: A building or institution for the accommodation of elderly persons, with or without nursing or medical care; provided that if such nursing or medical care is to be provided on a continuing basis for at least three persons during not less than 72 hours in each week, such building or institution shall be classified as a nursing home.

Right-of-way: A strip of land acquired by reservation, dedication, forced dedication, prescription, easement or condemnation and intended (whether improved or unimproved) to be occupied by a street for vehicular way or railroad. The right of one to pass over the property of another for ingress and egress. Essential services are permitted to be located within a right-of-way.

Right-of-way line: The dividing line between a highway and the abutting lots or other divisions of land.

Roadside stand: A structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises (or adjoining premises).

Rooming house: Same as "lodging house."

Sanitary landfill: A type of land disposal operation involving the disposal of solid waste and/or contaminated soil on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary.

School: Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

Scrap yard: See "junk yard."

Seasonal signs: A sign used to identify seasonal commercial establishments, including but not limited to Christmas tree lots, fruit and vegetable stands, and crop signs.

Secondary environmental corridors: Secondary environmental corridors also contain a variety of resource elements, as detailed in the 2035 Land Use Plan, often remnant resources from primary environmental corridors which have been developed for intensive urban or agricultural purposes and generally connect with the primary environmental corridors and are at least 100 acres in size and one mile in length. Secondary environmental corridors are generally located along the small perennial and intermittent streams within the County. Secondary environmental corridors facilitate surface-water drainage, maintain pockets of natural resource features, and provide corridors for the movement of wildlife, as well as for the movement and dispersal of seeds for a variety of plant species.

Sediment: Soils or other surficial materials transported by wind or surface water as a product of erosion.

Service station: Any building, structure or premises or other place used for the dispensing, sale or offering for sale of any motor fuel or oils, having pumps and storage tanks; also where battery, tire and similar services are rendered, but not including buildings or premises where such business is incidental to the conduct of a public garage used for the repair or storage of motor vehicles.

Shorelands: Those lands lying within the following distances: 1,000 feet from the high-water elevation of navigable lakes, ponds, and flowages; 300 feet from the high-water elevation of navigable streams; or to the landward side of the floodplain, whichever is greater.

Shoreline buffer zone: The vegetation protection area.

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

Short term rental: A residential dwelling offered or occupied for rent for a fee or similar consideration for more than six but fewer than 29 consecutive days; or a residential dwelling in the B-5 zone district offered or occupied for rent for a fee or similar consideration for fewer than 29 consecutive days. Short term rental does not include bed and breakfast establishments.

Sign: Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trade marks by which anything is made known which is used or is intended to attract attention of the public and which is visible from any public street or highway but does not include legal notices required to be posted by municipal, State or Federal law and highway and traffic signs authorized by municipal, State or Federal law. The term sign shall not include flags.

Silt: Soil particles, intermediate in size between sand and clay, which are readily transported by inflowing streams or surface waters into a body of water.

Sketch plan overlay sheet: A sketch map drawn on translucent or transparent material, to be overlain on top of an existing conditions and site analysis map, to determine the extent to which the proposed layout of house sites, streets, lot lines, and protected open space avoids negatively impacting the property's principal and noteworthy natural and cultural features.

Slaughterhouse: Any building or premises used for the killing or dressing of cattle, sheep, swine, goats, horses or poultry, and the storage, freezing and curing of meat and preparation of meat products.

Smoke unit: The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes.

Soil: Any earth, sand, gravel, rock, or any similar material.

Soil and water conservation district: A County whose Board of Supervisors has by resolution declared said County to be a soil and water conservation district.

Solid waste: Garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations, and from domestic use and public service activities, but does not include solids or dissolved material in waste water effluents or other common water pollutants.

Special event campground: A parcel or tract of land maintained, intended, or used for a temporary campground to provide campsites in conjunction with a previously approved conditional use permit in the B-5 zoning district for special events held under the approval of the following uses: drive-in movies;

dude ranches; fairgrounds; race tracks; golf courses and country clubs; amphitheaters; theatres; music entertainment facilities; arenas; field houses; gymnasiums; natatoriums; auditoriums; exhibition halls; music halls; stadiums; airports; schools; and churches.

Steep slope: A slope over 12 percent grade, which is characterized by increased runoff, erosion, and sediment hazards.

Stewardship fund: An endowment or fund that is established along with a conservation easement agreement and is used to cover the expense of monitoring, enforcing, compliance and legal defense of the easement.

Storage capacity: The volume of space available above a given cross-section of a floodplain for the temporary storage of floodwater. The storage capacity will vary with stage.

Storm water best management practice: Structural and nonstructural practices and methods that are designed, constructed and maintained to control the quantity and quality of storm water. Storm water best management practices selected are based the physical suitability of a site, the overall site management objectives and the performance criteria specified in the County land disturbance, erosion control and storm water management ordinance.

Storm water management plan: A plan that includes structural and nonstructural storm water best management practices selected to match overall site management objectives and site conditions with the storm water performance criteria specified in the County land disturbance, erosion control and storm water management ordinance. The plan includes scaled site plans, narrative, construction details, design computations, inspection, operation and management requirements for the structural and nonstructural storm water management practices selected to the serve the development. The costs and schedule for constructing, operating and maintaining the selected structural and nonstructural storm water best management practices selected to service the site, must be included in the storm water plan.

Story: That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.

Story, half: A story which is situated in a sloping roof, the floor area of which does not exceed $\frac{2}{3}$ of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.

Street: Any public or private vehicular way that provides access to property, including but not limited to State, County, Township, and private roadways.

Stripping: Any activity which removes the vegetative surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

Structure: Anything constructed or erected.

Structural alterations: Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

Structural improvement: Any repair, re-construction or improvement of a nonconforming structure, the cost of which equals or exceeds 50 percent of the present assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alterations of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places.

Ordinary maintenance repairs are not considered structural repairs, modifications, or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components.

Subdivision road: A town road or other officially approved means of access providing vehicular access to interior lots or units located within a subdivision, conservation subdivision, condominium, or minor subdivision as defined in the Walworth County Land Division Ordinance.

Substandard structure: Any structure conforming in respect to use but not in respect to the frontage width, height, lot area, yard, parking, loading or distance requirements of this ordinance.

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

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

Tourist court. Same as "Motel."

Transient: A person or enterprise who, at their own expense or at the expense of another, rents sleeping quarters or a lodging facility for less than 30 consecutive days while traveling away from their

permanent place of residence for vacation, pleasure, recreation, culture, business or employment.

Turning lanes: An existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

Unit: A part of a condominium intended for any type of independent use, including one or more cubicles of air at one or more levels of space or one or more rooms or enclosed spaces located on one or more floors (or part thereof) in a building.

Unnecessary hardship: That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

Use: The purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Use consistent with agricultural use: (Wis. Stats. §§ 91.01(10), 92.10) Any activity that meets all of the following conditions:

- (1) The activity will not convert land that has been devoted primarily to agricultural use, unless under a State or Federal wetland restoration program or any other designated program as adopted by the County Board of Supervisors.
- (2) The activity will not limit the surrounding land's potential for agricultural use.
- (3) The activity will not conflict with agricultural operations on land subject to a farmland preservation agreement.
- (4) The activity will not conflict with agricultural operations on other properties.

Use, accessory: A subordinate use on the same lot which is incidental and customary in connection with the principal or conditional use.

Use, principal: The main use of land or building as distinguished from a subordinate or accessory use.

Use, conditional: Uses of a special nature so as to make impractical their predetermination as a principal use in a district.

Utilities: Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including electric power generation plants, sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

Vision clearance: An unoccupied triangular space at the intersection of highways or streets with other

highways or streets or at the intersection of highways or streets with railroads. Such vision clearance triangle shall be bounded by the intersection highway, street or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines by measurement from their intersection as specified in this ordinance.

Wall sign: Any on-premise sign painted or attached to and erected parallel to the face of or erected and confined within the limits of the outside wall of any building and supported by such wall or building and which displays only one advertising surface.

Waterfront: Land at the edge of a navigable body of water such as a stream, river, pond, flowage, harbor, bay or lake.

Wetland restoration project: A project to restore a floodplain wetland by the installation of best management practices. The applicant must demonstrate that the project restores or improves functional values including increasing flood and storm water storage, maintaining groundwater recharge-discharge, enhanced fisheries and wildlife habitat, improved filtration or storage of sediments, nutrients, and toxins, improved shoreline protection against erosion, and any additional wetland functional values.

Woodland: Those upland acres one acre or more in size having 17 or more deciduous trees per acre, each measuring at least four inches DBH (diameter at four and one-half feet above the ground) and having 50 percent or more tree canopy coverage. Coniferous tree plantations and reforestation projects are also considered woodlands. (/SEWRPC)

Wrecking yard: See "junk yard."

Yard: An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

Yard, rear: A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or opposite one of the street yards with driveway access on a corner lot.

Yard, side: A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. Any yards not designated as a street yard, rear yard or shore yard shall also be deemed side yards.

Yard, street: A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right-of-way line, and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such yards. Also called front yard.

Zoning Administrator: For the purposes of this ordinance, the Zoning Administrator shall be the Zoning Manager and those zoning officers hired by Walworth County to enforce the provisions of the zoning ordinance.

(Ord. of 6-11-02; Amd. of 1-14-03; Amd. of 10-14-03; Amd. of 7-13-04; Amd. of 3-8-05; Amd. of 4-19-05; Amd. of 8-9-05; Ord. No. 315-09/05, pt. IV, 9-8-05; Ord. No. 369-07/06, pt. V, 7-11-06; Ord. No. 428-04/07, pt. III, 4-17-07; Ord. No. 436-05/07, pt. III, 5-8-07; Ord. No. 457-09/07, pt. II, 9-11-07; Ord. No. 459, pt. III, 9-11-07; Ord. No. 466-11/07, pt. XIII, 11-13-07; Ord. No. 501-06/08, pt. I, 6-10-08; Ord. No. 561-06/09, pt. III, 6-9-09; Ord. No. 562-06/09, pt. VII, 6-9-09; Ord. No. 563-06/09, pt. III, 6-9-09; Ord. No. 575-09/09, pt. V, 9-8-09; Ord. No. 591-12/09, pt. XXXII, 12-15-09; Ord. No. 673-03/11, pt. III, 3-8-11; Ord. No. 684-08/11, pt. II, 8-9-11; Ord. No. 740-09/12, pt. XX, 9-6-12; Ord. No. 819-12/13, pt. IV, 12-10-13; Ord. No. 875-07/14, pt. I, 7-28-14; Ord. No. 879-09/14, pt. XIV, 9-4-14; Ord. No. 908-12/14, pt. I, 12-9-14; Ord. No. 938-07/15, pt. VIII, 7-14-15; Ord. No. 940-07/15, pt. IV, 7-20-15; Ord. No. 978-04/16, pt. III, 4-21-16; Ord. No. 996-07/16, pt. III, 7-28-16; Ord. No. 1049-06/17, pt. XXVII, 6-13-17; Ord. No. 1074-11/17, pt. III, 11-6-17; Ord. No. 1109-05/18, pt. I, 5-8-18; Ord. No. 1130-07/08, pt. III, 7-10-18; Ord. No. 1194-11/19, pt. VI, 11-12-19; Ord. No. 1273-05/22, pt. X, 5-10-22)

Secs. 74-132—74-150. - Reserved.