



## **CHAPTER 17: ZONING REGULATIONS**

**TOWN OF WEST BEND  
Washington County, Wisconsin**

Amended and Adopted by Town of West Bend Board of Supervisors  
December 7, 2020

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**TOWN OF WEST BEND, WASHINGTON COUNTY, WISCONSIN  
ORDINANCE # 2020-08**

**AN ORDINANCE ADOPTING THE AMENDED TOWN OF  
WEST BEND ZONING ORDINANCE**

STATE OF WISCONSIN  
Town of West Bend, Washington County

**SECTION I – TITLE AND PURPOSE**

The title of this ordinance is the Zoning Ordinance for the Town of West Bend (hereafter, the zoning ordinance) Adoption Ordinance. The purpose of this ordinance is for the Town of West Bend, Washington County, Wisconsin, to lawfully adopt the amended zoning ordinance as approved by the Town of West Bend Board of Supervisors (hereafter, Town Board).

**SECTION II – AUTHORITY**

The Town Board of the Town of West Bend, Washington County, Wisconsin, has authority under its village powers under ss. 60.62, and 61.35 Wis. stats., and under Chapter 91, Wis. Stats., to administer and enforce zoning regulations.

**SECTION III – ADOPTION OF ORDINANCE**

This ordinance, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the adoption by the Town of West Bend the amended zoning ordinance.

**SECTION IV – PUBLIC HEARING**

The Town of West Bend has held at least one public hearing on this ordinance, with notice in compliance with all relevant state requirements.

**SECTION V – ADOPTION OF ZONING ORDINANCE**

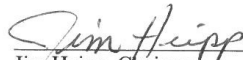

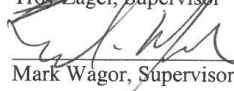
The Town Board, by the enactment of this ordinance, formally adopts the document entitled Town of West Bend Zoning Ordinance.

**SECTION VI – EFFECTIVE DATE**

This ordinance is effective on publication or posting.

The Town Clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 7 day of December, 2020.

 _____ Jim Heipp, Chairman	<u>Y</u> Aye	_____ Nay
 _____ Troy Lagel, Supervisor	<u>X</u> Aye	_____ Nay
 _____ Mark Wagor, Supervisor	<u>X</u> Aye	_____ Nay

Attest:

  
\_\_\_\_\_  
Julie Ihlenfeld, Clerk

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**CHAPTER 17.1 STATUTORY AUTHORITY AND PURPOSE****17.1.01 AUTHORITY**

These regulations are adopted under the authority granted by Chapters 60.62, 61.35, and 62.23(7), Wis. Stats. Therefore, the Town Board of West Bend, Wisconsin does ordain as follows:

**17.1.02 PURPOSE**

The purpose of this Chapter is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of this community and to implement the Town of West Bend Comprehensive Plan, as adopted and amended from time to time.

**17.1.03 INTENT**

It is the general intent of this Chapter to regulate and restrict the use of all structures, lands, and waters; regulate and restrict lot coverage, population distribution, and density; and regulate and restrict size and location of all structures so as to: lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic, and other dangers; provide adequate light, air, sanitation, and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; facilitate the use of personal energy systems and other innovative development techniques; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; and implement the community's comprehensive plan or plan components. To this end, it is further intended to provide for the administration and enforcement of this Chapter and to provide penalties for its violation.

**17.1.04 ABROGATION AND GREATER RESTRICTIONS**

It is not intended by this Chapter 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 laws. However, wherever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

**17.1.05 INTERPRETATION**

In their interpretation and application, the provisions of this Chapter shall be considered minimum requirements. Where the provisions of this Chapter impose greater restrictions than any statute, other regulation, ordinance, or covenant, the provisions of this Chapter shall prevail, unless otherwise preempted. Where the provision of any statute, regulation, ordinance or covenant imposes greater restrictions than the provisions of this Chapter, the provisions of such statute, other regulation, ordinance, or covenant shall prevail.

**17.1.06 SEVERABILITY**

If any Section, clause, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

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### **17.1.07 REPEAL**

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Chapter, to the extent of the inconsistency only, are hereby repealed.

### **17.1.08 TITLE**

This Chapter shall be known, referred to, or cited as the "CHAPTER 17: ZONING REGULATIONS, TOWN OF WEST BEND, WISCONSIN."

### **17.1.09 EFFECTIVE DATE**

This Chapter shall be effective after a public hearing, adoption by the Town of West Bend Board of Supervisors, and publication or posting as provided by law.

**CHAPTER 17.2 GENERAL PROVISIONS****17.2.01 JURISDICTION**

The jurisdiction of this Chapter shall include all lands and waters within the corporate limits of the Town of West Bend.

**17.2.02 COMPLIANCE**

No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the District in which it is located.

**17.2.03 DUTIES OF THE ZONING ADMINISTRATOR AND BUILDING INSPECTOR**

The Zoning Administrator is hereby designated as the administrative officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue all permits required by this Chapter. The Town Clerk or the Town Clerk's designee and, when appropriate, the Building Inspector shall assist the Zoning Administrator in the administration and enforcement of the Chapter.

A. Responsibilities. The Zoning Administrator shall further:

1. Maintain Records of all reviews, staff reports, and relevant correspondence. The Town Clerk shall be responsible for maintaining records of all permits issued, inspections made, work approved, and other official actions.
2. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Chapter.
3. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters; give notice of all violations of this Chapter to the owner, resident, agent, or occupant of the premises; and report uncorrected violations to the Town Attorney.
4. Assist the Town Attorney in the prosecution of ordinance violations.
5. Access premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Chapter. If, however, the Zoning Administrator and/or Building Inspector is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Chapter 66.122, Wis. Stats.
6. Prohibit the use or erection of any structure, land or water until the Building Inspector has inspected and approved such use or erection.
7. Request assistance and cooperation from the Town Police Department and Town Attorney as deemed necessary.
8. Attend meetings of the Plan Commission, Town Board, and Town Zoning Board of Appeals on an as-needed basis.

**17.2.04 PERMITS**

It is the responsibility of the permit applicant to comply fully with the requirements of all applicable Town ordinances and to secure all necessary permits required by any federal, state, or county agency or any other agency or organization requiring permit approval.

**17.2.05 SITE RESTRICTIONS**

No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Zoning Administrator and Plan Commission, in applying the provisions of this Chapter, shall in writing recite the particular facts upon which he bases his conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the Plan Commission may affirm, modify, or withdraw the determination of unsuitability. In addition:

- A. Lots. All Lots shall abut a public street, and each lot shall have a minimum frontage of 66 feet except where a lot does not meet the required frontage but has access to a public street, and was a lot of record with the Washington County Register of Deeds on April 1, 1986. Such lot may be occupied by any Permitted or Conditional Use of the Zoning District within which the lot is located, provided that such proposed use complies with all other applicable provisions of this Chapter.
- B. Principal Structures. All Principal Structures shall be located on a lot; and only one Principal Structure shall be located, erected, or moved onto a lot in a residential district. The Plan Commission may permit more than one structure per lot in other Districts where more than one structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements, or parking requirements, or require a minimum separation distance between Principal Structures.
- C. Street Grade. Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Building Inspector as being in satisfactory relationship with the existing street grade, with particular consideration for proper drainage and safe vehicular access.
- D. Preservation of Topography. In order to protect the property owner from possible damage due to change in the existing grade of adjoining land, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 1-1/2 horizontal to one vertical within a distance of 20 feet from the property line, except with the written consent of the abutting property owner and with the approval of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of material involved, and all slopes shall be protected against erosion.

- E. Lots Abutting More Restrictive District. Lots abutting more restrictive district boundaries shall provide Side and Rear Yards not less than those required in the more restrictive abutting District, unless otherwise preempted. The Primary Street Yards on the less restrictive District shall be modified for a distance of not more than 75 feet from the District boundary line so as to equal the average of the Primary Street Yards required in both Districts.

**17.2.06 USE RESTRICTIONS**

The following use restrictions and regulations shall apply:

- A. Principal Uses. Only those Principal Uses specified for a District, their essential services, and the uses listed below shall be permitted in that District.
- B. Accessory Uses and Structures. Accessory Uses and Structure are permitted in any District, but not until their Principal Structure is present or under construction. Construction of Principal Structure shall be completed within one year of commencement of construction of Accessory Structure. Residential Accessory Uses shall not involve the conduct of any business, trade, or industry except home occupations and professional home offices as defined in this Chapter.
- C. Temporary Uses. The Zoning Administrator may authorize the establishment of certain temporary uses for a limited duration provided that such uses comply with the general and specific standards of this Section.
1. The following temporary uses are allowable with an approved Temporary Use Permit:
    - a. A dwelling unit situated on a lot, parcel, or tract, along with a primary dwelling unit, that provides a temporary residence for the residents of the associated primary dwelling unit that has been deemed uninhabitable due to fire, flood, or other disaster, or is under construction or undergoing substantial repairs or reconstruction. The temporary residence is allowed on the lot, parcel or tract only while the primary residence is undergoing new construction or repair. A temporary dwelling unit may also include a residence located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. The temporary residence shall be removed from the lot, parcel, or tract upon completion of such construction.
    - b. Retail sales of products, including but not limited to Christmas trees, nursery products, or agricultural produce, or special event celebrations in any district for a period not to exceed the number of days specified in the Temporary Use Permit. Display of products need not comply with the setback requirements of this Zoning Ordinance provided that no display shall be located within a right-of-way or restrict the vision clearance requirements.
    - c. Off-premises displays of vehicles and equipment in the B-1 and B-2 Districts intended for marketing purposes.
    - d. Temporary office space and equipment storage when accessory to an approved construction project, including sales offices on residential development sites. Such uses shall be located on the site no more than 30-days prior to the start of construction and removed no more than 30-days after completion of such project, or in the case of sales offices on residential development sites, removed when all houses or units are sold or leased.

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- e. The use of portable storage structures in residential districts are allowed without permit under the following conditions:
    - (1) There shall be no more than one portable storage structure per property.
    - (2) The portable storage structure shall be no larger than ten 10 feet wide, 20 feet long, and 10 feet high.
    - (3) A portable storage structure shall not remain at a property in excess of 90 days.
    - (4) The portable storage structure shall be setback a minimum of five feet from all property lines.
    - (5) The portable storage structure shall be setback a minimum of five feet from the nearest wall of a building.
    - (6) The portable storage structure shall be placed on a paved or gravel surface.
    - (7) Portable storage structures associated with a site where a building permit has been issued, are permitted for the duration of construction and shall be removed from the site within 14 days of the end of construction. Portable storage structures associated with construction are exempt from the aforementioned conditions.
  - f. Temporary Parking for Public Gatherings and similar events. Transportation shall be required for all temporary parking areas not located on the parcel where the event shall occur or on an immediately abutting parcel, unless otherwise approved by the Zoning Administrator.
2. General Requirements for All Temporary Uses and Structures. All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this Ordinance:
- a. The temporary use or structure shall not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare.
  - b. Permanent alterations to the site related to the temporary use or structure are prohibited.
  - c. If the property is undeveloped, it shall contain sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic circulation as required that may be associated with the temporary use, without disturbing sensitive or protected natural resources including 100-year floodplains and required landscaping.
  - d. If the property is developed, the temporary use shall be located in an area that is not actively used by an existing approved principal use, and that would support the proposed temporary use without encroaching or creating a negative impact on an existing buffer, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability.
  - e. Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property, shall be anchored, and meet the requirements of the Building Inspector.
  - f. Off-street parking shall accommodate the proposed temporary use as determined by the Zoning Administrator.
- D. Pets. Household pets such as dogs and cats are permitted in any District provided, however, that no premise shall be permitted to house or keep more than four adult household pets. Adult household pets are those four months of age or older.
- E. Livestock. Domestic livestock may be kept on any parcel of land five acres or more in area, provided that not more than one animal unit shall be permitted for each 2.5 acres of land.



Domestic Livestock, excepting bees and backyard chickens as defined in this Chapter, shall not be permitted in recorded subdivisions, as defined in Chapter 236, Wis. Stats., with the exception of conservation developments as listed in this Chapter. Livestock on existing farms, 20 acres or more in area shall not be subject to the 1 animal unit per 2.5-acre limitation.

1. One animal unit is defined as:
  - a. One horse, cow, or similar large animal in size, over six months of age.
  - b. One sheep, goats, or similar animal over six months of age.
  - c. 10 rabbits or hares over two months of age.
  - d. 10 chickens, ducks, geese, or similar fowl over two months of age.
2. Combinations of the above shall be permitted provided that they do not exceed one animal unit per 2.5 acres.

F. Swimming Pools and Hot Tubs. Swimming pools and hot tubs are a Permitted Accessory Use in any Residential District provided that:

1. All swimming pools shall be surrounded by a fence not less than four feet or more than six feet in height. Sidewalls of above ground pools four feet high may be used in lieu of a fence.
2. Access to the swimming pool shall be controlled by a self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner or occupant is not present at the pool. For an aboveground pool, a tip-up ladder may be provided in lieu of a gate. For a hot tub, a tightly closed cover may be provided in lieu of a gate.
3. Access to the swimming pool shall be controlled by a self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner or occupant is not present at the pool. For an aboveground pool, a tip-up ladder may be provided in lieu of a gate. For a hot tub, a tightly closed cover may be provided in lieu of a gate.
4. No water drained from a swimming pool or hot tub shall be discharged onto or into any on-site sanitary sewerage system, public sewerage system or directly into a navigable body of water.
5. No lighting installed around swimming pools or hot tubs shall throw any rays onto adjacent properties.
6. Swimming pools and hot tubs shall comply with the yard requirements for Principal Structures in the District in which they are located.

G. Abandoned Motor Vehicles and Other Materials.

1. No disassembled, dismantled, junked, wrecked, inoperable or unlicensed vehicle shall be stored or allowed to remain in the open upon private property within the Town of West Bend 10 days after receiving written notice from the Zoning Administrator to remove or enclose the same unless:
  - a. The vehicle is being held as a part of an automotive sales or repair business enterprise located within a properly zoned area.
  - b. Due to individual hardship a variance to keep the vehicle is obtained from the Board of Appeals, but such variance shall, if granted, not exceed 1 year.
2. The accumulation or storage of inoperable vehicles, tractors, refrigerators, furnaces, washing machines, stoves, machinery or parts thereof, junk, wood, brick, cement block or other unsightly debris which may tend to depreciate property values in the area or create

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a nuisance or hazard shall not be allowed on any lot or parcel of land within the Town of West Bend.

- H. No mobile home, mobile home park or trailer camp shall be placed or moved onto lands lying within the Town of West Bend.
- I. Gas and Electric. Gas and electric utility uses which have been issued a Certificate of Public Convenience and Necessity pursuant to Chapter 196.491(3), Wis. Stats., are exempt from 'the requirements of this Chapter.
- J. Portable Storage Facilities. Portable storage facilities including shipping containers, portable on demand storage (PODS), store and move (SAM) containers, buses, heavy-duty trucks and their bodies, semi-trailers, freight containers, mobile homes, and similar items which are no longer in use for their designated purpose are prohibited from being used as an Accessory Structure.

### 17.2.07 REDUCTION OR JOINT USE

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

### 17.2.08 CONSERVANCY REGULATIONS

In addition to any applicable use, environmental protection, landscape (see Chapter 17.11), site, or sanitary regulations, the following regulations shall apply within all Environmental Conservancy Districts (see Chapter 17.15 for definition) and those areas zoned C-1, C-2 or P-1.

- A. Tree Cutting and Shrubbery Clearing. Tree cutting and shrubbery clearing for the purpose of development, construction or changing land use from wildlife or wood lot management requires review and approval by the Plan Commission and shall be so regulated as to prevent erosion and sedimentation and promote preservation of scenic and other aesthetic and environmental qualities.
  - 1. Tree cutting and shrubbery clearing for building and site development, access roads, parking areas and path and trail construction shall not exceed 20% of the existing trees, shrubbery or underbrush on the lot or tract unless otherwise approved by the Plan Commission.
  - 2. Tree cutting and shrubbery clearing areas shall not exceed the following dimensions unless otherwise approved by the Plan Commission:
    - a. Paths and Trails, 10 feet in width.
    - b. Driveways, 30 feet in width or five feet beyond the edge of pavement (whichever is less).
    - c. Roads, 60 feet in width or 15 feet beyond the edge of the paving (whichever is less).
    - d. Parking Areas 70 feet in width or five feet beyond the edge of the paving (whichever is less).
    - e. Homes and other Principal Structures, 40 feet beyond the edge of the roof.
    - f. Garages and other Accessory Structures, 20 feet beyond the edge of the roof.

3. All structures and site features shall be so designed and constructed as to result in the least removal and disruption of woodland cover and the minimum impairment of natural beauty.
  4. All deciduous trees five inches or larger in caliper or coniferous trees 10 feet in height or greater shall be preserved unless it is demonstrated to the satisfaction of the Plan Commission that they will unduly restrict development of the site.
  5. All deciduous trees five inches or larger in caliper or coniferous trees 10 feet in height or greater destroyed during the development process which were not identified for destruction in the approved landscape plan shall be replaced.
    - a. Forestation, reforestation, or landscaping shall utilize a variety of tree species and no species currently under disease epidemic shall be used. Species planted shall be hardy under local conditions and compatible with the local landscape.
    - b. Customary minor trimming, timber stand improvement, dead and diseased tree removal, and managed timber harvesting shall be permitted under the recommendation of a professional forester.
    - c. The Plan Commission may require a surety or assess a fee other instrument to enable the Town to carry out land restoration work in the event of non-compliance with this regulation.
- B. Earth Movements. Earth movements such as grading, topsoil removal, filling, road cutting, construction, altering or enlargement of waterways, removal of stream or lake bed materials, excavation, channel clearing, ditching, dredging, lagooning, and installation of soil and water conservation structures require review and approval by the Plan Commission, in addition to any permit required from the county, state or federal agency having jurisdiction. Earth movements shall be so regulated as to prevent erosion and sedimentation and to least disturb the natural flora, watercourse, water regiment, or topography.

**CHAPTER 17.3 FEES AND PENALTIES**

**17.3.01 PERMIT FEES**

All persons, firms, or corporations performing work which by this Chapter requires the issuance of a permit shall pay a fee for such permit to the Town of West Bend to help defray the cost of administration, investigation, advertising, and processing of permits and variances. The permits for which a fee is required are the Site Plan Permit, Conditional Use Permit, Certified Survey Map Review, and Sign Permit. A fee shall also be required for a Zoning Text or Map Amendment, and an Appeal or Variance from the Zoning Board of Appeals. All fees shall be established by separate resolution by the Town Board from time to time as deemed appropriate.

**17.3.02 DOUBLE FEE**

A double fee shall be charged by the Town if work, use, or activity is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.

**17.3.03 VIOLATIONS**

It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Town Board, the Zoning Secretary, the Zoning Administrator/Building Inspector, the Plan Commission or any property owner who would be specifically damaged by such a violation, may institute appropriate action or proceeding to enjoin a violation of this Chapter or cause a structure to be vacated or removed.

**17.3.04 REMEDIAL ACTION**

Whenever an order of the Zoning Administrator or Building Inspector has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Town Board, the Zoning Administrator/Building Inspector, or the Town Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.

**17.3.05 PENALTIES**

Any person, firm, or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator/ Building Inspector issued in accordance with the Chapter or resists enforcement shall, upon conviction thereof, forfeit not less than \$20 nor more than \$200 and costs of prosecution of 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.

**17.3.06 REVIEW AND ADMINISTRATION FEE**

The applicant shall pay a fee equal to the actual cost to the Town for all legal, engineering and planning work incurred by the Town in connection with proposed developments, permits and other matters pertaining to zoning review. Engineering work shall include the preparation of construction plans and standard specification. The Town Engineer may permit the applicant to

furnish all, some or part of the required construction plans and specifications, in which case no engineering fees shall be levied for such plans and specification. Planning work may include concept plan and review, conditional use review, and other work as directed by the Plan Commission.

**CHAPTER 17.4 ZONING DISTRICTS**

**17.4.01 ESTABLISHMENT**

- A. Districts, General. For the purpose of this Chapter, the Town of West Bend is hereby divided into five basic use Districts as follows:
1. Residential District which is comprised of R-1N (Neighborhood Residential District), R-1R (Rural Residential District), R-1S (Shoreland Residential District), R-1S/MU (Shoreland Residential/Mixed-Use District), and SRO Supplemental Residential Overlay District.
  2. Business District which is comprised of B-1 (Commercial/Mixed/Use District), B-2 (Commercial/Mixed/Use District), and SMCO Supplemental Mixed Commercial Overlay District.
  3. Industrial District which is comprised of M-1 (Industrial District) and SMO Supplemental Manufacturing Overlay District.
  4. Conservancy District which is comprised of C-1 (Conservancy District) and C-2 (Conservancy Overlay District).
  5. Park District which is comprised of P-1 (Public and Private Park District) and SPRO Supplemental Park & Recreation Overlay District.
- B. Boundaries. The boundaries of these Districts are hereby established as shown on the map entitled "Town of West Bend Zoning Map", which map accompanies and hereby made a part of this Chapter. Unless otherwise noted on such zoning map, the boundaries shown on such map shall be construed to follow: corporate limits; U. S. Public Land Survey lines; environmental features as designated and mapped by the Southeast Wisconsin Regional Planning Commission (SEWRPC) or other designated authorities; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended.
- C. Vacation of Streets. The vacation of public streets and alleys shall cause the vacated land to be automatically placed in the same District as the abutting side to which the vacated land reverts.

**17.4.02 ZONING MAP**

A certified copy of the Map entitled "Town of West Bend Zoning Map" shall be adopted and approved with the text as part of this Chapter and shall bear upon its face the attestation of the Town Chairman and Town Clerk and shall be available to the public in the office of the Town Clerk. Changes, thereafter, to the Zoning Districts, shall not become effective until entered and attested on the certified copy.

**17.4.03 R-1N NEIGHBORHOOD RESIDENTIAL DISTRICT**

- A. Purpose and Characteristics.
1. The R-1N Residential District is intended to provide for new or existing single-family residential uses in conservation developments or minor land divisions, existing single-family residential uses in conventional developments, and existing agricultural uses. Base density for the District, as defined in Chapter 17.15, is one unit per 2.5 acres. Bonus density may be allowed as described in Subsection F of this Chapter 17.4.03.

2. Conservation developments protect the existing character of an area, and allow for smaller residential lots clustered together. Conservation developments also provide common open space linked throughout the development. Such development is consistent with the Town’s Comprehensive Plan goals, which include the preservation of the natural landscape and quality of life as priorities in the future development of the Town. New conventional developments may be allowable only as a Conditional Use in this District.

B. Permitted Principal Uses. Please refer to Chapter 17.4.14.

1. Farms, Agricultural Uses, and Agricultural Structures existing at the time of adoption of this Ordinance, including: cultivation, harvesting, and sale of crops and related farm products; raising and sale of livestock of fowl, with associated pasture and barnyards orchards, nurseries, greenhouses, and related horticultural uses.

C. Permitted Accessory Uses.

1. Please refer to Chapter 17.4.14.
2. Accessory Structures in the Rear Yard, Side Yard, and Secondary Street Yard.
3. Gazebos, as defined in Chapter 17.15, in the Shore Yard if they meet applicable setbacks.
4. Accessory Structures, excluding Transitory Structures, shall use like materials and colors to those of the Principal Structure. Windows, doors, and other architectural accoutrements shall compliment those of the Principal Structure.

D. Conditional Uses. Please refer to Chapter 17.4.14 and Chapter 17.5.06.

1. Accessory Structures in the Street Yard or Primary Street Yard consistent with the requirements of Chapter 17.7.023.K.2.

E. Design Process and Standards for Conservation Developments. The following is the site design, review and approval process for conservation developments. The site developer should follow the process listed below as well as any additional requirements as deemed appropriate by the Zoning Administrator or Plan Commission:

1. Create an Environmental and Cultural Resources Diagram for the site and surrounding area that identifies all existing environmental and cultural features and possible new common open space features (as defined in Chapter 17.15) to be created on the site. The analysis must include all county, state, and federally protected areas such as wetlands, lakes and streams. A minimum of 30% common open space is required for all conservation developments.
  - a. Existing natural environmental and cultural features to be identified and mapped, as applicable:
    - (1) Primary Environmental Corridors, Secondary Environmental Corridors, and Isolated Natural Resource Areas (as identified by the Southeastern Wisconsin Regional Planning Commission [SEWRPC]).
    - (2) Environmental Conservancy District areas as shown on the Land Use Plan map in the Town Comprehensive Plan (defined in Chapter 17.15).
    - (3) Wetlands, including 75-foot buffer along wetland edges.
    - (4) Lakes and streams, including a 75-foot buffer from the ordinary high water mark.

- (5) 100-year floodplains and floodways.
  - (6) Drainage ways, including a 25-foot buffer.
  - (7) Depth to groundwater.
  - (8) Soil series, types and phases, as mapped by the U.S. Department of Agriculture
  - (9) Site topography.
  - (10) Geologic formations including rock outcroppings, cliffs and glacial features such as eskers, kames, drumlins, and kettles.
  - (11) Ridgelines and watershed boundaries.
  - (12) Woodlands as defined by SEWRPC.
  - (13) Prairie habitat areas of rare species and natural communities recorded in the Wisconsin Natural Heritage Inventory (NHI) .
  - (14) Class I, II, III wildlife habitat areas identified by SEWRPC.
  - (15) Slopes of 12% or greater.
  - (16) Prime Agricultural Land as defined by SEWRPC.
  - (17) Farmland contiguous to existing farmland in neighboring parcels.
  - (18) Farmstead clusters, including agriculturally-related outbuildings.
  - (19) Historic buildings or structures identified by the Wisconsin Architecture and History Inventory (WAHI) or other buildings of local cultural significance
  - (20) Inventoried historic or prehistoric archeological sites.
  - (21) Existing roads, paving, buildings, utilities, easements, boundaries, planned land uses and zoning on and adjacent to the site.
  - (22) Additional land conditions on and adjacent to the property according to general land cover type, including cultivated land, permanent grass land, meadow, pasture, prairie, hedgerows, etc.
- b. Other possible areas to be created as common open space (See Chapter 17.15, "Common Open Space" definition for descriptions):
- (1) Countryside Views.
  - (2) Environmental Preserves.
  - (3) Environmental Restoration.
  - (4) Parkway Landscapes.
  - (5) Traditional Farmsteads.
  - (6) Cultivated Fields and Pastures.
  - (7) Orchards.
  - (8) Trail Corridors and Walkways.
  - (9) Scenic Drives.
  - (10) Equestrian Common Open Spaces and Features.
  - (11) Forestation Areas.
  - (12) Neighborhood Parks and Squares.
  - (13) Play Areas.
  - (14) Landscaped Boulevards.
  - (15) Landscaped Cul-de-sac Islands.
  - (16) Gateway Features.
  - (17) Ornamental and Display Gardens.
  - (18) Community Garden and Greenhouse.
  - (19) Other Significant Common Open Space Features.
2. Review the Environmental and Cultural Resources Diagram and visit the site with Town representatives to evaluate important site features. The Town may require that a qualified ecologist, engineer, or land planner be included as part of the review. Establish



an agreement between all parties as to what is valuable and should be preserved and/or created.

3. Create a Common Open Space Diagram with items on the site to be preserved and/or created for Plan Commission review and acceptance.
4. Present the Common Open Space Diagram to the Plan Commission for review and finalization of which common open space features to preserve and/or create.
5. Create three conceptual Sketch Diagrams using the accepted Common Open Space Diagram in consultation with Zoning Administrator and other plan reviewers. All three Sketch Diagrams should retain the agreed upon common open space features to the largest extent possible and be acceptable development scenarios that the developer would be willing to pursue if approved. The following development design criteria should be used when creating the conservation development concepts:
  - a. Protect important existing environmental and cultural resources. Protect all existing town, county, state, and federally regulated environmental and cultural resources and all other significant existing environmental and cultural resources identified on accepted Common Open Space Diagram.
  - b. Integrate common open space features into the design.
    - (1) Arrange the overall neighborhood design so as to create attractive and meaningful recreational, scenic and gathering areas for general public as well as the private development. Locate significant open spaces so they can be enjoyed by all residents without intruding upon the privacy of others. A minimum of 30% common open space is required for all conservation developments.
    - (2) Organize open space features so they feel like common areas rather than mere extensions of the private lots. Place open spaces so that they can be accessed by the entire neighborhood. Place significant common spaces at the fronts or sides of properties and adjacent to neighborhood roadways and link these common areas with trails and pathways.
  - c. Locate houses to minimize disruption to the natural character.
    - (1) Locate houses such that:
      - (a) The houses are sited around open spaces that include natural environmental areas, fields, woodlands, pastures, or farmland.
      - (b) The houses are grouped together in ways that create large, clear naturally landscaped areas between groups of houses.
      - (c) The houses will be visually overshadowed by important natural features such as woodlands, hedgerows, hills, or other key features of the landscape.
    - (2) Locate houses so as to minimize the length of time the house is visible to drivers on public roads. Do this by placing houses behind landscape elements or natural features that reduce visibility of the house. Minimize the degree to which houses are prominently featured on ridges and hilltops, especially when they are visible to other houses and the public roads. (See Chapter 17.11 for specific landscape requirements for buffer areas)
  - d. Preserve and integrate landscape elements. Try to make the groups of houses seem like separate developments intertwined by a continuous system of landscape elements and natural features — use landscape elements (fields, hedgerows, woodlands) as separations between groups of houses. Landscape elements should include varied plant species and maintain the natural, rural character of the Town. Naturalized landscape areas (including berms) should not be mowed, except for the purpose of annual maintenance.

- e. Group houses together. Groupings of four to five units are preferable, but larger groupings (perhaps as many as 8 units) could be satisfactory if there are larger open spaces and natural areas around and between them.
  - f. Connect the landscaping. Extend and connect the existing natural areas and environmental corridors with new plantings and landscaping that match the existing plantings and landscape. Create continuous landscape edges along public roads and between groups of houses using mixtures of species that create a varied image as the seasons change.
  - g. Link trail systems. Link natural features between parcels with a trail system which continues throughout the Town. Create features of cul-de-sacs. Minimize the use of cul-de-sacs except where necessary to preserve a natural feature. Include planting in the cul-de-sac and create formal shapes to provide a front “green” for the surrounding homes.
  - h. Road design. Design roads (and adjacent landscapes) so as to minimize (a) the number of houses that are seen from roads and (b) the length of time houses are seen from the road. When houses are visible from roads, try to create compact groups with clear open or natural areas between the groups. Where feasible, design roads with straight alignments that are aimed at natural vistas with no buildings in them. Use curves to slow traffic naturally, rather than to accommodate increased speed.
  - i. Include scenic drives. Encourage the creation of scenic drives where houses are located only on one side of a road and natural landscapes are preserved on the other side. Preserve existing scenic drives in order to protect the natural character of the neighborhood.
  - j. Create walking and hiking trails. Create walking and hiking trails that are adjacent to public roads and act as buffers to residential uses. Integrate walking and hiking trails with the geometry and pattern of roads.
6. Provide the three conceptual Sketch Diagrams to the Plan Commission for review and possible conceptual approval. The Plan Commission may evaluate these alternatives according to the following criteria:
    - a. The degree to which Common Open Space Diagram has been integrated into the overall site design.
    - b. The degree to which the conservation development design criteria have been integrated into the overall site design.
    - c. The degree to which the site design conforms to the dimensional and minimum open space requirements and allowable number of units as described in Chapter 17.4.03.
    - d. The degree to which the overall design and common open space concept can be implemented based on the Town of West Bend Land Division Ordinance and other relevant town, county, state, and federal regulations.
    - e. Whether the site design creates a visually appealing development that supports the overall goals of Town of West Bend as expressed in the Comprehensive Plan.
  7. The Plan Commission shall review the three conceptual Sketch Diagrams and take one of the following actions:
    - a. Approve one of the three conceptual Sketch Diagrams as presented.
    - b. Approve one of the three conceptual Sketch Diagrams with conditions. The applicant shall make appropriate revisions and present a revised diagram to the Plan Commission.
    - c. Deny approval of all three conceptual Sketch Diagrams. The applicant may develop additional concepts for Plan Commission review.

8. Prepare Preliminary and Final Plats for Town approval based on the approved conceptual sketch diagram. Work with Zoning Administrator and reviewers to translate approved conservation development design into final plans.

F. Calculation of Allowable Number of Units in Conservation Developments. To determine the allowable number of units, the following steps shall be taken:

1. Determine the total acreage of the site.
2. Determine the total acreage of common open space to be preserved or created as agreed upon during the design process. A minimum of 30% common open space is required for all conservation developments. One additional unit will be awarded for every 2.5 acres of designated common open space preserved or created beyond the 30% minimum common open space.
3. Add the total acreage of the site to the additional acreage of common open space to be saved beyond the 30% minimum required. Divide this number by 2.5 (acres) to determine the allowable number of units on the site.
  - a. Use the following formula for calculating the allowable number units:

$\text{Allowable \# of Units} = \text{Total Site Area} + \text{Additional Common Open Space Area Saved (>30\%)} \div 2.5$
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- b. Example:

Total site area = 100 acres
Required 30% common open space area to be saved = 30 acres
Additional common open space area to be saved beyond 30% = 15 acres
Total common open space area to be saved = 45 acres
Allowable number of units = (100 + 15) / 2.5 = 46 units
Note: This represents a "bonus" of 6 units for the additional 15 acres of common open space area saved.

- c. The following table gives the range of the allowable number of units for a 100-acre parcel:

Total Site Area (acres)	100										30% min. common open space
Common Open Space Area Saved in Acres	>50	50.0	47.5	45.0	42.5	40.0	37.5	35.0	32.5	30.0	
Maximum Allowable Number of Units	*	48	47	46	45	44	43	42	41	40	
* Preserving beyond 50 acres would be permissible, but the number of lots possible is restricted by the amount of acreage available.											
Note: The total number of buildable units that are feasible on any parcel will vary depending on several factors including but not limited to the following; the location and size of wetlands, streams or lakes, soil type, site topography, average lot size, total road area, and general creativity of the designer. When calculations yield numbers with decimals, the allowable number of units shall be rounded down to the nearest whole number.											

G. R-1N Conservation Development Site Dimensional Standards.

Lot	Width Minimum	120 feet <sup>(1)(2)</sup>
	Area Minimum	One acre <sup>(3)</sup>
Principal Structure	Area Minimum	1,500 square feet
	Height Maximum	35 feet

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Accessory Structures	Area Maximum (Combined total for all Accessory Structures excluding Transitory Structures)	Parcels less than 1 acre in size	864 square feet
		Parcels 1 acre to 1.99 acres in size	1,200 square feet
		Parcels 2 acres to 2.99 acres in size	1,400 square feet
		Parcels 3 acres to 4.99 acres in size	1,600 square feet
		Parcels 5 acres to 6.99 acres in size	2,000 square feet
		Parcels 7 acres in size and larger	7,000 square feet, with no single structure larger than 2,000 square feet
	Height Maximum	20 feet <sup>(4)</sup>	
Minimum Setbacks for Accessory Structure	From Principal Structure	10 feet	
	Side and Rear	25 feet	
	Shore	75 feet <sup>(5)</sup>	
	Street	40 feet <sup>(6)</sup>	
Minimum Setbacks for Principal Structure	Street	40 feet	
	Side	25 feet	
	Rear	40 feet	
	Shore	75 feet	
Minimum Setbacks of Lot Groups	From external arterial street rights-of-way	100 feet	
	From scenic roads	100 feet	
	From all other external street rights-of-way	50 feet	
<p>(1) Measured at the setback.</p> <p>(2) The minimum lot width for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is an average of 65 feet for sewered lots and 100 feet for unsewered lots.</p> <p>(3) The minimum lot area for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is 10,000 square feet for sewered lots and 20,000 square feet for unsewered lots.</p> <p>(4) See Chapter 17.7 for modifications.</p> <p>(5) Only gazebo Accessory Structures are permitted in the Shore Yard.</p> <p>(6) Accessory Structures located in the Street Yard or Primary Street Yard Require a Conditional Use Permit.</p>			

H. R-1N Existing Conventional Development and Minor Land Division Site Dimensional Standards.

Lot	Width Minimum	120 feet <sup>(1)(2)</sup>	
	Area Minimum	1.5 acres <sup>(3)</sup>	
Principal Structure	Area Minimum	1,500 square feet	
	Height Maximum	35 feet	
Accessory Structures	Area Maximum (Combined total for all Accessory Structures excluding Transitory Structures)	Parcels less than 1 acre in size	864 square feet
		Parcels 1 acre to 1.99 acres in size	1,200 square feet
		Parcels 2 acres to 2.99 acres in size	1,400 square feet
		Parcels 3 acres to 4.99 acres in size	1,600 square feet

		Parcels 5 acres to 6.99 acres in size	2,000 square feet
		Parcels 7 acres in size and larger	7,000 square feet, with no single structure larger than 2,000 square feet
	Height Maximum	20 feet <sup>(4)</sup>	
Minimum Setbacks for Accessory Structure	From Principal Structure	10 feet	
	Side and Rear	25 feet	
	Shore	75 feet <sup>(5)</sup>	
	Street	50 feet <sup>(6)</sup>	
Minimum Setbacks for Principal Structure	Street or Primary Street	50 feet	
	Side	25 feet	
	Rear	50 feet	
	Shore	75 feet	
<p>(1) Measured at the setback.</p> <p>(2) The minimum lot width for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is an average of 65 feet for sewered lots and 100 feet for unsewered lots.</p> <p>(3) The minimum lot area for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is 10,000 square feet for sewered lots and 20,000 square feet for unsewered lots.</p> <p>(4) See Chapter 17.7 for modifications.</p> <p>(5) Only gazebo Accessory Structures are permitted in the Shore Yard.</p> <p>(6) Accessory Structures located in the Street Yard or Primary Street Yard Require a Conditional Use Permit.</p>			

**I. Ownership of Common Facilities and Common Open Space in Conservation Type Developments.**

The following methods may be used, either individually or in combination, to own common facilities and common open space:

1. Homeowner’s Association. Common facilities and open space shall be held in common ownership as undivided proportionate interests by the members of the association. The homeowner’s association shall be governed according to the following:
  - a. The applicant shall provide to the Town a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for the common areas.
  - b. Membership in the association shall be mandatory for all purchasers of lots.
  - c. The members of the association shall share equitably the costs of maintaining and operating the common facilities and common space.
  - d. The association shall have or hire adequate staff to maintain the common facilities and common space.
  - e. The association is responsible for the maintenance of the common facilities and open space. In the event the association does not maintain the common properties, the Town may maintain or have the common properties maintained and assess the association members as necessary.
  - f. The association shall hold a conservation easement or deed restriction on the common open space land and common facilities to protect them from development.
  - g. The association shall provide for proper maintenance of shared septic systems, and common open space areas including, but not limited to, review of installation and ongoing repair, modification and maintenance.
  - h. The Town shall have the authority to special assess landowners for the preservation, restoration, or maintenance of shared septic systems and common open space

- features which are deemed by the Town Board to be noxious, hazardous, or a nuisance to the general public welfare.
2. Transfer of Ownership.
    - a. Transfer of easements to a private or public conservation organization is acceptable if approved by the Town Board.
    - b. Ownership may be retained by the original landowner if the Town and residents of the development hold conservation easements on the land, protecting it from any further development.
  3. Leasing of Conservation Land. Common open space land may be leased to another person or entity for the use, operation and maintenance if it is approved by the Town Board and provided that:
    - a. The residents of the development shall have at all time have access to the leased lands, except in the case of lease of agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the land.
    - b. The land to be leased shall remain as mainly undeveloped open space whose character and uses are compatible with the overall goals and rural character of the Town and this Chapter.
    - c. Lease agreements shall be recorded in the office of the County Register of Deeds within 30 days of execution and a copy shall be provided to the Town of West Bend.
  4. Land Stewardship Plan.
    - a. A land stewardship plan shall be prepared by a qualified landscape architect or ecologist describing the restoration, preservation and maintenance goals and methods for all common open space areas and features.
    - b. The land stewardship plan goals and methods should be implemented by a qualified landscape or ecological restoration organization
    - c. The land stewardship plan must, at minimum, be updated every five years to reflect changing conditions.
    - d. Copies of the original and updated land stewardship plans shall be provided to the Town.
    - e. In the event the association does not implement and/or update the land stewardship plan, the Town will implement and/or update the plan and assess the association and/or association members as necessary.
  5. Rezoning. Common open space land may be rezoned to the P-1 Public and Private Park District provided it is desired by the landowners and approved by the Town Board.

### J. Minor Land Division.

1. Parcels containing at least five acres at the time of a minor land division may be so divided into one or more single lots of 1.5 acres minimum size, with a density not to exceed one unit per 2.5 acres, by a Certified Survey Map (CSM) complying with the Town's Land Division Ordinance and Chapter 236, Wis. Stats.
2. As part of the land division approval process, the applicant shall identify and map all existing site and adjacent natural environmental and cultural features as listed in Chapter 17.4.03.E.1. To the greatest extent possible, those significant environmental and cultural resources identified for preservation by the Plan Commission and Town Board or other relevant Sections of this or other ordinances shall be protected during any subsequent land division, development, or construction activities.
3. That area of land that is located within the Environmental Conservancy District (see Chapter 17.15 for definition) shall be excluded from the density calculation. (Note:

Approximate locations of these areas are shown for reference in the Town's Comprehensive Plan as "Environmental Conservancy Districts")

4. A prior minor land division of an original parcel under this Subsection may be modified, provided that all of the following conditions are met:
    - a. All lots created from the original parcel shall collectively meet the required density calculation.
    - b. The Certified Survey Map modifying the division depicts as parcels the new lot(s) and all of the original parcel, and clearly states the density calculation illustrating the total number of lots that may be created from the original parcel.
  5. Certified Survey Maps shall be recorded in the Washington County Registry currently located in the office of the Register of Deeds of Washington County, Wisconsin and a notation shall be made on the zoning map maintained under Chapter 17.4.02, cross referenced to a statement on the face of the CSM: 'Density Limits, see CSM.'
- K. Impervious Surface Area. The maximum impervious surface area on a lot located outside of a designated shoreland zoning area shall be 20%.
- L. Landscaping. Refer to Chapter 17.11.
- M. Site Plan Review and Architectural Control. Refer to Chapter 17.10.

#### **17.4.04 R-1R RURAL RESIDENTIAL DISTRICT**

- A. Purpose and Characteristics.
1. The R-1R Rural Residential District is primarily intended to provide for new or existing single-family residential uses in conservation developments or minor land divisions, existing single-family residential uses in conventional developments and existing agricultural uses. Base density for the District, as defined in Chapter 17.15, shall be one unit per 3.5 acres. Bonus density may be allowed as described in Subsection F of Chapter 17.4.04.
  2. Conservation developments protect the existing character of an area, and allow for smaller residential lots clustered together. Conservation developments also provide common open space linked throughout the area. Such development is consistent with the Town's Comprehensive Plan goals, which include the preservation of the natural landscape and quality of life as priorities in the future development of the Town. New conventional developments via subdivision plats may be allowable only as a Conditional Use in this District.
- B. Permitted Principal Uses. Please refer to Chapter 17.4.14.
1. Farms, Agricultural Uses, and Agricultural Structures existing at the time of adoption of this Ordinance, including: cultivation, harvesting, and sale of crops and related farm products; raising and sale of livestock of fowl, with associated pasture and barnyards orchards, nurseries, greenhouses, and related horticultural uses.
- C. Permitted Accessory Uses.
1. Please refer to Chapter 17.4.14.

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2. Accessory Structures in the Rear Yard, Side Yard, and Secondary Street Yard.
3. Gazebos, as defined in Chapter 17.15, in the Shore Yard if they meet applicable setbacks.
4. Accessory Structures, excluding Transitory Structures, shall use like materials and colors to those of the Principal Structure. Windows, doors, and other architectural accoutrements shall compliment those of the Principal Structure.

D. Conditional Uses. Please refer to Chapter 17.4.14 and Chapter 17.5.06.

1. Accessory Structures in the Street Yard or Primary Street Yard consistent with the requirements of Chapter 17.7.02.I.2.

E. Design Process and Standards for Conservation Developments. Please refer to Chapter 17.4.03.E.

F. Calculation of Allowable Number of Units in Conservation Developments. To determine the allowable number of units, the following steps shall be taken:

1. Determine the total acreage of the site.
2. Determine the total acreage of common open space to be preserved or created as agreed upon during the design process. A minimum of 30% common open space is required for all conservation developments. One additional unit will be awarded for every 3.5 acres of designated common open space preserved or created beyond the 30% minimum common open space.
3. Add the total acreage of the site to the additional acreage of common open space to be saved beyond the 30% minimum required. Divide this number by 3.5 (acres) to determine the allowable number of units on the site.
  - a. Use the following formula for calculating the allowable number units:

$\text{Allowable \# of Units} = \text{Total Site Area} + \text{Additional Common Open Space Area Saved (>30\%)} \div 3.5$
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b. Example:

Total site area = 100 acres
Required 30% common open space area to be saved = 30 acres
Additional common open space area to be saved beyond 30% = 15 acres
Total common open space area to be saved = 45 acres
Allowable number of units = $(100 + 15) / 3.5 = 32$ units
Note: This represents a "bonus" of 4 units for the additional 15 acres of common open space area saved.

a. The following table gives the range of allowable number of units for a 100-acre parcel:

Total Site Area (acres)	100										30% min. common open space
Common Open Space Area Saved in Acres	>50	50.0	47.5	45.0	42.5	40.0	37.5	35.0	32.5	30.0	
Maximum Allowable Number of Units	*	34	33	32	32	31	30	30	29	28	
* Preserving beyond 50 acres would be permissible, but the number of lots possible is restricted by the amount of acreage available.											
Note: The total number of buildable units that are feasible on any parcel will vary depending on several factors including but not limited to the following: the location and size of wetlands, streams or lakes, soil type, site topography, average lot size, total road area, and general creativity of the designer. When calculations yield numbers with decimals, the allowable number of units shall be rounded down to the nearest whole number.											



G. R-1R Conservation Development Site Dimensional Standards.

Lot	Width Minimum	120 feet <sup>(1)(2)</sup>	
	Area Minimum	One acre <sup>(3)</sup>	
Principal Structure	Area Minimum	1,500 square feet	
	Height Maximum	35 feet	
Accessory Structures	Area Maximum (Combined total for all Accessory Structures excluding Transitory Structures)	Parcels less than 1 acre in size	864 square feet
		Parcels 1 acre to 1.99 acres in size	1,200 square feet
		Parcels 2 acres to 2.99 acres in size	1,400 square feet
		Parcels 3 acres to 4.99 acres in size	1,600 square feet
		Parcels 5 acres to 6.99 acres in size	2,000 square feet
		Parcels 7 acres in size and larger	7,000 square feet, with no single structure larger than 2,000 square feet
	Height Maximum	20 feet <sup>(4)</sup>	
Minimum Setbacks for Accessory Structure	From Principal Structure	10 feet	
	Side and Rear	25 feet	
	Shore	75 feet <sup>(5)</sup>	
	Street	40 feet <sup>(6)</sup>	
Minimum Setbacks for Principal Structure	Street or Primary Street	40 feet	
	Side	30 feet	
	Rear	40 feet	
	Shore	75 feet	
Minimum Setbacks of Lot Groups	From external arterial street rights-of-way	100 feet	
	From scenic roads	100 feet	
	From all other external street rights-of-way	50 feet	
<p>(1) Measured at the setback.</p> <p>(2) The minimum lot width for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is an average of 65 feet for sewered lots and 100 feet for unsewered lots.</p> <p>(3) The minimum lot area for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is 10,000 square feet for sewered lots and 20,000 square feet for unsewered lots.</p> <p>(4) See Chapter 17.7 for modifications.</p> <p>(5) Only gazebo Accessory Structures are permitted in the Shore Yard.</p> <p>(6) Accessory Structures located in the Street Yard or Primary Street Yard Require a Conditional Use Permit.</p>			

H. R-1R Existing Conventional Development and Minor Land Division Site Dimensional Standards.

Lot	Width Minimum	120 feet <sup>(1)(2)</sup>
	Area Minimum	2.5 acres <sup>(3)</sup>
Principal Structure	Area Minimum	1,500 square feet
	Height Maximum	35 feet

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Accessory Structures	Area Maximum (Combined total for all Accessory Structures excluding Transitory Structures)	Parcels less than 1 acre in size	864 square feet
		Parcels 1 acre to 1.99 acres in size	1,200 square feet
		Parcels 2 acres to 2.99 acres in size	1,400 square feet
		Parcels 3 acres to 4.99 acres in size	1,600 square feet
		Parcels 5 acres to 6.99 acres in size	2,000 square feet
		Parcels 7 acres in size and larger	7,000 square feet, with no single structure larger than 2,000 square feet
	Height Maximum	20 feet <sup>(4)</sup>	
Minimum Setbacks for Accessory Structure	From Principal Structure	10 feet	
	Side and Rear	25 feet	
	Shore	75 feet <sup>(5)</sup>	
	Street	40 feet <sup>(6)</sup>	
Minimum Setbacks for Principal Structure	Street or Primary Street	50 feet	
	Side	30 feet	
	Rear	50 feet	
	Shore	75 feet	
<p>(1) Measured at the setback.</p> <p>(2) The minimum lot width for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is an average of 65 feet for sewered lots and 100 feet for unsewered lots.</p> <p>(3) The minimum lot area for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is 10,000 square feet for sewered lots and 20,000 square feet for unsewered lots.</p> <p>(4) See Chapter 17.7 for modifications.</p> <p>(5) Only gazebo Accessory Structures are permitted in the Shore Yard.</p> <p>(6) Accessory Structures located in the Street Yard or Primary Street Yard Require a Conditional Use Permit.</p>			

- I. Ownership of Common Facilities and Common Open Space. Please refer to Chapter 17.4.03.I for ownership of Common Facilities and Common Open Space.
- J. Minor Land Divisions. Please refer to Chapter 17.4.03.J for Minor Land Divisions, as relevant.
- K. Impervious Surface Area. The maximum impervious surface area on a lot located outside a designated shoreland zoning area shall be 20%.
- L. Landscaping. Please refer to Chapter 17.11.11.
- M. Erosion Control. Please refer to Chapter 17.11.10.
- N. Parking, Driveway, and Paved Areas. Please refer to Chapter 17.6.
- O. Site Plan Review and Architectural Control. Please refer to Chapter 17.10.

**17.4.05 R-1S SHORELAND RESIDENTIAL DISTRICT**

- A. Purpose and Characteristics. The R-1S Shoreland Residential District is primarily intended to provide for single-family residential uses within the three historic lake communities of the Town. These areas are composed of properties both on and off of the lakeshore, some of which have been in existence for many years prior to the adoption of this Chapter. The intention of this District is to preserve the existing lakeside charm and appeal of these communities, protect the water quality of the lakes and allow property owners to maintain and improve their properties. To that end there are several requirements and recommendations for building and site work within the District.
- B. Lot Types.
1. The District is comprised of existing lots in a variety of irregular sizes and configurations that were platted prior to the existence of zoning standards and that in many cases do not meet current dimensional standards.
  2. For the purposes of this District, lots that were a lot of record with the Washington County Register of Deeds on April 1, 1986 are considered "Existing Lots". In addition, lots that were subsequently altered by the combination of or addition to those Existing Lots by Certified Survey Map, metes and bounds description, or other approved method shall be considered Existing Lots for the purpose of this Section. In no case can the combined or altered Existing Lots result in a lot of reduced lot area or lot width unless the resulting lot meets the current standards for "New Lots" under this Section.
  3. Lots that were created out of larger parcels and that were recorded after April 1, 1986 are considered "New Lots". The standards for each of these categories of lots are given in this Section and in other relevant Sections of this Chapter.
  4. Also, for the purposes of this District "Lakeshore Lots" are those lots which have at least one Shore Yard frontage.
  5. In addition, any Principal and Accessory Structures present on Existing Lots as of April 1, 1986 are considered to be conforming structures. Structures built or structurally altered after that date must conform to standards of this District and other standards of this Chapter or an approved Conditional Use Permit.
- C. Permitted Principal Uses. Please refer to Chapter 17.4.14.
1. Farms, Agricultural Uses, and Agricultural Structures existing at the time of adoption of this Ordinance, including: cultivation, harvesting, and sale of crops and related farm products; raising and sale of livestock of fowl, with associated pasture and barnyards orchards, nurseries, greenhouses, and related horticultural uses.
- D. Permitted Accessory Uses.
1. Please refer to Chapter 17.4.14.
  2. Accessory Structures in the Rear Yard, Side Yard, and Street Yard.
  3. Gazebos, as defined in Chapter 17.15, in the Shore Yard if they meet applicable setbacks.
  4. No other Accessory Structures shall be erected in the Shore Yard after January 1, 2010.
  5. Accessory Structures, excluding Transitory Structures, shall use like materials and colors to those of the Principal Structure. Windows, doors, and other architectural accoutrements shall compliment those of the Principal Structure.

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E. Conditional Uses. Please refer to Chapter 17.4.14 and Chapter 17.5.06.

F. Limitations. In addition to the Town code, refer to federal, state, and county ordinances that regulate land and structures around wetlands and water bodies.

G. R-1S Site Dimensional Standards – Existing Lots.

Lot	Width Minimum	Average of 65 feet for sewered lots and Average of 100 feet for unsewered lots, as per NR 115.05(1)(a)1. (1)	
	Area Minimum	10,000 square feet for sewered lots and 20,000 square feet for unsewered lots, as per NR 115.05(1)(a)1.	
Principal Structure	Area Minimum	Total: 1,200 square feet 1 <sup>st</sup> Floor: 600 square feet	
	Height Maximum (Lakeshore Lots ≤ 50 feet in width)	25 feet	
	Height Maximum (all other Existing Lots)	35 feet	
Accessory Structure	Area Maximum (combined total for all Accessory Structures excluding Transitory Structures)	Parcels less than 1 acre in size	864 square feet
		Parcels 1 acre to 1.99 acres in size	1,200 square feet
		Parcels 2 acres to 2.99 acres in size	1,400 square feet
		Parcels 3 acres to 4.99 acres in size	1,600 square feet
		Parcels 5 acres to 6.99 acres in size	2,000 square feet
		Parcels 7 acres in size and larger	7,000 square feet, with no single structure larger than 2,000 square feet
	Height Maximum	20 feet (2)	
Minimum Setbacks for Accessory Structure	From Principal Structure	10 feet	
	Side and Rear	Seven feet	
	Shore	75 feet (3)	
	Street	25 feet (1)(4)	
Minimum Setbacks for Principal Structure	Street or Primary Street	25 feet	
	Side	Seven feet	
	Rear	25 feet	
	Shore	75 feet	
(1) Measured at the setback.			
(2) See Chapter 17.7 for modifications.			
(3) Only gazebo Accessory Structures are permitted in the Shore Yard.			

H. R-1S Site Dimensional Standards – New Lots.

Lot	Width Minimum	Average of 65 feet for sewered lots and Average of 100 feet for unsewered lots, as per NR 115.05(1)(a)1. (1)
	Area Minimum	10,000 square feet for sewered lots and 20,000 square feet for unsewered lots, as per NR 115.05(1)(a)1.

Principal Structure	Area Minimum	Total: 1,200 square feet 1 <sup>st</sup> Floor: 950 square feet	
	Height Maximum	35 feet	
Accessory Structure	Area Maximum (combined total for all Accessory Structures excluding Transitory Structures)	Parcels less than 1 acre in size	864 square feet
		Parcels 1 acre to 1.99 acres in size	1, 200 square feet
		Parcels 2 acres to 2.99 acres in size	1,400 square feet
		Parcels 3 acres to 4.99 acres in size	1,600 square feet
		Parcels 5 acres to 6.99 acres in size	2,000 square feet
	Parcels 7 acres in size and larger	7,000 square feet, with no single structure larger than 2,000 square feet	
	Height Maximum	20 feet <sup>(2)</sup>	
Minimum Setbacks for Accessory Structure	From Principal Structure	10 feet	
	Side and Rear	10 feet	
	Shore	75 feet <sup>(3)</sup>	
	Secondary Street	50 feet <sup>(4)</sup>	
Minimum Setbacks for Principal Structure	Street or Primary Street	50 feet	
	Side	25 feet	
	Rear	25 feet	
	Shore	75 feet	
<p>(1) Measured at the setback.                  (2) See Chapter 17.7 for modifications.                  (3) Only gazebo Accessory Structures are permitted in the Shore Yard.</p>			

- I. Landscaping. Please refer to Chapter 17.11.11.
- J. Erosion Control. Please refer to Chapter 17.11.10.
- K. Parking, Driveway, and Paved Areas. Please refer to Chapter 17.6.
- L. Site Plan Review and Architectural Control. Please refer to Chapter 17.10.

**17.4.06 R-1S/MU SHORELAND RESIDENTIAL / MIXED-USE DISTRICT**

- A. Purpose and Characteristics. The Shoreland Residential / Mixed-Use District consists of shoreland uses that are contained within the historic lakeshore community, including rental cottages, lodging accommodation, hotel rooms, tavern and/or restaurant facilities, or owner occupied housing operated in a longstanding, uninterrupted manner as businesses licensed by the State of Wisconsin, Department of Health and Social Services pursuant to Chapter 254, Wis. Stats., and Chapter DHS 195, Wisconsin Adm. Code.

This District is comprised of properties both on and off of the lakeshore that have been in existence for many years prior to the adoption of this Chapter. The intention of this District is to allow the continued operation of these long standing resorts, protect the character of surrounding residential neighborhoods, protect the aesthetic and environmental quality of the

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lakes, while still allowing property owners to adequately maintain and improve their current operations. To that end there are several requirements and recommendations for building and site work within the District. These standards are given in this Section and in other Sections of this Chapter.

New properties shall not be rezoned into this District unless they are an expansion of an existing use or business in the R-1S/MU District as of the adoption date and it can be shown that in doing so, adjacent land owners and the community as a whole are not adversely impacted by the rezoning. In addition, there should be no major redevelopment of the existing properties that would substantially increase the intensity or use of the existing business enterprises.

Principal and Accessory Structures present as of April 1, 1986 are considered to be conforming structures. Structures built or structurally altered after that date must conform to standards of this District and other standards of this Chapter or an approved Conditional Use Permit.

B. Permitted Principal Uses. Please refer to Chapter 17.4.14.

1. Farms, Agricultural Uses, and Agricultural Structures existing at the time of adoption of this Ordinance, including: cultivation, harvesting, and sale of crops and related farm products; raising and sale of livestock of fowl, with associated pasture and barnyards orchards, nurseries, greenhouses, and related horticultural uses.
2. Shoreland Uses operated in a longstanding, uninterrupted manner as licensed businesses, consistent with relevant state statutes, including: Rental Cottages, Lodging Accommodation, Hotel Rooms, Taverns and/or Restaurant Facilities.

C. Permitted Accessory Uses.

1. Please refer to Chapter 17.4.14.
2. Accessory Structures in the Rear Yard, Side Yard, and Secondary Street Yard..
3. Gazebos, as defined in Chapter 17.15, in the Shore Yard if they meet applicable setbacks.
4. No other Accessory Structures shall be erected in the Shore Yard after January 1, 2010.
5. Accessory Structures, excluding Transitory Structures, shall use like materials and colors to those of the Principal Structure. Windows, doors, and other architectural accoutrements shall compliment those of the Principal Structure.

D. Conditional Uses. Please refer to 4.10 and Chapter 17.5.06.

1. Accessory Structures in the Street Yard or Primary Street Yard consistent with the requirements of Chapter 17.7.023.K.2.

E. Limitations. In addition to the Town code, refer to federal, state, and county ordinances that regulate land and structures around wetlands and water bodies.

F. R-1S/MU Site Dimensional Standards.

Lot	Width Minimum	Average of 65 feet for sewerred lots and Average of 100 feet for unsewerred lots, as per NR 115.05(1)(a)1. (1)	
	Area Minimum	10,000 square feet for sewerred lots and 20,000 square feet for unsewerred lots, as per NR 115.05(1)(a)1.	
Principal Structure	Area Minimum	Total: 1,200 square feet 1 <sup>st</sup> Floor: 600 square feet	
	Height Maximum	35 feet	
Accessory Structure	Area Maximum (combined total for all Accessory Structures excluding Transitory Structures)	Parcels less than 1 acre in size	864 square feet
		Parcels 1 acre to 1.99 acres in size	1, 200 square feet
		Parcels 2 acres to 2.99 acres in size	1,400 square feet
		Parcels 3 acres to 4.99 acres in size	1,600 square feet
		Parcels 5 acres to 6.99 acres in size	2,000 square feet
		Parcels 7 acres in size and larger	7,000 square feet, with no single structure larger than 2,000 square feet
	Height Maximum	20 feet (2)	
Minimum Setbacks for Accessory Structure	From Principal Structure	10 feet	
	Side and Rear	Existing Setback	
	Shore	75 feet (3)	
	Street	75 feet (4)	
Minimum Setbacks for Principal Structure	Street or Primary Street	25 feet	
	Side	10 feet	
	Rear	25 feet	
	Shore	75 feet	
(1) Measured at the setback. (2) See Chapter 17.7 for modifications. (3) Only gazebo Accessory Structures are permitted in the Shore Yard. (4) Accessory Structures located in the Street Yard or Primary Street Yard Require a Conditional Use Permit.			

G. Landscaping. Please refer to Chapter 17.11.11.

H. Erosion Control. Please refer to Chapter 17.11.10.

I. Parking, Driveway, and Paved Areas. Please refer to Chapter 17.6.

J. Site Plan Review and Architectural Control. Please refer to Chapter 17.10.

**17.4.07 B-1 COMMERCIAL/MIXED-USE DISTRICT**

A. Purpose and Characteristics. The B-1 Commercial/Mixed-Use District is intended to provide for the orderly and attractive business development in appropriate locations along arterial highways in the Town which can provide the necessary infrastructure and services. The B-1 Commercial/Mixed-Use District is also intended to provide for business and commercial service establishments which serve the general retail needs of the Town, as well as establishments which are locally related to and dependent upon highway traffic or designed to serve the needs

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of such traffic. Such business development should provide ample off-street parking and loading areas, safe vehicular access to the arterial highway system, landscaping and development character and intensity of use, which is compatible with the rural character of the Town.

B. Permitted Principal Uses. Please refer to Chapter 17.4.14.

C. Permitted Accessory Uses.

1. Please refer to Chapter 17.4.14.
2. Accessory Structures in the Rear Yard, Side Yard, and Secondary Street Yard..
3. Accessory Structures shall use like materials and colors to those of the Principal Structure.

D. Conditional Uses. Please refer to Chapter 17.4.14.

E. B-1 Site Dimensional Standards.

Lot	Width Minimum	150 feet <sup>(1)(2)</sup>
	Area Minimum	Two acres <sup>(3)</sup>
Principal Structure	Area Maximum (Footprint)	No maximum
	Height Maximum	35 feet
Accessory Structure	Area Maximum	No maximum
	Height Maximum	15 feet <sup>(4)</sup>
Minimum Setbacks for Accessory Structure <sup>(4)</sup>	From Principal Structure	10 feet
	Side and Rear	25 feet
Minimum Setbacks for Principal Structure	Street	50 feet
	Side	25 feet
	Rear	25 feet
	Shore	75 feet
<p>(1) Measured at the setback.</p> <p>(2) The minimum lot width for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is an average of 65 feet for sewered lots and 100 feet for unsewered lots.</p> <p>(3) The minimum lot area for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is 10,000 square feet for sewered lots and 20,000 square feet for unsewered lots.</p> <p>(4) See Chapter 17.7 for modifications.</p>		

F. Impervious Surface Area. The maximum impervious surface area on a lot located outside of a designated shoreland zoning area shall be 50%.

G. Landscaping. Please refer to Chapter 17.11.11.

H. Erosion Control. Please refer to Chapter 17.11.10.

I. Parking, Driveway, and Paved Areas. Please refer to Chapter 17.6.

J. Site Plan Review and Architectural Control. Please refer to Chapter 17.10.



**17.4.08 B-2 COMMERCIAL/MIXED-USE DISTRICT**

- A. Purpose and Characteristics. The B-2 Commercial/Mixed-Use District is intended to provide for the orderly and attractive business development in appropriate locations which are compatible with residential development and does not exhibit intense active of other business Districts. The B-2 Commercial/Mixed-Use District is also intended to provide for business and customer service establishments which serve the general retail needs of the Town. Such business development should provide ample off-street parking and loading areas, safe vehicular access to the arterial highway system, landscaping and development character and intensity of use, which is compatible with the rural character of the Town.
- B. Permitted Principal Uses. Please refer to Chapter 17.4.14.
- C. Permitted Accessory Uses.
  - 1. Please refer to Chapter 17.4.14.
  - 2. Accessory Structures in the Rear Yard, Side Yard, and Secondary Street Yard. Accessory Structures shall use like materials and colors to those of the Principal Structure.
- D. Conditional Uses. Please refer to Chapter 17.4.14.
- E. B-2 Site Dimensional Standards.

Lot	Width Minimum	100 feet <sup>(1)(2)</sup>
	Area Minimum	One acre <sup>(3)</sup>
Principal Structure	Area Maximum (Footprint)	No maximum
	Height Maximum	35 feet
Accessory Structure	Area Maximum	No maximum
	Height Maximum	15 feet <sup>(4)</sup>
Minimum Setbacks for Accessory Structure <sup>(4)</sup>	From Principal Structure	10 feet
	Side and Rear	25 feet
Minimum Setbacks for Principal Structure	Street	50 feet
	Side	25 feet
	Rear	25 feet
	Shore	75 feet
<p>(1) Measured at the setback.</p> <p>(2) The minimum lot width for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is an average of 65 feet for sewered lots and 100 feet for unsewered lots.</p> <p>(3) The minimum lot area for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is 10,000 square feet for sewered lots and 20,000 square feet for unsewered lots.</p> <p>(4) See Chapter 17.7 for modifications.</p>		

- F. Impervious Surface Area. The maximum impervious surface area on a lot located outside a designated shoreland zoning area shall be 50%.
- G. Landscaping. Please refer to Chapter 17.11.11.
- H. Erosion Control. Please refer to Chapter 17.11.10.

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- I. Parking, Driveway, and Paved Areas. Please refer to Chapter 17.6.
- J. Site Plan Review and Architectural Control. Please refer to Chapter 17.10.

### 17.4.09 M-1 INDUSTRIAL DISTRICT

- A. Purpose and Characteristics. The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Town as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. Uses which are generally perceived as being of a nuisance nature or considered to be a hazard to human life should not be permitted as a matter of right, but permitted only as Conditional Uses after careful study and review. Listed Conditional Uses should not normally abut directly upon Residential Districts.
- B. Permitted Principal Uses. Please refer to Chapter 17.4.14.
  - 1. Processing of materials including: abrasives, acetylene, alkalis, bottling of alcoholic beverages, bottling and packaging of chemicals, building materials, cement products, cereals, charcoal packaging, food products, fuel, furs, grains, hair products, ice, lime products, meat (excluding slaughtering and confinement), oil cloth, and Plaster of Paris.
- C. Permitted Accessory Uses.
  - 1. Please refer to Chapter 17.4.14.
  - 2. Accessory Structures in the Rear Yard, Side Yard, and Secondary Street Yard.
  - 3. Accessory Structures shall use like materials and colors to those of the Principal Structure.
- D. Conditional Uses. Please refer to Chapter 17.4.14.
- E. M-1 Site Dimensional Standards.

Lot	Width Minimum	125 feet <sup>(1)(2)</sup>
	Area Minimum	One acre <sup>(3)</sup>
Principal Structure	Area Maximum	No maximum
	Height Maximum	45 feet
Accessory Structures	Area Maximum	No maximum
	Height Maximum	15 feet <sup>(4)</sup>
Minimum Setbacks for Accessory Structure <sup>(4)</sup>	From Principal Structure	10 feet
	Side and Rear	25 feet
Minimum Setbacks for Principal Structure	Street	50 feet
	Side	25 feet
	Rear	25 feet
	Shore	75 feet

- (1) Measured at the setback.
- (2) The minimum lot width for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is an average of 65 feet for sewered lots and 100 feet for unsewered lots.
- (3) The minimum lot area for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is 10,000 square feet for sewered lots and 20,000 square feet for unsewered lots.
- (4) See Chapter 17.7 for modifications.

- F. Impervious Surface Area. The maximum impervious surface area on a lot located outside a designated shoreland zoning area shall be 75%.
- G. Landscaping. Please refer to Chapter 17.11.11.
- H. Erosion Control. Please refer to Chapter 17.11.10.
- I. Parking, Driveway, and Paved Areas. Please refer to Chapter 17.6.
- J. Site Plan Review and Architectural Control. Please refer to Chapter 17.10.

**17.4.10 C-1 CONSERVANCY DISTRICT**

- A. Purpose and Characteristics. The C-1 Conservancy District is intended to preserve, protect, and enhance the lakes, ponds, streams, and wetland areas of the Town of West Bend. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control storm water runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation resources of the Town.

While the primary purpose of the District is the preservation of sensitive environmental features within the Town; it is also intended that landowner's be allowed to continue their legal single-family residential uses and maintain, remodel, or rebuild their legal structures and lots within limits of their existing footprint and not greater than their existing height.

Significant rebuilding may only be allowed if it can be shown that the uses, structures and lots existed on or before April 1, 1986 and it is further determined that the residential uses and structures do not harm or threaten the health, safety, or general welfare of the public and do not otherwise cause damage to, infringe upon, or diminish the quality of the surrounding environmentally sensitive areas, features, or other physical attributes that contribute to the natural environmental qualities of the area.

The intention is to allow the maintenance and rebuilding of existing structures provided that such changes do not change the structures or developed yard areas in a manner that occupies an area other than the area occupied on or before April 1, 1986. All such Principal and Accessory Uses are considered Conditional Uses in the C-1 District and all significant structural alterations, rebuilding or site work of these structures on requires the issuance of a Conditional Use Permit.

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- B. Permitted Principal Uses. Please refer to Chapter 17.4.14.
- C. Permitted Accessory Uses. Please refer to Chapter 17.4.14.
- D. Conditional Uses. Please refer to Chapter 17.4.14.
- E. Structures.
  - 1. None permitted, except those accessory to a public fish hatchery or those Principal or Accessory Structures that existed on or before April 1, 1986 and that do not harm or threaten the health, safety, or general welfare of the public and do not otherwise cause damage to the surrounding environmentally sensitive areas or do not exist on or further infringe on those areas not suitable for the use or structures or that meet the criteria of a Conditional Use Permit.
  - 2. No on-site soil absorption sanitary sewerage system or private well used to obtain water for ultimate human consumption shall be constructed in the C-1 Conservancy District except those that can safely exist in support of an existing use or structure.
- F. Limitations. In addition to the Town code, refer to federal, state, and county ordinances that regulate structures and land around wetlands and water bodies.
- G. Landscaping. Please refer to Chapter 17.11.11.
- H. Erosion Control. Please refer to Chapter 17.11.10.
- I. Parking, Driveway, and Paved Areas. Please refer to Chapter 17.6.
- J. Site Plan Review and Architectural Control. Please refer to Chapter 17.10.
- K. Tree Cutting and Shrubbery Clearing Prohibited.
  - 1. Lands lying within the C-1 Conservancy District shall not be clear-cut of trees, shrubbery, or underbrush.
  - 2. No more than five percent of the natural vegetation shall be removed from a parcel unless otherwise approved by the Plan Commission.
  - 3. Normal minor pruning, trimming, and shearing of vegetation; removal of dead, diseased, insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a professional forester shall be exempt from this restriction.

### **17.4.11 C-2 CONSERVANCY OVERLAY DISTRICT**

- A. Purpose and Characteristics.
  - 1. The C-2 Conservancy Overlay District is intended to preserve, protect and limit further development of those areas of the Town of West Bend that are designated “Environmental Conservancy (EC)” by the Cooperative Boundary Plan between the City of West Bend and the Town of West Bend (adopted 10/21/2001).
  - 2. Existing Permitted, Accessory, and Conditional Uses of the underlying Zoning Districts are allowed but no further division or more intensive development of land through Certified

Survey Map (CSM), Subdivision or Condominium shall be permitted within the C-2 Conservancy Overlay District. Furthermore, no rezoning to a more intense underlying Zoning District is allowed within the C-2 Conservancy Overlay District. When classified as C-2 Conservancy Overlay District the parcel or lot no longer retains any rights for more intensive development as described elsewhere in this Chapter. The only allowable exceptions to these site development restrictions are those particular development scenarios described for specific properties as detailed in the Cooperative Boundary Plan Section 4.9 (A) "Special Land Use Regulations Within BAA (*Boundary Adjustment Areas*)".

3. The preservation and protection of the open space and environmental features of these areas will serve to maintain the natural and rural character of the Town envisioned in the Boundary Plan and the Town's Comprehensive Plan, while preserving the land owner's right to continue their existing uses and maintain, expand, or rebuild their existing structures while also allowing them to build permitted new structures on their existing lot or parcel.

B. Permitted Uses.

1. Please refer to Chapter 17.4.14.
2. Any Principal, Accessory, and Conditional Use of the land, that is permitted in the basic underlying Zoning District, provided that such use does not destroy the environmental and aesthetic features protected by this District.

C. Conditional Uses.

1. Please refer to Chapter 17.4.14.
2. Those particular uses described for specific properties as detailed in the Cooperative Boundary Plan Section 4.9 (A) "Special Land Use Regulations Within BAA Areas". Any such development is to follow standards outlined in the underlying Zoning Districts and the Cooperative Boundary Plan Section 4.9 (A) "Special Land Use Regulations Within BAA Areas".

D. Structures. Any Permitted Structures of the underlying Zoning District.

E. C-2 Site Dimensional Standards. All dimensional standards of underlying Zoning District apply.

F. Other Review and Performance Standards. All other review and performance standards of the underlying Zoning District and this Chapter apply.

G. Tree Cutting and Shrubbery Clearing Prohibited. Lands lying within the C-2 Conservancy Overlay District shall not be clear-cut of trees, shrubbery, or underbrush. No more than 10% of the natural vegetation shall be removed from a parcel unless otherwise approved by the Plan Commission. Normal minor pruning, trimming, and shearing of vegetation; removal of dead, diseased, insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a professional forester shall be exempt from this restriction.

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**17.4.12 P-1 PUBLIC AND PRIVATE PARK DISTRICT**

- A. Purpose and Characteristics. The P-1 Public and Private Park District is intended to provide areas where the park, recreational, and open space needs, both public and private, of the Town of West Bend can be met without undue disturbance or degradation of the natural resources and uses of adjoining Districts. In addition, the District is intended to preserve and protect lands held by public interest groups, not-for-profit organizations, institutions or recreational organizations. Land uses within the District should promote planning and design which preserves and protects the environmental, cultural, historic and recreational resources and which recognizes that the natural environment is an integral system to the basic activity of the land use. The District allows for low-intensity improvements that support the purpose of the organizations or land use and also preserves or enhances the rural, recreational and environmental character of the Town of West Bend.
- B. Permitted Uses.
  - 1. Please refer to Chapter 17.4.14.
  - 2. Park Structures and Park-Related Facilities include: arboretums; bath houses/showers and locker rooms; caretaker residences; challenge courses; clubhouses; equipment storage structures including barns; gazebos, pavilions, and shelters; maintenance buildings; on-site soil absorption sanitary sewerage systems, vault latrines, shower houses, grease traps; outdoor ice skating; picnic areas; playgrounds; recreation trails and associated accoutrements; restroom facilities; sledding; sports fields; swimming beaches; and public swimming pools (indoor and outdoor).
  - 3. All of the Permitted Uses described in the C-1 Conservancy District.
- C. Permitted Accessory Uses. Please refer to Chapter 17.4.14.
- D. Conditional Uses. Please refer to Chapter 17.4.14.
- E. Limitations. In addition to the Town code, refer to federal, state, and county ordinances that regulate the land and structures in and around water bodies.
- F. P-1 Site Dimensional Standards.

Lot	Width Minimum	No minimum <sup>(1)(2)</sup>
	Area Minimum	No minimum <sup>(3)</sup>
Principal Structure	Area Minimum	No minimum
	Height Maximum	35 feet
Accessory Structure	Area Maximum (combined total for all Accessory Structures)	No maximum
	Height Maximum	35 feet
Minimum Setbacks for Accessory Structure	From Principal Structure	10 feet
	Street	25 feet
	Side and Rear	10 feet
	Shore	75 feet

Minimum Setbacks for Principal Structure	Street	25 feet
	Side	10 feet
	Rear	25 feet
	Shore	75 feet
<p>(1) Measured at the setback.</p> <p>(2) The minimum lot width for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is an average of 65 feet for sewered lots and 100 feet for unsewered lots.</p> <p>(3) The minimum lot area for parcels located within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is 10,000 square feet for sewered lots and 20,000 square feet for unsewered lots.</p>		

G. Impervious Surface Area. The maximum impervious surface area on a lot located outside a designated shoreland zoning area shall be 20%.

H. Landscaping. See Chapter 17.11.11.

I. Erosion Control. See Chapter 17.11.10.

J. Parking, Driveway, and Paved Areas. See Chapter 17.6.

K. Site Plan Review and Architectural Control. See Chapter 17.10.

**17.4.13 SUPPLEMENTAL LAND USE OVERLAY DISTRICTS**

A. General. An overlay district is a regulatory tool that creates a separate zoning district, placed over an existing base zone or zones, which identifies specific provisions in addition to those of the underlying zoning district. The overlay district can share common boundaries with the base zone or cut across base zone boundaries. Regulations or incentives are attached to the overlay district to guide development.

B. Purpose. The purpose of the Supplemental Land Use Overlay Districts is to provide for an additional level of review for permitted uses that have a greater potential for creating undesirable off-site impacts than other permitted uses within the underlying zoning district. The additional level of review shall be accomplished via the imposition of performance standards as described in Chapter 17.4.12.F below. The intent of these performance standards shall be to mitigate against adverse, off-site impacts and to protect the health, safety, quality of life, and property values of adjoining property owners.

C. Overlay Districts Designated. The following overlay districts are hereby designated in the Town of West Bend:

1. SMCO – Supplemental Mixed Commercial Overlay District.
2. SMO – Supplemental Manufacturing Overlay District.
3. SPRO – Supplemental Park & Recreation Overlay District.
4. SRO – Supplemental Residential Overlay District.

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- D. Permitted Uses. Please refer to Chapter 17.4.14.
- E. Site Plan Review. In addition to the requirements of Chapter 10.02 and Chapter 10.03, site plans prepared under Chapter 4.09 shall describe the manner in which each of the relevant performance standards described in Chapter 17.4.12.F below shall be effectuated.
- F. Performance Standards. The standards described herein are established to ensure that the proposed use is compatible with the character of uses on adjoining and abutting parcels within the underlying zoning district. These performance standards are intended to compliment existing standards for the underlying district. Should standards conflict, the more stringent shall apply. These performance standards shall be enforced for all overlay district uses as applicable.
1. Screening.
    - a. Screening shall be required for all uses permitted under a supplemental land use overlay district.
    - b. The purpose of screening shall be to ensure sufficient visual diminishment of the proposed use as viewed from adjoining parcels.
    - c. The type and extent of required screening shall be appropriate for the specific use as determined by the Plan Commission in consultation with the Owner. Such screening may include, but is not necessarily limited to: fences, hedges, berms, and walls compliant with Chapter 17.11.16.
    - d. Screening shall be required for side yards and rear yards only.
  2. Lighting Standards.
    - a. No exterior lighting used for parking lots, recreational facilities, product display, or security shall interfere with the operation of motor vehicles and uses of land in the vicinity of the light source. These requirements shall not apply to lighting placed in a public right-of-way for public safety.
    - b. Shielded luminaries, or luminaries with cutoff optics, and careful fixture placement may be required so as to insure compliance with this Section.
    - c. All areas designated on approved site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 footcandles, exclusive of approved anti-vandal lighting. This standard shall not apply to properties in the R-1N, R-1R, and R-1S districts.
    - d. The intensity of illumination, measured at the property line, shall not exceed 0.5 footcandles.
    - e. Light fixtures shall not be permitted within required rear yard and side yard setbacks.
    - f. Lighting which creates or becomes a public nuisance is not permitted.
    - g. Access lighting and low voltage lighting of 12 volts or less are exempt from these requirements.
    - h. All lighting fixtures approved prior to the adoption of this Chapter shall be treated as and regulated as legal nonconforming uses.
  3. Noise. Noise standards shall be consistent with Chapter 11.06 and shall be established based upon the land use of adjoining parcels.
  4. Vibration. Vibration standards shall be consistent with Chapter 11.09 and shall be established based upon the land use of adjoining parcels.



5. Glare. Uses that produce a glare, such as welding, shall be housed within a structure to prevent it from becoming a nuisance to neighboring properties. Glare in excess of .25-foot candles at the boundary line is prohibited.
6. Heat. Any source of heat that creates a perceptible impact beyond the lot line shall be prohibited.
7. Parking. The Plan Commission may require that traffic entering or exiting off-street parking, loading, and traffic circulation areas for any use providing six or more parking spaces, be in a forward-moving motion with no backing into streets or pedestrian ways. Such a requirement shall be based upon traffic volumes of the street onto which traffic enters or exits.

**G. Procedural Requirements.**

1. Pre-Application Conference. Prior to any application for site plan review the applicant shall confer with the Zoning Administrator to identify required site plan elements. The applicant shall submit preliminary plans, sketches and basic site information for consideration and comment, regarding the relation of the proposed use to uses on adjoining parcels.
2. Application. Following the Pre-Application Conference and approval of the preliminary site plan by the Zoning Administrator, the Applicant may proceed with preparing and submitting an Application for Site Plan Review consistent with the requirements of Chapter 17.10.
3. Public Hearing. A public hearing consistent with the requirements of Section 14.00 of this Chapter is required for site plans prepared under this section.

**17.4.14 PERMITTED USES, PERMITTED ACCESSORY USES, AND CONDITIONAL USES BY DISTRICT**

Permitted Uses, Permitted Accessory Uses, and Conditional Uses for each district are presented in the table beginning on the following page.

Permitted Uses, Permitted Accessory Uses, and Conditional Uses by District	Zoning Districts													
	R-1N	R-1R	R-1S	R-1S/MU	SRO	B-1	B-2	SMCO	M-1	SMO	C-1	C-2	P-1	SPRO
Accessory Structures larger than 2,000 square feet on parcels greater than 10 acres in size.	C	C	C	C										
Accessory Structures located in the Primary Street Yard.	C	C	C	C										
Agricultural uses provided that such uses do not involve filling or the creation of new artificial drainage systems or the extension or expansion of existing artificial drainage systems.											P		P	
Amateur radio towers and facilities and receive-only antennas.	P	P	P	P	P									
Animal Hospitals and Veterinary Clinics.								P				*		
Backyard chickens.	P	P	P											
Bars, Brew Pubs, Pubs, and Taverns.				P				P				*		
Business and Professional Services.						P	P					*		

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Permitted Uses, Permitted Accessory Uses, and Conditional Uses by District	Zoning Districts													
	R-1N	R-1R	R-1S	R-1S/MU	SRO	B-1	B-2	SMCO	M-1	SMO	C-1	C-2	P-1	SPRO
Child Care, fewer than four children.	P	P	P	P										
Child Care, four or more children.					P			P						
Clubs, Fraternities, Lodges, and Meeting Places.					P									
Collection and Adjustment Services.							P					*		
Commercial Establishments Dealing in Pornographic Materials and Activities.									C			*		
Commercial Recreation Facilities, Indoor.								P						
Commercial Recreation Facilities, Outdoor.						C	C						C	
Community Centers.	P	P	P	P		P	P							
Concession Stands; Food Services; Conference, Banquet or Meeting Facilities.														P
Greenhouses: Commercial.									P			*		
Greenhouses: Non-Commercial.	P	P	P	P	P							*		
Convenience Stores.						P	P					*		
Dining: Drive-through.								A				*		
Dining: General.						P	P					*		
Distributors.									P			*		
Dog Enclosures, Runs, or Housing.	A	A	C											
Dumps, Disposal Areas, Incinerators, Landfills, Recycling Centers, Sewage Disposal Plants, and Transfer Stations.										P				
Essential Services.	P	P	P	P										
Fairgrounds.														P
Farms, Agricultural Uses, and Agricultural Structures, as per Chapters 17.4.03.B.1, 17.4.05.C.1, and 17.4.06.B.1.	P	P	P	P										
Financial Services.						P	P					*		
Fishing and Fishing Facilities.											P		P	
Forest and Game Management.												P		
Garage Lots.			C											
Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.						A	A		A		C			
Gasoline Service Stations.								P				*		
Government facilities.														P
Growing and sale of Christmas trees.		P												
Healthcare.						P	P					*		
Health, Fitness, and Wellness.						P	P					*		
Home Occupations and Professional Home Offices.	A	A	A	A										
Hunting and hunting facilities.														P
Incubator: Commercial						C	C							
Incubator: Manufacturing									C					
Institutional: Cemeteries.	C	C	C	C		C	C		C			*	C	
Institutional: Government Buildings.												*		

Permitted Uses, Permitted Accessory Uses, and Conditional Uses by District	Zoning Districts													
	R-1N	R-1R	R-1S	R-1S/MU	SRO	B-1	B-2	SMCO	M-1	SMO	C-1	C-2	P-1	SPRO
Institutional: Libraries, Museums.				P	P	P	P					*		P
Institutional: Places of Worship.	P	P	P	P		P	P					*		
Institutional: Public, Parochial, and Private Schools.	C	C	C	C		C	C					*	C	
Keeping of Bees.	P	P	P											
Laboratories.									P			*		
Laundry and Dry Cleaning.							P					*		
Lodging.						P								
Manufacturing: Appliances, Computers, Electrical Equipment, Electronics.									P			*		
Manufacturing: Cosmetics, Pharmaceuticals.							P		P			*		
Manufacturing: Food, Beverage, Tobacco.									P			*		
Manufacturing: Glass, Instrument, Jewelry.									P			*		
Manufacturing: Primary Metal, Fabricated Metal, Machinery.									P			*		
Marinas.							P							
Mineral extraction operations.										P				
Mobile Tower.	C	C	C	C		C	C		C		C	C	C	
Mobile Tower, Class 1 Colocation.	C	C	C	C		C	C		C		C	C	C	
Mobile Tower, Class 2 Colocation.	P	P	P	P		P	P		P		P	P	P	
More than one Principal Structure on a parcel existing at the time of adoption of this Ordinance.	C	C	C	C										
Motorized trails (e.g. snowmobile and ATV).														C
Nature Preserves and Wildlife Preserves.											P			P
Off-Street Parking and Loading Areas.						A	A		A		A			A
Office, Storage, Power Supply, and other uses normally auxiliary to the principal industrial operations.									A					
Outside storage, as an Accessory Use									C					
Painting, Printing and Publishing.									P			*		
Parks and Recreation Areas, including playgrounds.	P	P	P	P								*		
Park Structures and Facilities, as per Chapter 17.4.11.B.2.												*		P
Performing Arts Venue and Performing Arts Studio.							P					*		C
Permitted Uses that exceed site regulations by more than 10%.								C						
Personal Energy System: Earth Sheltered Structures.	C	C	C	C								*		
Personal Energy System: Electric vehicle infrastructure, levels 1, 2.	P	P	P	P		P	P		P		C	*		C
Personal Energy System: Electric vehicle infrastructure, level 3.						P	P		P			*		
Personal Energy System: Geothermal Energy Systems.	C	C	C	C		C	C		C		C	*		C
Personal Energy System: Solar Energy Systems.	C	C	C	C		C	C		C		C	*		C
Personal Energy System: Small Wind Energy Systems.	C	C	C	C		C	C		C		C			C
Pet stores.								P						
Police stations, Fire Stations, and Public Emergency Shelters.	C	C	C	C		C	C		C					C
Preservation of scenic, historic, and scientific areas.											P	P	P	
Processing of Materials, as per Chapter 17.4.08.B.1.										P		*		

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Permitted Uses, Permitted Accessory Uses, and Conditional Uses by District	Zoning Districts													
	R-1N	R-1R	R-1S	R-1S/MU	SRO	B-1	B-2	SMCO	M-1	SMO	C-1	C-2	P-1	SPRO
Production: Textiles, Leather (excluding tanning), Apparel.									P			*		
Public and Private Recreational and Educational Camps.														C
Public fish hatcheries, and those uses that are accessory to a public fish hatchery.											P	*	P	
Rental: Cottages														
Rental: Equipment.								P				*		
Rental: Non-Motorized Boats.												*		P
Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker as a secondary use.						A	A							
Rest Homes, nursing homes, and housing for the elderly.					P									
Retail Sales: Alcohol, Tobacco.						P						*		
Retail Sales and Services: General (excluding alcohol, tobacco).						P	P					*		
Shoreland Uses, as per Chapter 17.4.06.B.2.				P										
Short-term rentals, compliant with Town of West Bend Ordinance #: 2019-01.	P	P	P	P										
Single-Family Dwelling.	P	P	P	P										
Ski Hills.														C
Stables and Equestrian Facilities.												*		P
Storage: Building Materials, Ice, Grains.										P		*		
Storage: Machinery, Equipment.									P			*		
Storage: Personal Storage Units.								P				*		
Storage: Warehousing (excluding personal storage units).									P			*		
Storage: Warehousing (excluding personal storage units), as an accessory to a Principal Use.						C	C							
Sustained Yield Forestry.														P
Theatres and Cinemas.						P								
Topsoil removal and sale.	C	C	C	C		C	C		C					C
Towers, excluding mobile towers, amateur radio towers, and wind energy systems.						C	C		C					
Utilities, including: Communication equipment buildings, substations, wells, and pumping stations.	C	C	C	C		C	C		C					C
Vehicle Assembly, Manufacturing, and Repair.									P			*		
Vehicle Sales and Service (excluding heavy machinery, construction equipment, and similar).						P	P					*		
Water Control, Water Measurement, and Water Retention Facilities.										P				P
Wholesale and Supply, including Machinery and Equipment.									P			*		
Year-round and seasonal lodging facilities (i.e. dorms, cabins, lodges, improved camp sites, dining facilities, health center, on-site staff housing etc.)														C
Year-round and seasonal program facilities (i.e. arts & crafts center, nature center, administrative center, etc.).														C
Other uses deemed by the Plan Commission to be substantially the same as a use listed above.														

\* Any Permitted Use, Permitted Accessory Use, or Conditional Use permissible in the underlying base zoning district shall allowable as a Permitted Use, Permitted Accessory Use, or Conditional Use, respectively, in the C-2 District provided that such use does not degrade the features protected by the C-2 District.

Use Codes:

A – Permitted Accessory Use

C – Conditional Use

P – Permitted Use

SMCO – Supplemental Mixed Commercial Overlay District Use

SMO – Supplemental Manufacturing Overlay District Use

SPRO – Supplemental Park & Recreation Overlay District Use

SRO – Supplemental Residential Overlay District Use

**CHAPTER 17.5      CONDITIONAL USES**

**17.5.01    PURPOSE AND INTENT**

- A. Uses listed as permitted by Conditional Use Permit may be authorized in the District in which permitted, upon application to the Plan Commission and subject to the Commission’s authorization of a Conditional Use Permit. When an existing use or structure is classified as a Conditional Use at the date of adoption of this Chapter, it shall be considered a legal use without further action of the Plan Commission. Changes to or substitution of Conditional Uses shall be subject to review and approval by the Plan Commission in accordance with this Section.
  
- B. The Plan Commission shall consider the effect of granting a Conditional Use Permit upon the health, safety, and general welfare of the Town and of the immediate area in which such use would be located, including such considerations as the effect on the established character and quality of the area; its physical attractiveness; the movement of traffic; the demand for related services; the possible hazardous, harmful, noxious, offensive or nuisance effects resulting from noise, dust, smoke or odor and other factors; and the Town Comprehensive Plan or components thereof.

**17.5.02    PERMITS**

A Conditional Use Permit shall be required for the uses listed as Conditional Uses in this Chapter. The Plan Commission shall review such application for a Conditional Use Permit, hold a public hearing thereon in accordance with the requirements of Chapter 17.14 of this Chapter, and report its findings and recommendations to the Town Board. The Town Board may thereafter authorize the Zoning Administrator to issue the Conditional Use Permit, provided that such uses are in accordance with the purpose and intent of this Chapter, and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community.

**17.5.03    APPLICATION**

Applications for Conditional Use Permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Town of West Bend and shall include the following:

- A. Names and Addresses. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
  
- B. Description of Site.
  - 1. 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 is located.
  - 2. For floodland Conditional Uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill

or storage elevations; first floor elevations of structures; size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.

- C. Plat of Survey. A Plat of Survey prepared by a registered land surveyor showing all of the information required under Chapter 236 Wis. Stats., the mean and historic high water lines and floodlands on or within 40 feet of the subject premises and existing structures, paving, and landscaping.
- D. Additional Information. As may be required by the Plan Commission, Zoning Secretary, or Zoning Administrator.

#### **17.5.04 REVIEW AND APPROVAL**

The Plan Commission and Town Board shall review the site plans, landscape plans, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.

##### A. Conditions.

1. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.
2. The Plan Commission and/or Town Board, at its discretion, may adjust or require additional conditions to those listed in this Section as needed to protect and enhance the health, safety, and welfare of the Town's residents and protect and enhance its natural and cultural features.

B. Compliance. Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all Conditional Uses, except as allowed for "Existing Lots" in the R-1S and R-1S / MU Districts and as set forth in Chapter 17.5.06. Variances shall only be granted as provided in Chapter 17.12.

C. Amendments. Changes subsequent to the initial issuance of a Conditional Use Permit which would result in a need to change the initial conditions shall require an amendment to the Conditional Use Permit. Enlargement of a Conditional Use shall not be considered an amendment. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Chapter 17.5.02.

D. Revocation of Conditional Use Permit. Should a permit applicant, his heirs or assigns, fail to comply with the conditions of the permit issued by the Town Board or should the use, or characteristics of the use be changed without prior approval by the Town Board, the Conditional Use Permit may be revoked. The process for revoking a permit shall generally follow the procedures for granting a permit as set forth in Chapter 17.5.02.

**17.5.05 RESERVED**

**17.5.06 RESIDENTIAL USES**

The following residential and quasi-residential uses shall be Conditional Uses and may be permissible as specified:

- A. In any Residential District. More than one Principal Structure, used as single-family dwellings, on a single lot if all Principal Structures conform to the following conditions:
  - 1. The lot must have been a lot of record with the Washington County Register of Deeds on April 1, 1986. *This may include lots that were subsequently altered from the combination of or addition to those lots of record (existing on April 1, 1986) by Certified Survey Map, metes and bounds description, or other approved method.*
  - 2. The Principal Structures must have been present on that one single lot on April 1, 1986 (as can best be determined by available information and records). The condition of more than one Principal Structure on a lot cannot be created through the combination of lots that contained only one Principal Structure on each lot as of April 1, 1986.
  - 3. All Principal Structures must have been used (as can best be determined by available information and records) as single-family dwelling units during the previous year.
  - 4. All Principal Structures must be hooked up to an approved septic system or served by an approved municipal sewerage collection system.
  - 5. The use, lot, and all Principal Structures must address all applicable District standards and other applicable standards of this Chapter and other town, county, state, and federal ordinances, regulations, laws, or statutes.
  - 6. The presence of the multiple Principal Structures must not pose a threat to the public's health, safety or welfare.
  - 7. For the period of time when there are multiple Principal Structures present on the single lot, one Principal Structure shall be designated and documented as the "Primary Principal Structure" and the other Principal Structure(s) shall be designated and documented as the "Secondary Principal Structure(s)". During this period, with appropriate approvals, both Primary and Secondary Principal Structures may undergo routine maintenance. However, only the Primary Principal Structure may be enlarged, moved or otherwise structurally altered. The Secondary Principal Structure(s) may not be moved to another location on the lot or undergo enlargement or structural alteration. In addition, any enlargement, moving or structural alteration of the Primary Principal Structure will require appropriate review and approval of building, site and landscape plans and may require a new or amended Conditional Use permit.
  - 8. Any additional conditions that the Plan Commission or Town Board deems necessary to protect the health, safety, or welfare of the Town and its residents.
  
- B. In any Residential District. Accessory Structures in the Street Yard or Primary Street Yard consistent with the requirements of Chapter 17.7.02.K.2.
  
- C. In the R-1N Residential District. New single-family residential lots in a conventional development (preferably with 10 or fewer lots) provided the overall density does not exceed one unit per 2.5 acres (based on the total site area). The development shall conform to all applicable site, building, parking, and landscape standards within this Chapter as well as any additional requirements or conditions deemed appropriate by the Town.



1. Design Process and Standards for New R-1N Conventional Developments. Please refer to Chapter 17.4.03.E.
2. Calculation of Allowable Number of Units in R-1N Conventional Developments. To determine the allowable number of units, the following steps shall be taken:
  - (1) Determine the total acreage of the site.
  - (2) Determine the total acreage of Environmental Conservancy District (See Chapter 17.15 for definition) area on the site.
  - (3) Subtract the Environmental Conservancy District area from the total acreage of the site. Divide this number by 2.5 (acres) to determine the number of allowable units.
  - (4) Use the following formula for calculating the allowable number units:

$\text{Allowable \# of Units} = \frac{\text{Total Site Area} - \text{Environmental Conservancy District Area}}{2.5}$
--

d. Example:

Total site area = 100 acres
Total acreage of Environmental Conservancy District area = 45 acres
Total allowable number of units = $(100 - 45) / 2.5 = 22$ units

e. The following table gives the range of the allowable number of units for a 100-acre parcel:

Total Site Area (acres)	100									
Environmental Conservancy District Area Acres	90	80	70	60	50	40	30	20	10	0
Maximum Allowable Number of Units	4	8	12	16	20	24	28	32	36	40
Note: The total number of buildable units that are feasible on any parcel will vary depending on several factors including but not limited to the following; the location and size of wetlands, streams or lakes, soil type, site topography, average lot size, total road area, and general creativity of the designer. When calculations yield numbers with decimals, the allowable number of units shall be rounded down to the nearest whole number.										

3. R-1N New Conventional Development Site Dimensional Standards. Please refer to Chapter 17.4.03.G.

D. In the R-1R Residential District. New single-family residential lots in a conventional development provided the overall density does not exceed one unit per 3.5 acres (based on the total site area). The development shall conform to all applicable site, building, parking, and landscape standards within this Chapter as well as any additional requirements or conditions deemed appropriate by the Town.

1. Design Process and Standards for New R-1R Conventional Developments. The following is the site design, review and approval process for conventional developments. The site developer should follow the process listed below as well as any additional requirements or conditions deemed appropriate by the Town Zoning Administrator or Plan Commission:
  - a. Create an Environmental and Cultural Resources Diagram for the site and surrounding area that identifies valuable existing environmental and cultural features that could be preserved. The analysis must include all county, state, and federally

protected areas such as wetlands, lakes and streams. In addition the analysis should emphasize any new environmental features or amenities that may be created on site.

- (1) Existing natural environmental and cultural features to be identified and mapped, as applicable:
  - (a) Please refer to Chapter 17.4.03.E.1.
- (2) Other possible environmental features or amenities not identified above that could be created or preserved (see Chapter 17.15 “Common Open Space” Definition for descriptions):
  - (a) Please refer to Chapter 17.4.03.E.2.
- b. Review the Environmental and Cultural Resources Diagram and visit the site with Town representatives to evaluate important site features. The Town may require that a qualified ecologist, engineer, or land planner be included as part of the review. Establish an agreement between all parties as to what is valuable and should be preserved or enhanced in the conventional development plan.
- c. Create a Preservation and Amenity Diagram with the agreed upon items on the site to be preserved and/or created for Plan Commission review and acceptance.
- d. Present the Preservation and Amenity Diagram to the Plan Commission for review and finalization of site features to preserve and/or create as part of conventional development plan.
- e. Create 3 conceptual Sketch Diagrams using the accepted Preservation and Amenity Diagram in consultation with Zoning Administrator and other plan reviewers. All 3 Sketch Diagrams should retain the agreed upon environmental features and amenities to the largest extent possible and be acceptable development scenarios that the developer would be willing to pursue if approved. The following development design criteria should be used when creating the conservation development concepts:
  - (1) Protect and create important environmental and cultural resources and site amenities. Protect all existing town, county, state, and federally regulated environmental and cultural resources and all other existing environmental and culturally resources and new features identified on accepted Preservation and Amenity Diagram. Conservation easements may be required to ensure preservation of the significant environmental and cultural features on the private lots.
  - (2) Locate houses to minimize disruption to the natural character. Locate houses such that:
    - (a) The houses are sited to preserve the significant natural environmental areas, wetlands, woodlands habitats, steep slopes, etc.
    - (b) The houses will be visually overshadowed by important natural features such as woodlands, hedgerows, hills, or other key features of the landscape.
  - (3) Locate houses so as to minimize the length of time the house is visible to drivers on public roads — do this by placing houses behind landscape elements or natural features that reduce visibility of the house. Minimize the degree to which houses are prominently featured on ridges and hilltops, especially when they are visible to other houses and the public roads.
  - (4) Connect the landscaping. Extend and connect the existing natural areas and environmental corridors with new plantings and landscaping that match the existing plantings and landscape. Create continuous landscape edges along public roads and between houses using mixtures of species that create a varied image as the seasons change.

- (5) Link trail systems. Link natural features on private parcels with a trail system which continues throughout the Town. Create features of cul-de-sacs. Minimize the use of cul-de-sacs except where necessary to preserve a natural feature. Include planting in the cul-de-sac and create formal shapes to provide a front “green” for the surrounding homes.
  - (6) Road design. Design roads (and adjacent landscapes) so as to minimize (a) the number of houses that are seen from roads and (b) the length of time houses are seen from the road. Where feasible, design roads with straight alignments that are aimed at natural vistas with no buildings in them. Use curves to slow traffic naturally, rather than to accommodate increased speed.
  - (7) Preserve scenic drives. Preserve existing scenic drives in order to protect the natural character of the neighborhood.
  - (8) Create walking and hiking trails. Create walking and hiking trails that are adjacent to public roads and act as buffers to residential uses. Integrate walking and hiking trails with the geometry and pattern of roads. Provide easements on private lots to provide trail access.
- f. Provide the three conceptual Sketch Diagrams to the Plan Commission for review and possible conceptual approval.
- (1) The Plan Commission may evaluate these alternatives according to the following criteria:
  - (2) The degree to which the Preservation and Amenity Diagram has been integrated into the overall site design.
  - (3) The degree to which the development design criteria have been integrated into the overall site design.
  - (4) The degree to which the site design conforms to the dimensional and allowable number of units as described in this Section.
  - (5) The degree to which the overall design and environmental preservation can be implemented based on the Town of West Bend Land Division Ordinance and other relevant town, county, state, and federal regulations.
  - (6) Whether the site design creates a visually appealing development that supports the overall goals of Town of West Bend as expressed in the Comprehensive Plan.
- g. The Plan Commission shall review the three conceptual Sketch Diagrams and take one of the following actions:
- (1) Approve one of the three conceptual Sketch Diagrams as presented;
  - (2) Approve one of the three conceptual Sketch Diagrams with conditions. The applicant shall make appropriate revisions and present a revised diagram to the Plan Commission;
  - (3) Deny approval of all three conceptual Sketch Diagrams. The applicant may develop additional concepts for Plan Commission review.
- h. Prepare Preliminary and Final Plats for Town approval. Work with Zoning Administrator and reviewers to translate approved development design into final plans.
2. Calculation of Allowable Number of Units in R-1R Conventional Developments. To determine the allowable number of units, the following steps shall be taken:
- a. Determine the total acreage of the site.
  - b. Determine the total acreage of Environmental Conservancy District (See Chapter 17.15 for definition) area on the site.

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- c. Subtract the Environmental Conservancy District area from the total acreage of the site. Divide this number by 3.5 (acres) to determine the number of allowable units.
- d. Use the following formula for calculating the allowable number units:

$\text{Allowable \# of Units} = \text{Total Site Area} - \text{Environmental Conservancy District Area} \div 3.5$
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- e. Example:

Total site area = 100 acres
Total acreage of Environmental Conservancy District area = 45 acres
Total allowable number of units = (100 - 45) / .5 = 16 units

- f. The following table gives the range of the allowable number of units for a 100-acre parcel:

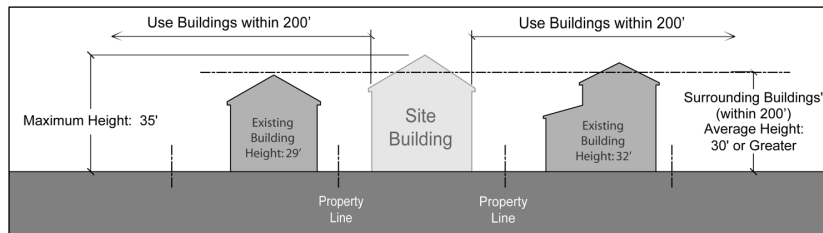
Total Site Area (acres)	100										
Environmental Conservancy District Area Acres	90	80	70	60	50	40	30	20	10	0	
Maximum Allowable Number of Units	3	6	9	11	14	17	20	23	26	29	
Note: The total number of buildable units that are feasible on any parcel will vary depending on several factors including but not limited to the following: the location and size of wetlands, streams or lakes, soil type, site topography, average lot size, total road area, and general creativity of the designer. When calculations yield numbers with decimals, the allowable number of units shall be rounded down to the nearest whole number.											

- 3. R-1R New Conventional Development Site Dimensional Standards. Please refer to Chapter 17.4.04.H.

**E. In the R-1S Shoreland Residential District**

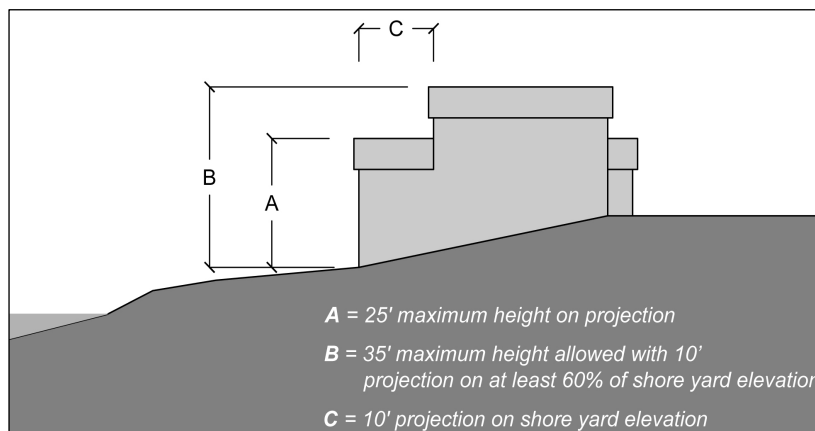
- 1. For new or existing Principal or Accessory Structures that do not meet permitted dimensional standards, located on Existing Lots, and which are undergoing structural alteration, improvement or modification that require a Site Plan Permit or result in 500 square feet of site disturbance.
  - a. New or altered existing Principal Structures that do not meet the minimum living area of 1,200 sq. ft. must not have an area less than the existing building square footage.
  - b. New or altered existing Principal Structures that do not meet the minimum first floor area of 600 sq. ft. must not have an area less than the existing building footprint square footage.
  - c. New or altered existing Principal Structures on Lakeshore lots that are 50 feet or less in width, that exceed 25 feet in height, may be allowed up to 35 feet if one or more of the following conditions are met:
    - (1) The existing Principal Structure is over 25 feet in height.
    - (2) The existing surrounding buildings within 200 feet (on adjacent lots) average 30 feet or greater in height.

(a) R-1S CUP - Average Height Diagram:



- (3) The new or altered existing Principal Structure is designed with a 10-foot building projection in which the width of the projection extends across at least 60% of the Shore Yard building façade. This projected area should be designed with a maximum height of 25 feet to minimize the perceived height of the building as seen from the lake.

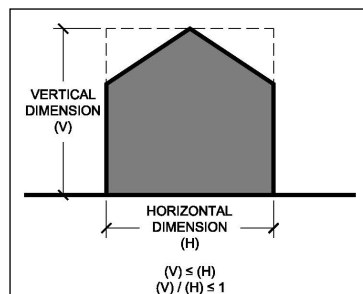
(a) R-1S CUP - Elevation Projection Diagram:



- d. Additional general design considerations when reviewing building design for a Conditional Use Permit:

- (1) When possible, new or altered existing Principal Structures should be designed to create layered and visually interesting building facades that harmonize with the surrounding lake front buildings, through the use of building step-backs, varied roof forms, porches, etc.
- (2) Also, when possible, building facades should be designed to avoid the appearance of overly "tall and skinny" building proportions as viewed from the lake. In general, buildings should be designed to not exceed an approximately one-to-one vertical to horizontal proportion.

(a) R-1S CUP - Building Proportions Diagram:



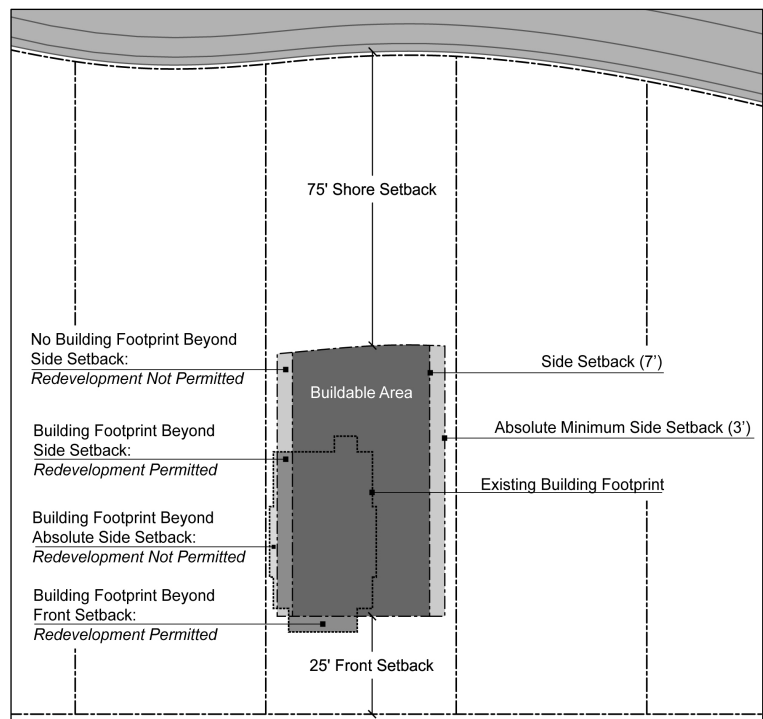
- (3) Special attention should be given to buildings that have large areas of exposed basements visible from the adjacent lakes and other areas. Often the “perceived” overall height of the façade is eight to ten feet taller than the official building height as measured from the mean elevation. In these cases, buildings, sites and landscape should be designed to reduce the visual impact of the exposed basement.

*Note: The above design considerations should be applied with respect to the unique and unpredictable nature of possible building configurations and lot arrangements around the lakes.*

- e. New or existing Principal or Accessory Structures that do not meet permitted Street, Rear, or Side Yard setbacks must not encroach beyond the existing Street, Rear, or Side Yard footprints. In no case shall the side setback be less than three feet (absolute minimum side setback).

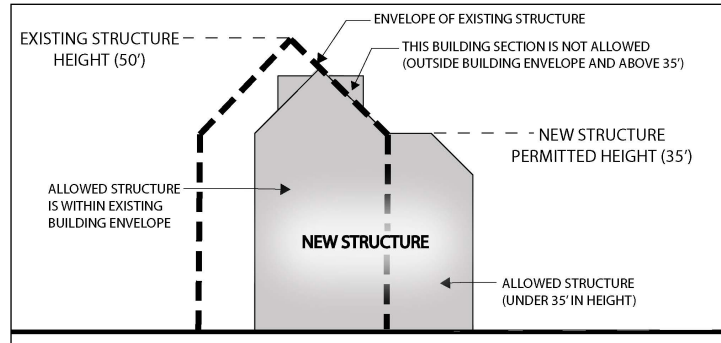
F. R-1S CUP - Yard Setback Diagram: In the R-1S / MU Shoreland Residential / Mixed-Use District.

- 1. For new or existing Principal or Accessory Structures that do not meet permitted dimensional standards, located on Existing Lots, and which are undergoing structural alteration, improvement or modification that requires a Site Plan Permit or results in 500 square feet of site disturbance.



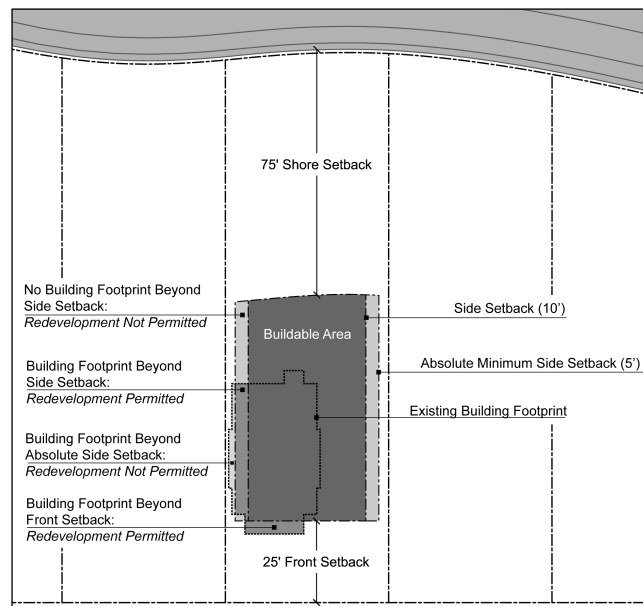
- a. New or existing Principal Structures that do not meet the minimum living area of 1,200 sq. ft. must not have an area less than the existing building square footage.
- b. New or existing Principal Structures that do not meet the minimum first floor area of 600 sq. ft. must not have an area less than the existing building footprint square footage.
- c. Existing Principal or Accessory Structures that exceed 35 feet in height may be permitted to be rebuilt to the existing height if the new roof structure is built within the building envelope of the existing roof structure (See R-1S / MU CUP – Building Height Diagram).

(1) R-1S / MU CUP – Building Height Diagram



- d. New or existing Principal or Accessory Structures that do not meet permitted Street, Rear, or Side Yard setbacks must not encroach beyond the existing Street, Rear, or Side Yard footprints. In no case shall the side setback be less than five feet (absolute minimum side setback).

(1) R-1S / MU CUP - Yard Setback Diagram).



2. For new or existing Principal or Accessory Structures on Existing Lots that do not meet the impervious surface area requirements.
  - a. Structures on lots that have greater than the permitted maximum percentage of impervious surface area shall have an approved landscape plan, and should demonstrate that all stormwater can be managed on-site. Lots should be designed to minimize stormwater surface runoff from the lot through the use of pervious paving, rain gardens, bioswales, cisterns, rain barrels or other approved stormwater management techniques.

G. In the C-1 Conservancy District.

1. For existing single-family residential Principal and Accessory Uses and Principal and Accessory Structures and associated yard improvements, paved areas and lots undergoing significant rebuilding, structural alterations, or site disturbance requiring a permit must conform to the following conditions and standards:
  - a. The lot was a lot of record on or before April 1, 1986 and the Principal and Accessory Uses and Structures existed (as can best be determined by available information and records) on or before April 1, 1986.

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- b. All Principal Structures and Uses must be hooked up to an approved septic system or served by an approved municipal sewerage collection system.
- c. The use, lot, and all Principal Structures must address all applicable standards of this Chapter and other town, county, state, and federal ordinances, regulations, laws, or statutes.
- d. It is further determined that the uses and structures do not harm or threaten the health, safety, or general welfare of the public and do not otherwise cause damage to, infringe upon, or diminish the quality of the surrounding environmentally sensitive areas, features, or other physical attributes that contribute to the natural environmental qualities of the area.
- e. The structural alterations or rebuilding do not change the structures or developed yard areas in a manner that occupies an area other than the area occupied on or before April 1, 1986.
- f. Allowed Principal Uses.
  - (1) Single-family dwellings (associated yards, yard improvements and paved areas) with an attached garage that existed on or before April 1, 1986.
  - (2) Essential Services as defined in Chapter 17.15.
- g. Allowed Accessory Uses
  - (1) Private detached garages and carports incidental to the residential use.
  - (2) Gardening, tool and storage sheds and gazebos incidental to the residential use.
  - (3) Home occupations and professional offices incidental to the residential use.
  - (4) Roof mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.
- h. Dimensional Standards for Existing Single-family Uses in the C-1 District

Lot	Width Minimum	Existing Dimension
	Area Minimum	Existing Dimension
Principal Structure	Area Minimum	Total: Existing Area 1st Floor: Existing Area in Existing Footprint
	Height Maximum	Existing Height not to Exceed 35 feet
Accessory Structure	Area Maximum (combined total for all Accessory Structures)	Existing Area in Existing Footprint
	Height Maximum	Existing Height not to Exceed 15 feet
Minimum Setbacks for Accessory Structure	From Principal Structure	Existing Dimension in Existing Footprint
	Street	Existing Dimension in Existing Footprint
	Side and Rear	Existing Dimension in Existing Footprint
	Shore	Existing Dimension in Existing Footprint
Minimum Setbacks for Principal Structure	Street	Existing Dimension in Existing Footprint
	Side	Existing Dimension in Existing Footprint
	Rear	Existing Dimension in Existing Footprint
	Shore	Existing Dimension in Existing Footprint

### 17.5.07 RESERVED



**17.5.08 INDUSTRIAL USES****A. In the M-1 Industrial District.**

1. Commercial Establishments Dealing in "Pornographic Materials and Activities."
  - a. Commercial establishments which display, sell, have in their possession for sale, offer for view, publish, disseminate, give, lease, or otherwise deal in any written or printed matter, pictures, films, sound recordings, machines, mechanical devices, models, facsimiles, or other material and paraphernalia depicting sexual conduct or nudity and which exclude minors by reason of age.
  - b. Commercial establishments which display for viewing any film or pictures depicting sexual conduct or nudity and which exclude minors by reason of age.
  - c. Commercial establishments in which any person appears or performs in a manner depicting sexual conduct or involving nudity and from which minors are excluded by reason of age.
  - d. Definitions:
    - (1) As used herein "nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola, or the human male genitals in a discernible turgid state even if completely or opaquely covered.
    - (2) As used herein "sexual conduct" means acts or simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breasts.
  - e. The above Conditional Uses shall only be permitted in a M-1 Industrial District and only upon the issuance of a Conditional Use Permit, subject to the following additional provisions:
    - (1) No permit shall be granted where the proposed establishment is within 500 feet of any hospital, places of worship, school, funeral parlor, restaurant, library, park, museum, playground, or any other public or private building or premises likely to be utilized by persons under the age of 18 years.
    - (2) No permit shall be granted where the proposed establishment is within 1,000 feet of any area zoned residential in the same or a contiguous town or municipality.
    - (3) The applicant shall furnish the Town detailed information as to the nature of use and activity of the proposed establishment. If the application is for an establishment under paragraph one or two of this Section, the applicant shall furnish representative samples of the materials to be dealt in. If the application is for an establishment under paragraph three of this Section, the applicant shall in detail specify the nature of the activity to be engaged in.
    - (4) The applicant for the permit shall provide the names and addresses of all parties in interest.
    - (5) Advertisements, displays, pictures, or other promotional materials shall not be shown or exhibited on the premises in a manner which makes them visible to the public from pedestrian ways or other public or semi-public areas.
    - (6) All points of access into such establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior from any public or semi-public area.

- (7) In case of a protest signed by 20% or more of the persons of the area within 300 feet of the proposed establishment, the grant of such permit shall require a 2/3 vote of the Town Board.
  - (8) The Town Board in determining whether to grant a permit hereunder shall, in addition to considerations otherwise taken into account when acting on Conditional Use Permits, consider the protection of property values in the affected area; the preservation of neighborhoods; the tendency of such use to attract an undesirable quantity or quality of transients; the tendency of such use to cause increases in crime, especially prostitution and sex-related crimes and the need for policing; the tendency of such use to cause increases in noise, traffic, and other factors interfering with the quiet and peaceful enjoyment of the neighborhood; the tendency of such use to encourage residents and businesses to move elsewhere; the protection of minors from such materials and activities; any other factor created by the type of use being considered; and the health, safety, and general welfare of the community.
- f. It is declared to be the purpose and intent of this Subsection to protect the public health, safety, welfare, and morals of the community, to promote the stability of property values, and impose restrictions upon those activities which pander to gross sexuality in a manner that would detract from the neighborhood and adversely affect, the property values, increase crime and violence and be repugnant to the morals of the community. In recognition of the protection afforded to the citizens under the 1st and 14th Amendments, it is not the intent to inhibit freedom of speech or the press, but rather to restrict the location of defined material and activities consistent with the Town's interest in the present and future character of its community development.

#### **17.5.09 MINERAL EXTRACTION**

The following earth moving and mineral extraction uses shall be Conditional Uses and may be permitted as specified:

- A. Topsoil. Topsoil removal and sale is a Conditional Use and may be permitted in any District except the C-1 Conservancy District. The Town Board shall require the use of adequate soil erosion control measures to prevent pollution of surface waters caused by runoff.
- B. Operations. Mineral Extraction Operations including washing, crushing, or other processing are Conditional Uses and may be permitted in the M-1 Industrial District provided:
  - 1. Application. The application for the Conditional Use Permit shall include: an adequate description of the operation; a list of equipment, machinery, and structures to be used; a topographic map of the site showing existing contours with minimum vertical contour interval of five feet, trees, proposed and existing and proposed excavations; and a restoration plan.
  - 2. Restoration Plan. The restoration plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, and restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the Town's inspection and administrative costs and the necessary sureties which will enable the Town to perform the planned restoration of the site in event of default by the applicant. The amount of such sureties shall be based upon

cost estimates prepared by the Town Engineer, and the form and type of such sureties shall be approved by the Town Attorney.

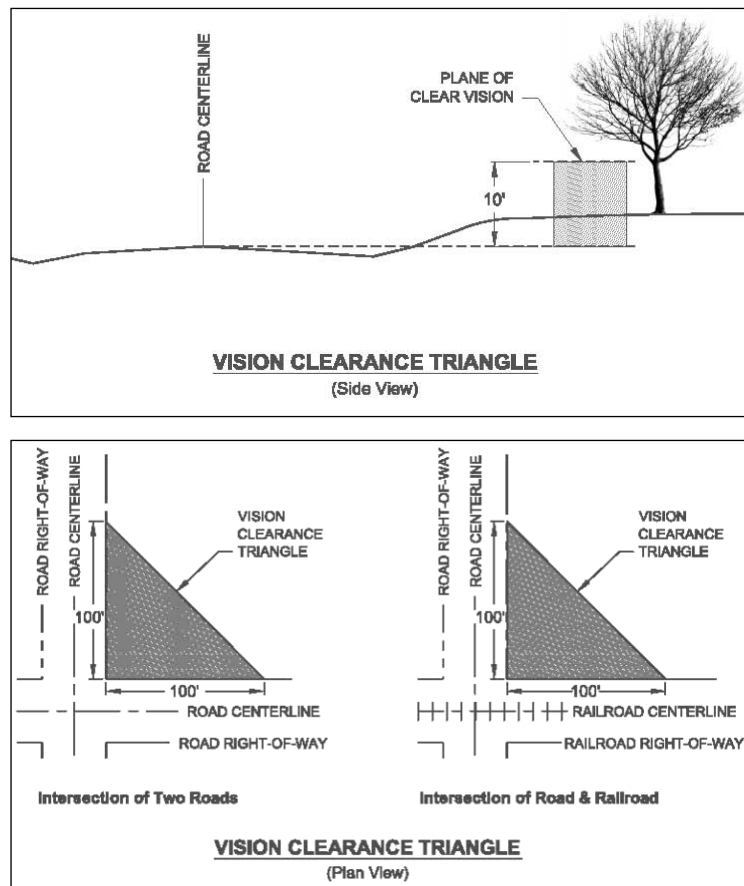
3. Term of Permit. The Conditional Use Permit shall be in effect for a period not to exceed two years and may be renewed upon application for a period not to exceed two years. Modifications or additional conditions may be imposed upon application for renewal.
4. Impact. The Town Board shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site.

**CHAPTER 17.6 TRAFFIC, LOADING, PARKING, AND ACCESS**

**17.6.01 TRAFFIC VISIBILITY**

No obstructions, such as structures, parking, or vegetation, shall be permitted in any District between the heights of zero feet and 10 feet above the plane through the mean center line grades within the triangle space formed by any two existing or proposed intersecting streets at the right-of-way lines and a line joining on such lines located a minimum of 15 feet from their intersection in any interior platted subdivisions.

In case of all other Town Roads or Railroad Intersections, the corner cutoff distance establishing the triangular vision clearance space on such road or railway shall be increased to 100 feet.



**17.6.02 LOADING REQUIREMENTS**

On every lot on which a business, trade, or industrial use is hereafter established, adequate space with access to a public street or alley shall be provided for the loading and unloading of vehicles off the public right-of-way. At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

**17.6.03 PARKING REQUIREMENTS**

In all Districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased, off-street parking stalls for all vehicles in accordance with the following:

- A. Access. Adequate Access to a public street shall be provided for each parking space.
- B. Dimensions. The Minimum Dimensions of each parking space shall be nine feet by 18 feet, except for properly signed spaces provided for use by physically disabled persons.
- C. Accessible Parking Standards.
  - 1. The minimum dimensions for all accessible parking spaces shall be 12 feet by 18 feet.
  - 2. Accessible spaces must connect to the shortest accessible route to the accessible building entrance or facility they serve.
  - 3. All accessible parking spaces shall be marked by a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by physically disabled persons. Such sign shall comply with the requirements of Chapters 346.503 and 346.505, Wis. Stats.
  - 4. Minimum Number of Accessible Parking Spaces

Total Number of Parking Spaces in Parking Facility (Lot or Garage)	Minimum Total Number of Accessible Parking Spaces Required	Minimum Number of Van Accessible Sparking Spaces
1 - 25	1	1
26 - 50	2	1
51 - 75	3	1
76 - 100	4	1
101 - 150	5	1
151 - 200	6	1
201 - 300	7	2
301 - 400	8	2
401 - 500	9	2

- D. Location. Location shall be on the same lot as the Principal Use or not more than 400 feet from the Principal Use. No parking space or driveway, except in Residential Districts, shall be closer than 25 feet to a Residential District lot line or a street right-of-way opposite a Residential District.
- E. Landscaping. All public off-street paved parking areas which serve five vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Chapter shall be provided with accessory landscape areas totaling not less than five percent of the surfaced area. The minimum size of each landscape area shall not be less than 100 square feet. Location of landscape areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance shall be subject to approval by the Plan Commission. All plans for proposed parking areas shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of

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the required minimum landscaped area. Parking areas for five or more vehicles which adjoin Residential Districts shall be visually screened with a solid wall, fence, or evergreen planting of equivalent visual density, or other effective means, built and maintained to a minimum height of five feet.

- F. Curbs and Barriers. Curbs or Barriers shall be installed at least four feet from a property line so as to prevent parked vehicles from extending over any lot lines.
- G. Number Of Parking Spaces Required. In the case of structures or uses not specified herein, the number of spaces specified as the general standard for the use class or the number of spaces specified for similar use shall apply. In developments involving the establishment or addition of two or more uses on one lot or parcel, shared parking arrangements are required, provided it can be shown that the number of spaces can meet the parking needs of the multiple establishments. Shared parking agreements and cross-access easements may be required as part of approval.

### 1. Required Spaces by Use.

Use	Requirements
Single-family detached residence	2 spaces per dwelling unit
Single-family attached residence	1.5 spaces per dwelling unit
Lodging	1-1/2 stalls for each sleeping unit
Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 stall for each 5 seats
College, secondary and elementary schools	1 stall for each 2 employees
High schools (junior and senior)	Auditorium requirement or 1 space for every 5 students of maximum capacity
Manufacturing and processing plants, laboratories and warehouses	1 stall for each 3 employees
Hospitals	1 space for every 3 beds, plus 1 space for each medical staff member, plus 1 space for every 3 employees
Nursing homes and similar facilities	1 space for every 3 rooms, plus 1 space for each staff member and employee

Clinics, dental offices	5 spaces for every practitioner on the staff
Industrial uses	1 space for every 2 employees
Commercial office buildings	1 space for every 300 square feet of gross floor area
Retail uses	1 space for every 300 square feet of gross floor area
Customer service establishments	1 space for every 200 square feet of gross floor area
Restaurants, taverns, clubs, etc.	1 space for every 100 square feet of gross floor area

2. Uses Not Listed. In the case of structures or uses not mentioned, the provision for a use which is determined by the Zoning Administrator and Plan Commission to be similar shall apply. Where uses are not enumerated, the Plan Commission shall make the appropriate determination.
3. Combinations. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.

**17.6.04 RESTRICTIONS ON PARKING OF EQUIPMENT**

Parking of farm, construction, or building equipment and parking of trucks, tractors, and semi-trailers shall be restricted as follows:

- A. Parking in Residential, Park, and Conservancy Districts. No truck tractor, semi-trailer, commercial or construction vehicle, machinery, equipment or truck with dual rear axles shall be stored on lots in Residential, Park, or Conservancy Districts. Agricultural vehicles and machinery stored on an operating farm in any of the aforementioned Districts are exempt from this restriction.
- B. Parking in Business and Manufacturing Districts. Vehicles and machinery used in conjunction with a business or industry may be stored, inside or outside, on the premises provided that when stored outside, they do not block a public right-of-way or obscure clear vision on roadways.

**17.6.05 DRIVEWAYS**

All driveways installed, altered, changed, replaced, or extended after August 16, 2009 shall require a permit and shall meet the following requirements:

- A. Driveways. Driveways shall be at least 10 feet wide for single- and two-family dwellings, except in the R-1S and R-1S/MU Districts, where driveway width should be minimized to avoid

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unnecessary runoff. For all other uses, driveways shall be at least of 24 feet wide at the property line.

- B. Islands. Islands between driveway openings shall be provided with a minimum of 10 feet between all driveways and five feet at all lot lines.
- C. Entrances and Exits. Vehicular Entrances and Exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service stations, washing and repair stations or garages shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, places of worship, hospital, park, playground, library, public emergency shelter, or other place of public assembly.

### **17.6.06 HIGHWAY ACCESS**

No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

- A. Arterial Streets. Arterial streets intersecting another arterial street within 100 feet of the intersection of the right-of-way lines.
- B. Collector and Minor Land Access Streets. Collector and minor land access streets intersecting arterial or another minor land access street within 50 feet of the intersection of the right-of-way lines.
- C. Barriers. Access Barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- D. Temporary Access. Temporary Access to the above rights-of-way may be granted by the Town Board after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed 12 months.



**CHAPTER 17.7 MODIFICATIONS****17.7.01 HEIGHT**

The District height limitations stipulated elsewhere in this Chapter may be exceeded, but such modification shall be in accord with the following:

- A. Architectural Projections, such as spires, belfries, parapet walls, cupolas, domes, flues, and chimneys, are exempt from the height limitations of this Chapter.
- B. Special Structures, such as grain elevators, radio and television receiving antennas, when mounted on the roof of a Principal Structure, manufacturing equipment and necessary mechanical appurtenances, cooling, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Chapter.
- C. Essential Services, utilities, water towers, and electric power and communication transmission lines are exempt from the height limitations of this Chapter.
- D. Communication Structures, such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height three times their distance from the nearest lot line.
- E. Amateur Radio Tower owned by a Federally licensed amateur radio station operator, and is compliant with the requirements of Section 17.11.17 of this Chapter.
- F. Agricultural Structures, such as barns and silos, shall not exceed in height twice their distance from the nearest lot line.
- G. Accessory Structures with a maximum sidewall of 12 feet may exceed the height limitations of this Chapter to allow architectural simulation of the Principal Structure.

**17.7.02 YARDS**

The yard requirements stipulated elsewhere in this Chapter may be modified as follows:

- A. Uncovered Stairs, landings, and fire escapes may project into any yard but shall not exceed six feet in width nor be closer than five feet to any lot line.
- B. Architectural Projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard, but such projection shall not exceed three feet.
- C. Accessory Structures in non-residential Districts may be placed or erected in the Side or Rear Yard provided that no structure shall be closer than 10 feet to the Principal Structure and three feet to any lot line unless a greater setback is required by other provisions of this Chapter.
- D. Double Frontage Lots. Lots extending from street to street have two street yards: the Primary Street Yard and the Secondary Street Yard. The Primary Street Yard on a corner lot shall be that yard associated with the mailing address or fire number, as applicable. The Secondary Street Yard shall be the yard opposite the Primary Street Yard. An Accessory Structure is permitted in

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the Secondary Street Yard, however, the minimum setback for the Principal Structure shall be maintained.

- E. Essential Services, utilities, electric power, and communication transmission lines are exempt from the yard requirement of this Chapter.
- F. Landscaping and vegetation are exempt from the yard requirements of this Chapter.
- G. Dog Enclosures, Runs, or Housing shall be a minimum of 15 feet from the rear or side lot line and shall not be permitted in either the Street Yard, the Primary Street yard on a corner lot or double frontage lot, or the Shore Yard. Dog Enclosures, Runs, or Housing located in the Street Yard require in the R-1S District require a Conditional Use Permit.
- H. An exterior stairway, ramp, or motorized lift is permitted in an R-1S or R-1S/MU Shore Yard only when:
  - 1. It is needed to provide pedestrian access within the Shore Yard of a lot to the shoreline to which such Shore Yard pertains because of a slope having a ratio of at least two feet horizontal to one foot vertical, or a slope made hazardous by unstable soils including, but not by way of limitation, rocky or wet soils.
  - 2. No other areas on the lot in questions allow reasonably available pedestrian access to the shoreline without any of the limitations described in subparagraph 1. Above.
  - 3. The minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of an exterior stairway, ramp or motorized lift installation shall be three feet.
  - 4. The following requirements are observed:
    - a. Except as hereinafter provided, there shall be no more than one of the following three exterior improvements in a Shore Yard: exterior stairway, ramp, or motorized lift.
    - b. "Stairway" and "ramp" shall have the same meaning as from time to time adopted by the State of Wisconsin Building Code as contained in the Wisconsin Administrative Code.
    - c. A motorized "lift" shall mean a motor-powered wheeled or other conveyance which travels on a road or track formed of parallel lines of wooden beams, lengths of stone, iron plates or rails, whose primary function is to transport persons up and down a slope.
    - d. Notwithstanding the provisions of subparagraph (a) above, if there is an exterior stairway or ramp lawfully existing at the time of the adoption of Paragraph 7.02 subparagraph J of this Chapter which is located in a Shore Yard, a motorized lift may be installed in such Shore Yard if mounted to or immediately adjacent to such existing stairway or ramp.
    - e. Exterior stairways, ramps and motorized lifts shall avoid environmentally sensitive areas, shall be placed on the most-visually inconspicuous route as viewed from the navigable waters to which such Shore Yard permits.
    - f. Established vegetation which stabilizes the slope or screens the stairway, ramp, or motorized lift from view as viewed from the navigable waters to which such Shore Yard pertains shall not be removed.
    - g. Exterior stairways, ramps and motorized lifts along with any accompanying handrails and guardrails shall be colored and screened by vegetation so as to be inconspicuous

when viewed in mid-summer from the navigable waters to which such Shore Yard pertains.

- h. Roofs, canopies and closed sides for exterior stairways, ramps, and motorized lifts are prohibited in a Shore Yard unless they are detachable and are only used when necessary for safety. Open handrails or guardrails may be installed where required for safety.
- i. Exterior stairways, ramps, and motorized lifts shall have a maximum width (outside dimension) of four feet and, as to motorized lifts, shall be situated as close to the terrain as possible in order to minimize their height and visibility.
- j. One or more exterior platforms or landings forming part of an exterior stairway or ramp may be installed in a Shore Yard when required by the State of Wisconsin Building Code or for safety purposes, provided that they not exceed 40 square feet in area each and have no attached benches, chairs, seats, tables, or similar amenities.
- k. Exterior stairways, ramps, and motorized lifts shall be supported on piles or footings. Any filling, grading, or excavation involved in their installation must meet the requirements of the construction site erosion control ordinances from time to time in effect under the Zoning Ordinance, Town of West Bend.

I. Accessory Structures.

- 1. In Secondary Street Yard.
  - a. An Accessory Structure may be placed in the Secondary Street Yard of a triangular shaped lot as a Permitted Use, however, the minimum setback for the Principal Structure shall be maintained.
  - b. An Accessory Structure may be placed in the Secondary Street Yard of a corner lot as a Permitted Use, however, the minimum setback for the Principal Structure shall be maintained.
- 2. In Street Yard and Primary Street Yard.
  - a. An Accessory Structure located in a Street Yard or Primary Street Yard shall require a Conditional Use Permit.
  - b. An Accessory Structure in the Street Yard or Primary Street yard shall:
    - (1) Comply with the Street Yard setback for a Principal Structure within the relevant zoning district.
    - (2) Be located and, if necessary, screened so as to ensure to the greatest degree practicable that the visual impact of the Accessory Structure does not:
      - (a) Impede upon the view of the Principal Structure.
      - (b) Significantly diminish the overall appearance of the parcel in question from the street or road.
      - (c) Negatively affect the property values and quality of life of adjoining property owners.
    - (3) Located within 100 ft. of the Principal Structure.

**17.7.03 ADDITIONS TO EXISTING STRUCTURES IN STREET YARDS**

An addition to a Principal Structure located in the Street Yard or in the Primary Street Yard on a corner lot or double frontage lot shall not project beyond the average setback of the Principal Structure on the abutting lot to each side of the property in question. An addition to an Accessory Structure located in the Street Yard or in the Primary Street Yard on a corner lot or double frontage

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lot shall not project beyond the average setback of the Accessory Structure on the abutting lot to each side of the property in question.

### 17.7.04 AVERAGE SETBACKS

- A. The Street Yard setback or Primary Street Yard setback on a corner lot or double frontage lot in any Residential District may be decreased to the average distance that abutting structures located on the lot to each side of the property in question are set back, but in no case shall be less than 15 feet.
- B. In the Event Structures Abut on Only One Side and an average cannot be determined, the distance may be decreased to the setback of the one structure, except as limited to 15 feet in a Street Yard setback or Primary Street Yard setback on a corner lot or double frontage lot as set forth in Chapter 17.7.04.A.
- C. The Shore Yard shall not be reduced to a lesser setback than allowed by any provision the Washington County Shoreland and Wetland Zoning Ordinance (75 feet) or variance approved by the Washington County Board of Adjustment.

### 17.7.05 CORNER LOTS

Corner lots shall provide a Street Yard on each street that the lot abuts (see Lot Type Illustration on page 133). The Primary Street Yard on a corner lot shall be that associated with the mailing address or fire number, as applicable. The remaining yards shall be a Rear Yard behind the main entrance to the structure and one Side Yard.

### 17.7.06 NOISE

Sirens, whistles, bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of Chapter 17.11.06.

### 17.7.07 EXISTING SUBSTANDARD LOTS

A lot located outside of a designated shoreland zoning area which does not contain sufficient area to conform to the dimensional requirements of this Chapter but which was of record in the Washington County Register of Deeds office prior to April 1, 1986 and is in separate ownership from abutting lands or any lot created and approved thereafter may be utilized as a single-family dwelling site, provided:

- A. Single-family dwellings are a Permitted Use in the Zoning District.
- B. Requirements. All of the requirements of the Zoning District shall be complied with insofar as is practical but shall not be less than the following:

Lot Size	Width Minimum	50 feet (1)
	Area Minimum	10,000 square feet
Principal Structure	Area Minimum	Total: 1,200 square feet 1st Floor: 950 square feet
	Height Maximum	35 feet

Minimum Setbacks for Accessory Structures	Side and Rear	Seven feet
Minimum Setbacks for Principal Structures	Street	25 feet (2)
	Rear	25 feet
	Side	10 feet
	Shore	75 feet (3)
Maximum Total Impervious Surface Area		35%
(1) Measured at the setback		
(2) Measured from the street right-of-way or paving edge of private roads		
(3) Measured from the Ordinary High Water Mark		

- C. Substandard Lots. If two or more substandard lots with continuous frontage have the same ownership as of April 1, 1986, the classification and use of said lots shall be governed as follows:
1. When such lots are vacant, they shall be treated as being combined into one or more lots which comply with the lot size, building and yard requirements of the Zoning District where located, but in the event District zoning requirements cannot be met by combining such vacant lots, then the resulting lot shall be subject to the requirements listed in the “Existing Substandard Lots” table shown above.
  2. When such lots have been used as one lot, i.e., by the placement of an Accessory Structure on the adjacent lot or by the encroachment of setback requirements, they shall be treated as one lot.
  3. When one developed lot abuts one undeveloped lot, the undeveloped lot may be treated as a separate lot, provided:
    - a. Both lots meet the requirements of Chapter 17.7.07.B.
    - b. The developed lot is sewerred or has a functional onsite sanitary system.
- D. Applications. Applications for permits for the improvement of a lot with lesser dimensions and requisites than those stated in Subsection (B) shall be issued only after a variance granted by the Zoning Board of Appeals.
- E. Preemption. The regulation of substandard lots within 1,000 feet of the Ordinary High Water Mark of a lake, pond or flowage or within and 300 feet the Ordinary High Water Mark of a river or stream or to the landward side of the flood plain, whichever distance is greater, is preempted by NR 115.05(1)(a).3 and Washington County Chapter 275: Shoreland, Wetland, Floodplain Zoning.



**CHAPTER 17.8 SIGNS****17.8.01 PURPOSE**

- A. The purpose of this Chapter is to create the legal framework to regulate, administer and enforce signs. These regulations recognize the need to protect the safety and welfare of the public and the need for well-maintained and attractive sign displays within the community.
- B. Signs not expressly permitted as being allowed by right or by permit under this Chapter, by specific requirements in another portion of the Town of West Bend Code of Ordinances or other applicable law, are prohibited.
- C. The regulations included in this Chapter are not intended to and do not apply to signs erected, maintained, or otherwise posted, owned, leased by, on behalf of, or as specifically directed or order by, federal, state, local governments and government agencies, in the furtherance of authorized government operations or activities within the public right-of-way.
- D. This Chapter shall establish reasonable time, place, and manner restrictions and shall not establish or enforce content-based restrictions. Sign regulations shall be based solely on size, brightness, zoning district, spacing, location, and the like.

**17.8.02 SUBSTITUTION CLAUSE**

Signs containing noncommercial speech are permitted anywhere that signs containing commercial speech are permitted, subject to the same regulations applicable to such signs.

**17.8.03 COMPLIANCE**

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without conforming to the provisions of this Chapter.

**17.8.04 INTERPRETATION**

The requirements and restrictions of this Section are in addition to, and not in lieu of, other provisions of this Chapter. This Section shall be strictly construed to limit signs in the City. Upon submission of sufficient documentation demonstrating the need to modify the size, design or number of signs necessary to identify a development, the Plan Commission may modify the sign restrictions within this Section to overcome constraints due to poor site visibility, excessive setbacks or other physical constraints.

**17.8.05 SIGN PERMIT**

- A. Permit Required. It shall be unlawful for any person to erect, construct, enlarge, or structurally modify a sign or cause the same to be done in the Town of West Bend without first obtaining a sign permit as required by this article. Permits shall not be required for the following:
  - 1. A change of copy of any sign, nor for the repainting, cleaning, and other normal maintenance and repair of the sign and sign structure.
  - 2. Signs specifically listed as not requiring a permit in this Chapter.

- B. Application. Application for a permit shall be filed with the Town Clerk upon forms provided by the Town and shall contain the following information:
1. The name, address and telephone number of the sign owner, the property owner, where the sign is or will be located and the sign contractor of the proposed sign.
  2. Clear and legible color drawings with description and nominal dimensions of the proposed sign, the construction, size, dimensions and kind of materials to be used in such structure. The site plan shall show the buildings on the premises upon which the structure is to be erected and maintained together with locations, setbacks, size and types of existing signs on the premises where the proposed sign is to be located. All dimensions shall be indicated for the sign and the site plan elements.
  3. Calculations or evidence showing that the structure and design meets the requirements of these regulations for wind pressure load.
  4. Such other information as the Zoning Administrator or Plan Commission may require to show full compliance with this and all other applicable laws of the Town.
  5. Signature of the applicant.
  6. All required fees.
- C. Permit issuance and denial.
1. The Plan Commission shall issue a sign permit upon determination that:
    - a. The permit application is properly made.
    - b. All required fees have been paid
    - c. The sign complies fully with the requirements of this Chapter and any other applicable laws and regulations.
    - d. The Town Clerk shall notify the Building Inspector upon approval of a sign permit.
    - e. If the sign permit is denied, the Plan Commission shall provide written notice of the denial to the applicant, together with a brief statement of the reasons for the denial.

### **17.8.06 SIGNS NOT REQUIRING A PERMIT**

Signs not requiring a permit shall comply in all respects with the sign regulations presented in this Chapter. The following signs are allowed without a permit, subject to the following regulations:

- A. In residential districts:
1. One temporary sign, subject to the following:
    - a. Sign shall not exceed 16 square feet in total face area.
    - b. Sign shall not be located in any public right-of-way.
    - c. Sign shall not be artificially illuminated.
    - d. Sign shall not be erected more than 15 days before, and shall be removed no later than five days after, the event, activity, or purpose for which the sign is intended, excepting those signs specifically allowed under Chapter 12.04, Wis. Stats.
  2. One wall sign, subject to the following:
    - a. Sign shall not exceed two square feet in face area.
    - b. Sign shall not be artificially illuminated.



## B. In nonresidential districts.

1. Two temporary signs, subject to the following:
  - a. No sign shall exceed 32 square feet in total face area.
  - b. Signs shall not be located in any public right-of-way.
  - c. Signs shall not be artificially illuminated.
  - d. Signs shall not be erected more than 15 days before, and shall be removed no later than five days after, the event, activity, or purpose for which the sign is intended.
  - e. In no cases shall signs be maintained for more than 60 days, other than specifically allowed under Chapter 12.04, Wis. Stats.
2. One portable sign, subject to the following:
  - a. Portable signs shall comply with all setback requirements.
  - b. Portable signs shall be in place exclusively during the hours of operation of the entity for which the sign is associated.

## C. In all districts.

1. Integral signs, not to exceed two per structure.
2. Official and governmental signs, such as traffic control, parking, information, and notices.
3. Signs intended to: protect public safety; provide safe ingress/egress to, from, and within a property; and warn of potential hazards associated with a specific activity. Such signs shall be maintained only so long as the activity for which they are intended is ongoing.
4. No more than two direction and instructional signs located entirely on a property to which they pertain and do not exceed eight square feet each in area. This includes, but is not limited to, such signs as those identifying rest rooms, telephone, parking areas, entrances, and exits.
5. Private property signs.
6. Official notices posted by public officers or employers in the performance of their duties.
7. Signs required as specifically authorized for a public purpose by any law, statute, or ordinance.
8. Truck, bus, trailer or other vehicles, while operating in the normal course of business which is not primarily the display of signs.
9. A sign carried by a person.
10. House numbers and name plates not exceeding two square feet in area for each residential, commercial or industrial building.
11. Incidental signs.
12. Interior Signs.

**17.8.07 PROHIBITED SIGNS**

- A. General. Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. Signs shall not be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape. Signs shall not be placed so as to obstruct or interfere with traffic visibility, or be lighted in such a way as to cause glare or impair driver visibility upon public ways. Signs may be illuminated but non-flashing.
- B. Specifically. The following signs are specifically prohibited in all districts:

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1. Signs that resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices.
2. Signs that prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape.
3. Animated signs.
4. Flashing signs, including signs with scintillating, blinking, or traveling lights of more than 15 watts per lamp.
5. Off-premises signs.
6. Signs which are painted on, or attached or affixed to, rocks, trees or other living vegetation.
7. Signs with any light flashing more than 10 times per minute.
8. Roof signs.
9. Swinging signs
10. Any other signs not specifically permitted by this Chapter.

### 17.8.08 SIGNS PERMITTED IN ALL RESIDENTIAL DISTRICTS WITH A PERMIT

One Permanent Ground Sign placed at the entrance to a residential subdivision or similar such development. Such sign shall not exceed 144 square feet in total face area.

### 17.8.09 SIGNS PERMITTED IN ALL BUSINESS AND MANUFACTURING DISTRICTS WITH A PERMIT

- A. In addition to signs not requiring a permit, the following sign types are allowed for nonresidential uses in all business and manufacturing districts:

Sign Type	Maximum Number	Maximum Face Area	Maximum Height	Street Yard Setback	Side Yard Setback
Awning/ Canopy	One per street facing, first floor window	16 sq. ft.	[1]	[2]	n/a
Ground	[3]	100 sq. ft.	20 ft.	Outside of right-of-way	10 ft.
Ingress/ Egress	Two [4]	Eight sq. ft.	Five ft.	0 ft.	Three ft.
Portable	One, in street yard only	24 sq. ft.	Four ft.	Off-street	n/a
Projecting	One	20 sq. ft.	[5]	[5]	[5]
Wall, non-residential	One	[6] [7]	n/a	n/a	n/a

[1] Awnings/canopies must maintain a minimum clearance of nine feet between the bottom of the canopy and the finished grade.

[2] Awnings/canopies shall project a minimum of 3.5 feet to provide pedestrians protection from the elements. Awning/canopies may extend to a point not more than two feet in from the face of the curb, or seven feet from the building, whichever is less.

[3] Total number of ground signs shall be limited to one per property for each abutting and accessible street.

[4] Ingress/egress signs shall be associated with, and located no farther than 10 ft. from, an access to a road, street, or highway.
[5] Projecting signs shall not extend more than three feet into any public right-of-way; shall not be less than 10 feet from all side lot lines; shall not exceed a height of 20 feet above the mean centerline street grade; and shall not be less than 10 feet above the sidewalk nor 15 feet above a driveway or an alley.
[6] The maximum area of wall signage allowed is 200 square feet.
[7] Wall signs placed against the exterior walls of buildings shall not extend above the roofline of the building or outward more than 12 inches from the surface of the wall.

B. Multi-Tenant Signs for Multi-Unit Facilities.

1. General Standards.
  - a. Multi-tenant signs may be utilized whenever a development consists of several, separate units having appurtenant shared facilities, including but not limited to driveways, parking, common walls or structures, and pedestrian walkways.
  - b. Multi-tenant signs may be ground signs or freestanding signs.
  - c. Entities represented on a multi-tenant sign shall not also erect or display additional ground signs or freestanding signs.
2. Dimensional Standards.
  - a. Maximum Number. The maximum number of multi-tenant signs allowable in a single development is one. The maximum number of tenant panels on a multi-tenant sign shall be one associated with, and limited to, each business, entity, or tenant located in the development.
  - b. Maximum Face Area. The face area for each panel displayed on the multi-tenant sign shall comply with the maximum face area for a ground sign in the applicable zoning district.
  - c. Maximum Height. The maximum height of a multi-tenant sign shall comply with the maximum height of a ground sign in the applicable zoning district.
3. Design Standards.
  - a. Monument signs are preferred over pole signs.
  - b. A multi-tenant sign shall have no exposed poles and shall not be a monopole.
  - c. A multi-tenant sign shall be designed and maintained to be architecturally compatible with the development.

C. Window Signs, except for painted signs and decals, shall be placed only on the inside of commercial buildings.

**17.8.10 SIGNS PERMITTED IN C-1, C-2, and P-1 DISTRICTS WITH A PERMIT**

A. In addition to signs not requiring a permit, the following non-illuminated sign types are allowed for nonresidential uses in the C-1, C-2, and P-1 Districts:

Sign Type	Maximum Number	Maximum Face Area	Maximum Height	Street Yard Setback	Side Yard Setback
Ground	[1]	64 sq. ft.	Eight ft.	Outside of right-of-way of sign	10 ft.
[1] Total number of ground signs shall be limited to one per property for each abutting and accessible street.					

B. Illuminated Trails. Paths/trails illuminated for special afterhours events such as Nordic skiing, snowshoeing, hiking, nature walks, and the like shall require a Temporary Use Permit.

**17.8.11 RESTRICTIONS ON POSTING SIGNS**

No person shall cause to be placed any type of sign, notice or other item on any traffic sign pole, utility pole, street indicator sign, or any other pole under the jurisdiction of the Town.

**17.8.12 SIGN STANDARDS**

A. Construction standards.

1. All ground signs shall be self-supporting structures and permanently attached to sufficient foundations.
2. All signs, except those attached flat against the wall of a building and those signs of which no portion exceeds a height of three feet and are no greater than nine square feet in area shall be constructed to withstand wind loads as follows, with correct engineering adjustments for the height of the sign above grade:
3. For solid signs, 30 pounds per square foot of the sign and structure.
4. For skeleton signs, 30 pounds per square foot on the total face cover of the letters and other sign surfaces or 10 pounds per square foot of the gross area of the sign as determined by the overall dimensions of the sign, whichever is greater.
5. Supports and braces shall be an integral part of the sign design. Angle irons, chain or wires used for supports or braces shall be hidden from public view to the extent technically feasible.
6. All signs in which electrical wiring or connections are used shall be subject to all applicable provisions of State code. No person may erect any sign with exposed electrical cords or wires. Electrical service to ground signs shall be concealed wherever possible.

B. Maintenance standards.

1. Every sign shall be maintained in a safe, presentable and structurally sound condition at all times. This includes restoring, repainting, or replacing a worn or damaged sign to its original condition. This also includes maintaining the premises on which the sign is erected in a clean and sanitary condition, free and clear of noxious substances.
2. The Zoning Administrator and Building Inspector shall have the right to order the repair or removal of any sign which is determined to be defective, damaged, or substantially deteriorated.

C. Measurement standards.

1. **Signable Area.** The signable area of a building is designated as the area of the facade of the building up to the roofline, which is free of windows and doors or major architectural detail on which signs may be displayed.
2. **Measuring Sign Face.** In calculating the area of a sign to determine whether it meets the requirement of this Chapter, the Zoning Administrator shall include the sign copy and any border or frame surrounding that copy. Supporting posts or foundations shall be excluded from the area calculation. The area of irregularly shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.

3. Measuring Sign Height. The sign height shall be the vertical distance measured from the grade at the base of the sign structure to the highest point of such sign or sign structure. In the case where a sign is to be located in a raised planting bed or berm, the grade shall be determined by the average of the grades measured at the base of the planting bed or the toes of the slope at the front and back of the bed or berm.

D. Illumination standards.

1. The use of unshielded lighting, including exposed incandescent light bulbs hung or strung on poles, wires, or any other type of support intended to illuminate a sign is prohibited.
2. All sign lighting shall be designed, located, shielded, or hooded so as to prevent the casting of glare or direct light upon adjacent roadways, surrounding properties, or into the sky.

E. Landscape Standards. All ground signs shall be set in a landscaped base of appropriate size to provide shrubs and base plantings that will enhance and compliment the sign. Species shall be consistent with the requirements of the Landscaping Section of this Chapter.

F. Changeable Copy. Unless otherwise specified by this Chapter, any sign herein allowed may use manual or automatic changeable copy.

G. Facing. No sign except those permitted in Chapters 17.8.06 and 17.8.08 shall be permitted to face a residence within 100 feet of such residence.

**17.8.13 IMDEMNIFICATION**

All persons involved in the maintenance, installation, alteration, or relocation of any sign shall agree to hold harmless and indemnify the Town of West Bend, its officers, agents, and employees against any and all claims of negligence resulting from such work insofar as this Chapter has not specifically directed the placement of a sign.

**17.8.14 INSURANCE**

Every sign contractor shall maintain all required insurance and shall file with the Town a satisfactory certificate of insurance to indemnify the Town against any form of liability to a minimum of \$300,000 (per occurrence and aggregate with regard to bodily injury and property damage).

**17.8.15 REMOVAL AND DISPOSITION OF SIGNS**

- A. Abandoned signs. All abandoned signs shall be removed within six months by the owner or lessee of the premises upon which an on-premise sign is located when the entity for which the sign is associated is no longer present or in operation. If the owner or lessee fails to remove the sign(s), the Zoning Administrator shall give the owner or lessee 30 days written notice to remove said sign(s). Upon failure to comply with this notice, the Town of West Bend may cause removal to be executed, the expenses of which will be assessed to the tax roll of the property on which the abandoned sign is located.

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- B. Deteriorated dilapidated signs. The Zoning Administrator and/or Building Inspector shall cause to be removed any deteriorated or dilapidated signs under the provisions of Chapter 66.0413(1), Wis. Stats.
- C. Unlawful signs. The Zoning Administrator may declare any sign unlawful if it endangers public safety by reasons of inadequate maintenance, dilapidation or abandonment. Any such declaration shall be in writing and shall state the reasons of the Zoning Administrator as to why any sign owned, kept, displayed, or maintained by any person within the Town is in violation of this Chapter.

### **17.8.16 SIGN NONCONFORMITIES**

- A. Nonconforming signs. Any sign located in the Town of West Bend as of the date of adoption or amendment of this Chapter, or located within an area annexed to the Town of West Bend hereafter, that does not conform to the provisions of this Chapter as adopted or amended is a legal, non-conforming sign if the sign was legally constructed prior to the date of adoption or amendment of this Chapter. Such signs may be continued although the use, size, number, or location does not conform to the provisions of this Chapter.
- B. Nonconforming status. A sign loses its legal, non-conforming status if one of the following occurs:
  - 1. The sign is structurally altered in any way other than normal maintenance and repair that makes the sign less compliant with the requirements of this Chapter than it was before the alteration.
  - 2. The sign is relocated.
  - 3. The sign is abandoned.
  - 4. The permitted or conditional use associated with the sign changes.
- C. Reconstruction. A non-conforming sign can be reconstructed to its former state if it is destroyed by wind, vandalism, fire, ice, or flood.

**CHAPTER 17.9 NONCONFORMING USES, STRUCTURES, AND LOTS****17.9.01 NONCONFORMING USES AND STRUCTURES**

- A. Nonconforming uses. The nonconforming use of a nonconforming structure, building, premises, or fixture existing at the time of the adoption or any amendment of this chapter may be continued although it does not conform to the provisions of this chapter or any amendments thereto, but the alteration of, or addition to, or repair shall not exceed 50% of its assessed value of any nonshoreland existing building, premises, structure, or fixture for the purpose of carrying on a nonconforming use. The continuance of the nonconforming use of a temporary structure is prohibited.
- B. Nonconforming structures. Repairs and maintenance of certain nonconforming structures: There is no limit based on cost for the repair, maintenance, renovation, or remodeling of a nonconforming structure.
- C. Restoration of certain nonconforming structures. Nonconforming structures that are damaged or destroyed may be restored if the structure will be restored to the size, location, and use that it had immediately before the damage or destruction occurred, with no limit on the costs of the repair, reconstruction, or improvement if all of the following apply:
1. The use of the building or structure which is nonconforming was not discontinued for a period of 12 months or more; and,
  2. The damage or destruction was caused by a natural event, including but not limited to violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

**17.9.02 DISCONTINUED USE**

If a nonconforming use is discontinued or terminated for a period of 12 months, any further use of the structure, land or water shall conform to the provisions of this chapter.

**17.9.03 ADDITIONS AND ENLARGEMENTS**

Additions and Enlargements to existing nonconforming structures with a conforming use are permitted and shall conform to the established yard/setback, height, parking, loading, and access provisions of this Chapter. Existing buildings and their additions shall not be permitted to encroach further upon established yard/setback and height requirements than the existing encroachment. The provisions of this Subsection with respect to additions or enlargements are applicable only if the lot is served by public sanitary sewer or, if relevant, conforms to existing sanitary code requirements for private onsite sewage treatment systems (POWTS).

**17.9.04 NONCONFORMING LOTS OF RECORD**

In any district, any permitted or permissible structure may be erected on a single lot of record at the effect date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width, or both for the district in which the lot is located as amended as long as the lot lawfully existed at the time of the adoption of or amendment to this ordinance.

**17.9.05 CHANGES AND SUBSTITUTIONS**

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Zoning Board of Appeals 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 Zoning Board of Appeals.



**CHAPTER 17.10 SITE PLAN REVIEW AND ARCHITECTURAL CONTROL****17.10.01 PURPOSE AND INTENT**

For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure, without first obtaining the approval of the Zoning Administrator or Plan Commission, as herein specified, of detailed site, landscape and architectural plans as set forth in this Section.

**17.10.02 PRINCIPLES**

- A. The following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses other than for single parcel residential development.
1. The proposed use(s) shall conform to the uses permitted in the applicable Zoning District.
  2. The dimensional arrangement of buildings and structures shall conform to the required area, yard, setback and height restrictions of the Chapter.
  3. The relative proportion of the scale and mass of a building to neighboring existing buildings, to pedestrians or observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
  4. The visual continuity of roof shapes, rooflines and their contributing elements (e.g. parapet walls, coping and cornices) shall be maintained in building development or redevelopment.
  5. The façade of commercial, industrial, governmental, institutional, and recreational buildings which face upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 30% of a façade facing an existing or future street shall be finished with brick, wood, fieldstone, decorative masonry material, decorative glass panels, or decorative precast concrete panels, except where the building style requires a different material. Attractive aluminum or vinyl siding which has the appearance of wood siding, a “brushed” surface or other compatible attractive material may, however, be permitted. Such finished material shall extend for a distance of at least 20 feet along the sides of the structure. All buildings on corner and double-frontage lots shall have the required finished façade facing each street. No plain concrete block building or metal-faced building, except those with an attractive finished surface mentioned above shall be permitted. Samples of all materials shall be furnished to the Plan Commission for review and approval.
  6. Since the selection of building colors has a significant aesthetic and visual impact upon the public and neighboring properties, colors shall be selected to be in general harmony with existing neighborhood buildings. The use of bright colors should be limited and used only as an accent such as, for example, on trims.
  7. Accessory Structures located in a Side yard or Rear Yard shall be built with materials compatible with those of the Principal Structures on the same site.
  8. Accessory Structures located in a Street Yard shall be affixed upon a foundation and shall be constructed of substantially the same materials and be of substantially the same appearance as the Principal Structure.

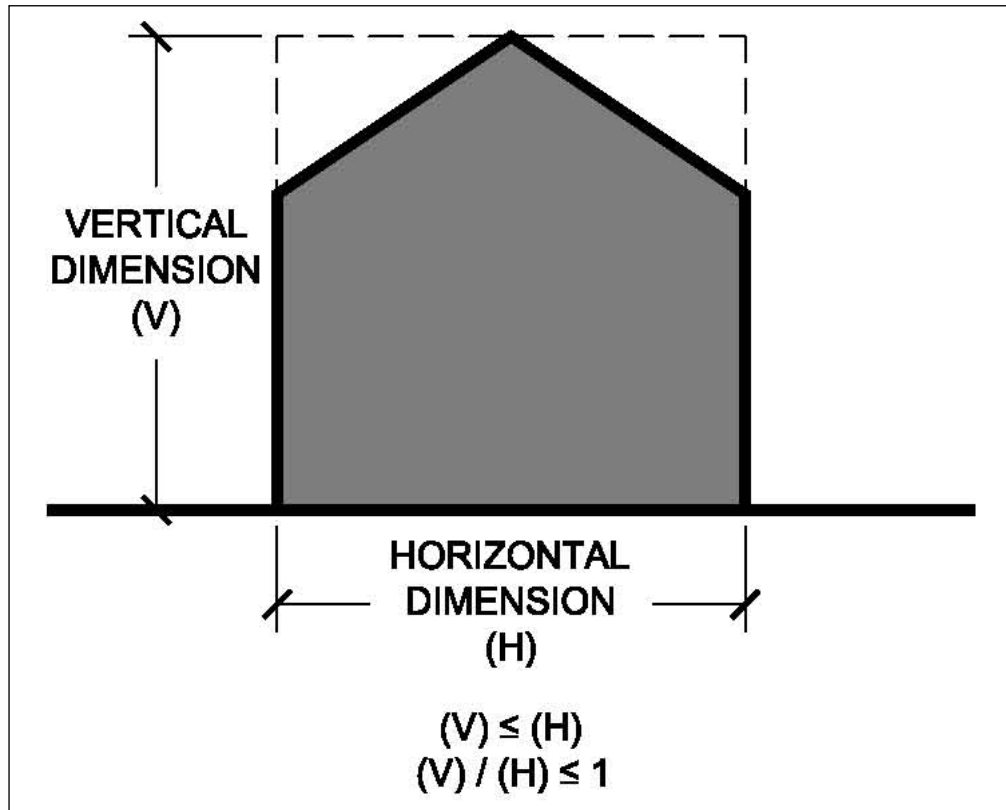
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9. No overhead door or loading dock for commercial, manufacturing, institutional or park buildings shall face a public street. The Plan Commission may permit overhead doors and docks to face a public street when it has made a finding that there is no feasible alternative location for such doors or docks and, insofar as is practicable, such doors and docks facing public streets are screened.
10. Outside storage areas for inventory, materials, equipment, supplies, scrap, and other materials utilized in the day-to-day operation of the Principal Use shall be paved as determined by the Plan Commission, and screened from view from public streets with appropriate vegetation or fencing or wall of a material compatible with the Principal Structure and the surrounding area. The Plan Commission may permit the outdoor display of products or merchandise when it makes a finding that such a display is essential to a business or industrial use, such as a landscape-nursery or car-sales business, and attractive periphery landscaping is provided.
11. Mechanical equipment, such as heating, air-conditioning, and ventilating equipment, at grade-level and on rooftops shall be screened from public view or located in a manner that is unobtrusive.
12. No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area, or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
13. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Town.
14. Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical to prevent indiscriminate or excessive earth moving or clearing of property, disfiguration of natural land forms, and disruption of natural drainage patterns.
15. Buildings and uses shall provide for safe traffic circulation and safe driveway locations.
16. Buildings and uses shall provide adequate parking and loading areas.
17. Appropriate Buffers shall be provided between dissimilar uses in accordance with this Chapter.
18. Appropriate erosion control measure shall be utilized in all new development.
19. Buildings and uses shall be provided with adequate public services as approved by the appropriate utility.
20. Refuse and recycling areas shall be screened by completely enclosing such areas with a wall or fence of a material compatible with the Principal Structure and surrounding area. The wall or fence shall be surrounded with a landscape bed at least three feet wide consisting of plants, except at the gate.
21. No buildings shall impair the enjoyment of historic attractions of significant historic interest.
22. Buildings on premises which have historic significance shall be identified by a plaque to be provided by the Town and should be encouraged to be maintained or restored, insofar as practicable, in the manner which will protect its historic significance in accordance with the standards promulgated by the U.S. Department of the Interior for historic preservation projects.
23. Development and redevelopment shall be consistent with the public goals, objectives, principles, standards, policies and urban design guidelines set forth in the adopted comprehensive plan or element thereof.

24. Buildings and uses shall make appropriate use of open space. The Zoning Administrator and/or Plan Commission may require appropriate landscaping and planting screens. A landscaping maintenance program, together with appropriate assurances, shall be submitted. (For additional landscape standards refer to Chapter 17.11.11)
  25. The height of the above grade exposed basement wall of any residential building should not exceed 10 feet.
  26. Other principles deemed appropriate by the Town of West Bend may be imposed by the Plan Commission.
- B. The following principles are established to apply to all single parcel residential development and redevelopment.
1. The proposed use(s) shall conform to the uses permitted in the applicable Zoning District.
  2. The dimensional arrangement of buildings and structures shall conform to the required area, yard, setback and height restrictions of the Chapter.
  3. The use of bright colors should be limited and used only as an accent such as, for example, on trims.
  4. Accessory Structures located in a Side yard or Rear Yard shall be built with materials compatible with those of the Principal Structures on the same site.
  5. Accessory Structures located in a Street Yard, when permissible, shall be affixed upon a foundation and shall be constructed of substantially the same materials and be of substantially the same appearance as the Principal Structure.
  6. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Town.
  7. Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical to prevent indiscriminate or excessive earth moving or clearing of property, disfiguration of natural land forms, and disruption of natural drainage patterns.
  8. Appropriate erosion control measure shall be utilized in all new development.
  9. The height of the above grade exposed basement wall of any residential building should not exceed 10 feet.
  10. Other principles deemed appropriate by the Town of West Bend may be imposed by the Plan Commission.
- C. Additional building and site development standards for the R-1S and R-1S/MU Districts:
1. Building Form, Height and Proportions. When possible, Principal Structures should be designed to create layered and visually interesting building facades that harmonize with the surrounding lake front buildings, through the use of building step-backs, varied roof forms, porches, etc.

**Building Proportions Diagram**



2. Roofs. Simple roof forms should be used on all buildings to reflect the historic lake character of the neighborhoods.
  - a. Gable roofs must have a minimum 6/12 pitch.
  - b. Hip roofs must have a minimum 4/12 pitch.
  - c. Shed roofs should be between 4/12 and 12/12 and be used against a main structure wall, as a dormer or as a screen for a flat roof only.
  - d. Flat roofs should not exceed 300 square feet in size unless screened from general public view by some other roof form or building massing.
  - e. Dormers, eyebrow windows and skylights are permitted.
3. Entries.
  - a. All structures should have the main or front entries oriented towards and visible from the street or entrance court.
  - b. When possible, buildings on the lake shall have a second front entry oriented towards the lake. Lakeside entries shall not appear as back doors, but rather should be scaled and detailed to appear as an additional principal entry to the building.
4. Porches.
  - a. All porches or decks should be associated with a building entry and be integrated with the building architecture.
  - b. The first floor level of Shore Yard porches and decks shall be no higher than 12 feet above the surrounding ground level.
  - c. All porches and decks shall contain a high level of design detail and be constructed of high-quality materials to reflect their visibility from the lake.

5. Windows.
  - a. All building windows should be rectangular and vertically proportioned. Square, circular, semi-circular, octagonal or oval shaped windows should be used sparingly as accent windows in the overall building composition. Triangular or trapezoidal windows shall not be used.
  - b. Any large horizontal or other expanse of glazing should be broken down into smaller window areas by the inclusion of strong vertical mullion elements and window muntins. All window and door openings should be framed with substantial trim boards (five-inch recommended minimum).
  - c. Window glazing shall be clear; the use of heavily tinted, opaque, or mirrored glass is not permitted. Stained glass windows are permitted as accent windows.
6. Garages.
  - a. Garages and garage doors should be scaled appropriately to the size of the Principal Structure. The main mass of the garage should be complementary and subordinate to the main mass and positioning of the Principal Structure.
  - b. Garages and garage doors should be positioned so they do not dominate the view from the street and neighboring properties. Wherever possible, garage doors should be side loaded and screened from public view on adjacent streets
  - c. When garage doors must face the street, the street facing façade should include an upper level balcony, terrace, awning, or other projecting element above the door area. The area above the garage should include glazed window or door openings with a minimum 15 square feet of glazed area.
  - d. When possible, single garage doors should be used to create a more intimately scaled façade and when appropriate, garage doors should be painted or stained a contrasting color.
7. Landscape. See Chapter 17.11.11 for landscape standards.

### **17.10.03 ADMINISTRATION**

- A. The Zoning Administrator shall review all site plans submitted under Chapter 17.10 and prepare a staff report for the Plan Commission
- B. The Plan Commission shall approve all site plans submitted under this section excepting single parcel residential development as described in Chapter 17.10.01.D below.
- C. The Zoning Administrator shall approve all site plans submitted under this section for proposed single parcel residential development. Single parcel residential development shall be limited to the following:
  1. Proposed single-family residential development on a new parcel created via a Certified Survey Map.
  2. Proposed single-family residential redevelopment on an existing parcel.

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- D. Plan Data for Development and Redevelopment other than Single Parcel Residential Development. Plan data shall be submitted to Town Clerk to be forwarded to the Zoning Administrator. Plan data to be submitted with plan review applications shall include the following:
1. Site plan drawn to a recognized engineering scale.
  2. Name of project.
  3. Owner's and/or developer's name and address.
  4. Architect and/or engineer's name and address.
  5. Date of plan submittal.
  6. Scale of drawing, north arrow, and site size information (area in square feet or acres).
  7. Existing and proposed topography shown at contour intervals of two feet or less. Topography shall extend 40 feet onto adjacent property or to the building on the adjacent lot, whichever is greater.
  8. The characteristics of soils related to contemplated specific uses.
  9. Total number and location of parking spaces.
  10. All building and yard setback lines.
  11. Where applicable, both the 100 year recurrence interval floodplain and the floodway; environmental corridors and isolated natural resource areas; and wetland areas.
  12. The type, size, and location of all existing and proposed structures with all building dimensions shown.
  13. The height of all existing and proposed buildings and other structures.
  14. Existing and proposed street names.
  15. Existing and proposed rights-of-way and widths.
  16. Existing and proposed easements for and locations of all utility lines, including sanitary sewers, water mains, storm sewers, other drainage facilities and features, communications lines, electrical lines, natural gas lines and other utilities present on and around the site, as applicable.
  17. Proposed stormwater management facilities, including detention/retention areas.
  18. Proposed location and type of all signs to be placed on the site.
  19. The location and type of all outdoor lighting.
  20. Existing isolated, individual trees and the boundary of woodlands.
  21. Landscape plan with the location, extent, and type of proposed plantings.
  22. Location of pedestrian sidewalks and walkways, and bicycle lanes or paths.
  23. A Graphic outline of any development staging.
  24. Scaled architectural plans, color building elevations, and color perspective drawings and color sketches illustrating the design and character of proposed structures and relevant surrounding structures and properties within 300 feet.
  25. Other plans and data as required by the Zoning Administrator and/or Plan Commission.
- E. Plan Data for Single Parcel Residential Development and Redevelopment. Plan data shall be submitted to Town Clerk to be forwarded to the Zoning Administrator. Plan data to be submitted with plan review applications shall include the following:
1. For developed and undeveloped sites:
    - a. Owner's name and address.
    - b. Date of plan submittal.
    - c. Site size information (area in square feet or acres).
    - d. All building and yard setback lines.

- e. The type, size, height, and location of all existing and proposed structures with all building dimensions shown.
  - f. Existing and proposed rights-of-way and widths.
  - g. Existing and proposed easements for and locations of all utility lines, including sanitary sewers, water mains, storm sewers, other drainage facilities and features, communications lines, electrical lines, natural gas lines and other utilities present on and around the site, as applicable.
  - h. Existing isolated, individual trees and the boundary of woodlands.
  - i. Architect, developer, and/or engineer's name and address, as applicable.
  - j. Scaled architectural plans illustrating the design and character of proposed structures.
  - k. Accessory Structures, excluding Transitory Accessory Structures, shall be substantially the same in appearance as the Principal Structure.
  - l. Other plans and data as required by the Zoning Administrator.
2. For undeveloped sites:
- a. Site plan drawn to a recognized engineering scale, scale of drawing, north arrow, and site size information (area in acres or square feet).
  - b. Existing and proposed topography shown at contour intervals of two feet or less. Topography shall extend 40 feet onto adjacent property or to the building on the adjacent lot, whichever is greater.
  - c. Where applicable, both the 100 year recurrence interval floodplain and the floodway; environmental corridors and isolated natural resource areas; and wetland areas.
  - d. Proposed stormwater management facilities, including detention/retention areas, as applicable.
  - e. Landscape plan with the location, extent, and type of proposed plantings.

**17.10.04 REVIEW AND FINDINGS**

The Zoning Administrator and, when required, Plan Commission shall review the referred plans within a reasonable period of time following their submittal, but not more than 60 days. The Zoning Administrator and Plan Commission shall not approve any plans unless they find after viewing the application that the structure or use, as planned, will not violate the intent and purpose of this Chapter. The Zoning Administrator and Plan Commission will approve said plans only after determining the proposed site development or buildings will not substantially increase the danger of fire, traffic congestion, or otherwise endanger the public health or safety. Upon approval of a Site Plan, the Zoning Administrator shall issue a Site Plan Permit to the Applicant establishing the terms of approval and operation for said permit.

**17.10.05 SURETIES**

The Town Board may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission may require appropriate sureties to guarantee that improvements will be completed on schedule.

**17.10.06 APPEALS**

Any person or persons aggrieved by any decisions of the Zoning Administrator or Plan Commission related to plan review may appeal the decision to the Zoning Board of Appeals. Such appeal shall be filed with the Town Clerk within 30 days after filing of the decision of the Zoning Administrator or Plan Commission.

**CHAPTER 17.11 PERFORMANCE STANDARDS**

**17.11.01 COMPLIANCE**

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

**17.11.02 AIR POLLUTION**

No person or activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding established state or federal air pollution standards.

**17.11.03 FIRE AND EXPLOSIVE HAZARDS**

All activities involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above-ground storage capacity of materials that produce flammable or explosive vapors shall not exceed 30,000 gallons.

**17.11.04 GLARE AND HEAT**

No activity shall emit glare or heat that is visible or measurable outside its premises except activities which may emit direct or sky reflected glare which shall not be visible outside their District. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

**17.11.05 WATER QUALITY PROTECTION**

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life. All stormwater runoff should be free of sediment, chemicals, or other contaminants to protect water quality in the Town.

In addition, no activity shall withdraw water or discharge any liquid, or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards and those other standards and the application of those standards set forth in Chapter NR-102, Wisconsin Adm. Code.



**17.11.06 NOISE**

- A. No activity in an M-1 Industrial District shall produce a sound level outside the District boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

M-1 Industrial District Noise			
Octave Band Frequency (Cycles Per Second)			Sound Level (Decibels)
0	To	75	79
75	To	150	74
150	To	300	66
300	To	600	59
600	To	1200	53
1200	To	2400	47
2400	To	4800	41
Above			39

- B. No other activity in any other District shall produce a sound level outside its premises that exceeds the following:

Any Other District Noise			
Octave Band Frequency (Cycles Per Second)			Sound Level (Decibels)
0	To	75	72
75	To	150	69
150	To	300	59
300	To	600	52
600	To	1200	46
1200	To	2400	40
2400	To	4800	34
Above		4800	32

- C. All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

**17.11.07 ODORS**

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises. The guide for determining odor measurement and control shall be Chapter 13, Air Pollution Abatement Manual-1960, prepared by the Manufacturing Chemists' Association, Inc., Washington, D.C.

**17.11.08 RADIOACTIVITY AND ELECTRICAL DISTURBANCES**

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

**17.11.09 VIBRATION**

No activity in any District shall emit vibrations that are discernible without instruments outside its premises. No activity shall emit vibrations that exceed the following displacement measured with a three-component measuring system:

Vibrations		
Frequency (Cycles Per Second)	Displacement (Inches)	
	Outside the Premises	Outside the District
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and over	.0002	.0001

**17.11.10 RESERVED**

**17.11.11 LANDSCAPING**

A. Purpose and Characteristics. The intent of this Section is to:

1. Protect the lakes and associated aquatic and terrestrial systems.
2. Enhance the scenic character and natural environment of the Town.
3. Establish natural buffers to screen structures from roads, water bodies, and neighboring properties.
4. Mitigate adverse impacts attributed to stormwater runoff.
5. Identify the landscape standards created and intended to achieve these purposes.

B. General Design Criteria.

1. The addition of new plant materials shall augment existing vegetation.
2. Existing, healthy, non-invasive species should be considered as part of and incorporated within a landscape plan.
3. The location, dimensions, and spacing of required plantings should be adequate for their proper growth and maintenance, taking into account the sizes of such plantings at maturity and their present and future environmental requirements, such as wind, soil, moisture, and sunlight.
4. Diversity of vegetation species is recommended.
5. Trees or shrubs that are planted immediately adjacent to roadway rights-of-way shall be moderately tolerant of both salt spray and salt absorbed into the soil.
6. Canopy trees that are newly installed shall reach a minimum height and spread of 30 feet at maturity (10 years growth) as determined by the American Association of Nurserymen (AAN) Standards and shall be deciduous. New canopy trees shall have a minimum caliper of two inches at planting.
7. Ornamental trees that are newly installed shall reach a typical minimum height of 15 feet at maturity, based on AAN Standards and shall be deciduous. Ornamental trees shall have a distinctive ornamental character such as showy flowers, fruit, habit, foliage, or bark. New ornamental trees shall have a minimum caliper of 1.5 inches.

C. Plant Material Types and Quantities.

1. All plants shall be hardy and within the United States Department of Agriculture (USDA) hardiness zone applicable to the Town of West Bend, Wisconsin (Hardiness Zones 5a to 3a).
2. Native or naturalized plant species shall be considered preferential when developing a landscape plan.
3. All plants shall meet the minimum standards for health, form, and root condition as outlined in the AAN Standards.

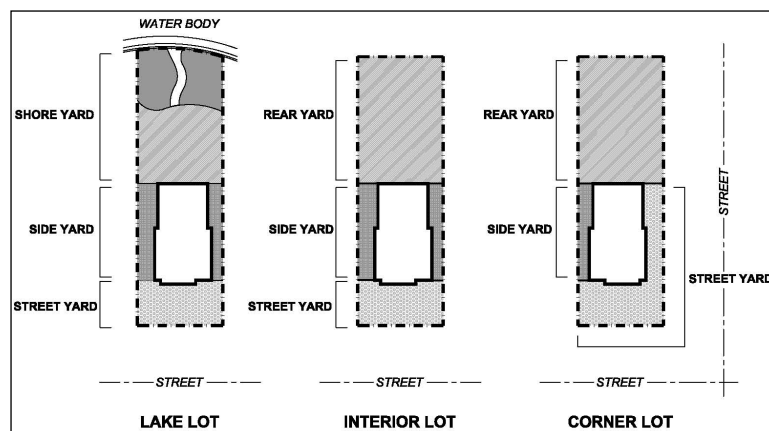
D. R-1N and R-1R Residential Landscape Design Criteria.

1. Preservation and visual blending of the existing natural landscape features shall be a priority in landscape planning.
2. Vegetated buffers shall be established and maintained so as to diminish the view of existing structures from the roadway.
3. Scenic Buffer areas shall be established and maintained within the street yard outside of any right-of-way with the plant quantities and general plant types as indicated in the table below.

R-1N and R-1R Scenic Buffer Area Required Plantings	
Area	Combination of Existing and New Plantings
Each 50 feet of frontage abutting a State or County Highway.	Three canopy trees or two evergreens One ornamental tree No fewer than five medium-to-tall shrubs
Property boundary along a minor arterial street around the perimeter of the development (minimum width: 30 feet) Each 50 feet of frontage abutting a Town road.	Two canopy trees or one evergreen One ornamental tree No fewer than five medium-to-tall shrubs

E. R-1S Shoreland Residential, R-1S/MU Shoreland Residential / Mixed-Use and C-1 Landscape Design Criteria.

1. Vegetated buffers shall be established and maintained so as to diminish the view of existing structures from the roadway
2. Yard Location Diagram:



3. Planting design concepts should consider the following when implementing a landscape plan:
  - a. Street Yard Areas (See Yard Location Diagram).
    - (1) Ensure visual screening of buildings from adjacent roadways through vertical layering of plant materials that include groundcovers, shrubs and trees.
    - (2) Enframe residential structures through planting masses that include native and wildlife-beneficial plant species.
  - b. Side Yard Areas (See Yard Location Diagram).
    - (1) Ensure visual screening of buildings or other structures when viewed from neighboring properties or streets through a planting scheme that incorporates evergreen (winter screening) vegetation and appropriate height of vegetation to minimize visual intrusion of buildings.
    - (2) Avoid obstruction of lake views from neighboring properties to the greatest extent possible through careful landscape planning.
  - c. Rear Yard Areas (See Yard Location Diagram).
    - (1) Establish vegetative buffer along the rear property line that enframes views to neighboring acreage.
  - d. Shore Yard Areas (See Yard Location Diagram).
    - (1) Shore Yard areas should support vegetation that preserves the natural appearance of the shoreline, and supports plant materials that augment visual interest of the shore zone. Vertical diversity of plant materials shall be established or preserved, and include a canopy layer of trees, a mid-canopy layer of ornamental trees, and a ground layer of shrubs, ferns, forbs and grasses and other broadleaf groundcover plants.
    - (2) Property owners shall preserve or establish, and maintain, a primary Shore Yard buffer of native Shore Yard vegetation in the area that extends a minimum of 35 feet inland from the ordinary high water mark of navigable waters under the following circumstances:
      - (a) When a new Principal Structure is being constructed.
      - (b) When primary buffer restoration or maintenance is selected to meet the requirements of applicable county or state or federal requirements for any reconstruction, expansion, structural alteration, replacement, or relocation of any proposed structure that does not meet the minimum setback standards.
    - (3) Vegetation shall not be removed from the primary Shore Yard buffer except in access and viewing corridors. The removal of exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation posing a safety hazard is allowed.
    - (4) A cleared or semi-cleared viewing corridor within the Shore Yard buffer should adhere to the following dimensions:
      - (a) When a new Principal Structure is being constructed, or when required under applicable county or state or federal requirements, lots 200 feet or less wide at the ordinary high water mark may have a total width of an access and viewing corridor or corridors that may not exceed 30% of the lot's width, to a maximum of 40 feet, at the Ordinary High Water Mark.
      - (b) When a new Principal Structure is being constructed, or when required under applicable county or state or federal requirements, lots which are more than 200 feet wide at the ordinary high water mark are allowed a total width of an access and viewing corridor or corridors that may not exceed

20% of the lot's width, to a maximum of 100 feet, of the lot's width at the Ordinary High Water Mark.

- (5) Property owners shall avoid planting nonnative plant species in the Shore Yard buffer area that may spread to nearby wetlands or waterways and ensure that invasive and nuisance flora is controlled within the shore buffer zone.
- 4. Landscape plans shall be provided for building and site work that requires a Site Plan Permit and for other site development work that disturbs over 500 square feet of site area.

R-1S and R-1S/MU Required Plantings	
Area	Existing and New Plantings
Each 50 Feet of Street Yard	One canopy trees or one evergreen One ornamental tree Seven medium to tall shrubs <ul style="list-style-type: none"> <li>▪ Vegetation shall be arranged in masses to filter views from the road edge.</li> <li>▪ Dispersed patterns of landscape planting that provide minimal visual buffering shall be discouraged</li> <li>▪ New understory vegetation that augments existing mature deciduous trees should be considered in the development of a landscape plan</li> <li>▪ Front corners of parcel shall be anchored with vegetation, as appropriate</li> </ul>
Each 50 Feet of Shore Yard	One canopy tree or two evergreens One ornamental tree Four medium to tall shrubs

F. B-1, B-2, M-1 and P-1 Landscape Design Criteria.

- 1. Properties designated as B-1, B-2, M-1 and P-1 shall establish and maintain landscape regulations that promote visual buffering from the roadway (street edge) and neighboring parcels.
- 2. Side Yards shall be augmented with landscape features that encourage public use of the space.
- 3. Site design and landscaping of parking lots shall comply with the requirements of Chapter 17.6 Traffic, Loading, Parking, and Access.

B-1, B-2, M-1 and P-1 Required Plantings	
Area	Existing and New Plantings
Street Edge	Four trees for each 100 lineal feet of frontage plus one of the following minimum: <ul style="list-style-type: none"> <li>▪ Masonry or split rail fence minimum of 48 inches high with masonry posts at least 20 feet on center.</li> <li>▪ Ornamental metal fence at least 48 inches high with a coniferous hedge at least 36 inches high planted on one side of the fence</li> <li>▪ Existing shrubs if they are continuous and at least 48 inches high</li> <li>▪ An additional row of trees</li> </ul>
Side Yard (including area between buildings)	<ul style="list-style-type: none"> <li>▪ Landscaping shall connect to existing landscape in and around the site and be of similar plant material</li> <li>▪ Six trees for each 1,000 square feet of space grouped together when possible or four trees and four medium to tall shrubs for each 1,000 square feet of space</li> <li>▪ Landscape area should include seating and pedestrian paths to encourage the use of the space</li> </ul>
*Existing plantings in combination with new plantings shall equal the requirement.	

G. Suggested Plant Species.

## ZONING ORDINANCE

Suggested Plant Species List (at least three different tree species and three different shrub species shall be used)	
TREES	
Large Deciduous Trees	Evergreen Trees
Basswood ( <i>Tilia Americana</i> )	American Arborvitae ( <i>Thuja occidentalis</i> )*
Bur Oak ( <i>Quercus macrocarpa</i> )	Austrian Pine ( <i>Pinus nigra</i> )
Common Hackberry ( <i>Celtis occidentalis</i> ) 'Prairie Pride'	Canadian Hemlock ( <i>Tsuga Canadensis</i> )*
Common Honeylocust ( <i>Gleditsia triacanthos</i> )	Eastern Red Cedar ( <i>Juniperus virginiani</i> )
Red Maple ( <i>Acer rubrum</i> )	Eastern White Pine ( <i>Pinus strobus</i> )*
Red Oak ( <i>Quercus rubra</i> )	Techny American Arborvitae ( <i>Thuja occidentalis</i> 'Techny')
Sugar Maple ( <i>Acer saccharum</i> )	White Spruce ( <i>Picea glauca</i> )*
Swamp White Oak ( <i>Quercus bicolor</i> )	
Ornamental Deciduous Trees	
River Birch ( <i>Betula nigra</i> )	
European Alder ( <i>Alnus glutinosa</i> )	
Laurel Willow ( <i>Salix pentandra</i> )	
American Hornbeam ( <i>Carpinus caroliniana</i> )	
Hawthorns ( <i>Crataegus species</i> )	
SHRUBS	
Tall Deciduous Shrubs	Medium Deciduous Shrubs
American Cranberrybush Viburnum ( <i>Viburnum trilobum</i> )	American Filbert ( <i>Corylus Americana</i> )*
Arrowwood Viburnum ( <i>Viburnum dentatum</i> )	Red Chokeberry ( <i>Aronia arbutifolia</i> )
Blackhaw Viburnum ( <i>Viburnum prunifolium</i> )	Winterberry ( <i>Ilex verticillata</i> )*
Common Witchhazel ( <i>Hamamelis virginiani</i> )*	Withrod Viburnum ( <i>Viburnum cassinoides</i> )*
Eastern Ninebark ( <i>Physocarpus opulifolius</i> )*	Evergreen Shrubs
Eastern Wahoo ( <i>Euonymus atropurpurea</i> )*	Pfitzer Juniper ( <i>Juniper chinensis</i> 'Pfitzerana')
Eastern White Pine ( <i>Pinus strobus</i> )	Oldfield Common Juniper ( <i>Junipers communis depressa</i> )*
Nannyberry Viburnum ( <i>Viburnum lentago</i> )*	Creeping Juniper ( <i>Juniper horizontalis</i> )*
Alleghany Serviceberry ( <i>Amelanchier laevis</i> )	Woodward Globe Arborvitae ( <i>Thuja occidentalis</i> 'Woodwardii')
SHRUBS	
Low Deciduous Shrubs	Dwarf European Cranberrybush ( <i>Viburnum opulus</i> 'Nanum')
Alpine Currant ( <i>Ribes alpinum</i> )	Mapleleaf Viburnum ( <i>Viburnum acerifolium</i> )*
Black Chokeberry ( <i>Aronia melanocarpa</i> )*	Running Serviceberry ( <i>Amelanchier stolonifera</i> )*
* Native Vegetation Species	

H. Prohibited Landscaping Species. The following species have been identified as invasive by the Wisconsin Department of Natural Resources (WDNR) due to their ability to invade wild areas, outcompete native species, degrade habitats, and potentially cause extensive ecological damage. These species are prohibited for use in all commercial, industrial, and residential site plans and landscaping plans in the Town of West Bend.

1. Trees and shrubs.
  - a. Autumn olive
  - b. Buckthorn – common, glossy
  - c. Honeysuckle – Amur, Morrow, showy, Tatarian
  - d. Japanese barberry
  - e. Maple – Amur, Norway
  - f. Smooth sumac
  - g. White mulberry

2. Vines.
  - a. American bittersweet
  - b. Oriental bittersweet
3. Ground covers.
  - a. Birds-foot trefoil
  - b. Crown vetch
4. Flowers and Wildflowers.
  - a. Dames rocket
  - b. Multiflora rose
  - c. Purple loosestrife
  - d. Yellow iris
5. Grasses.
  - a. Maiden grass
  - b. Reed canary grass
6. Aquatic.
  - a. Flowering rush
  - b. Water hyacinth
  - c. Water lettuce
  - d. Yellow floating heart

**17.11.12 PERSONAL ENERGY SYSTEMS**

A. Small Wind Energy Systems.

1. Applicability.
  - a. This Section applies to:
    - (1) New small wind energy systems as defined in Section 17.15 of this Chapter and in Chapter PSC 128, Wis. Stats.
    - (2) An expansion of a previously approved wind energy system other than those described in Section 1.b below.
  - b. This Chapter does not apply to the following:
    - (1) A wind energy system for which construction began before March 1, 2011.
    - (2) A wind energy system placed in operation before March 1, 2011.
    - (3) A wind energy system approved by the Town before March 1, 2011.
    - (4) A wind energy system proposed by the owner in an application filed with the Town before the March 1, 2011.
2. Purpose. It is the purpose of this Section to:
  - a. Promote the safe, effective and efficient use of wind energy systems installed to reduce the on-site consumption of utility supplied energy and/or hot water as a permitted Accessory Use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.
  - b. Oversee the permitting of wind energy systems.
  - c. Preserve and protect the public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system, per Chapter 66.0401, Wis. Stats., and Chapter PSC 128 Wis. Stats.
3. Standards. The installation and operation of a wind energy system shall be subject to the following standards:

- a. Districts Allowed. A wind energy system shall be an accessory to a Principal Use and shall require a Conditional Use Permit in the R-1N, R-1R, R-1S, R-1s/MU, B-1, B-2, M-1, C-1, and P-1 Districts.
- b. Physical Characteristics.
  - (1) The owner may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a wind turbine. The owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a wind turbine. The owner may attach a safety feature or wind monitoring device to a wind turbine.
  - (2) The owner shall ensure that a wind turbine has a conventional or unobtrusive finish.
  - (3) The owner shall install lighting at a wind energy system that complies with standards established by the federal aviation administration.
  - (4) The owner shall use shielding or control systems approved by the federal aviation administration to reduce visibility of any required lighting to individuals on the ground.
  - (5) The owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel.
  - (6) The owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present.
  - (7) The owner shall place appropriate warning signage on or at the base of each wind turbine.
  - (8) The 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.
  - (9) The owner shall construct, maintain, and operate collector circuit facilities in a manner that complies with the national electrical safety code and Chapter PSC 114, Wis. Stats., and shall construct, maintain, and operate all wind energy system facilities in a manner that complies with the national electrical code.
- c. Construction, Operation, and Maintenance Standards. The 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.
- d. Setbacks.
  - (1) A wind energy system shall be setback a distance equal to 100% of from the maximum blade tip height from the following:
    - (a) Occupied community buildings.
    - (b) Nonparticipating residences.
    - (c) Nonparticipating property lines.
    - (d) Overhead communication and electric transmission lines or distribution lines, not including utility service lines to individual houses or outbuildings.
  - (2) The owner of an adjacent nonparticipating residence or an adjacent occupied community building may waive the required setback as long as such waiver is provided in writing to the Town at the time of application for a Conditional Use Permit.
  - (3) There is no required setback for a wind energy systems from the following:
    - (a) Participating residences.



- (b) Participating property lines.
- (c) Public road right-of-way.
- (d) Overhead utility service lines to individual houses or outbuildings.
- e. Noise.
  - (1) Hours. 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 Chapter PSC 128.105(1), Wis. Stats., or for which complete publicly-available plans for construction are on file with the Town within 30 days of the date on which the owner gives notice under Chapter PSC 128.105(1), Wis. Stats.
    - (b) The owner shall design the proposed wind energy system to minimize noise at a residence or occupied community building to the extent reasonably practicable.
    - (c) The 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 below the 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 the 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 of this Section, the owner shall test for compliance with the noise limits in this Section. The Town may not require additional testing 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 at the location relating to the complaint.
    - (c) Upon receipt of a complaint about a noise under this Section, the owner shall use operational curtailment to eliminate the noise until the owner permanently corrects the problem.
  - (5) Waiver. Upon request by the owner of a wind energy system, the 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 the owner of an affected nonparticipating residence or occupied community building, a waiver by the 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 Chapter 706, Wis. Stats.

- (6) Notification.
  - (a) Before entering into a contract for a waiver as described above, the 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, the owner shall provide notice of the requirements of Chapter PSC 128.14, Wis. Stats., to each adjacent nonparticipating residence or occupied community building before the initial operation of the small wind energy system.
- f. 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 Chapter PSC 128.105(1), Wis. Stats., 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 Chapter PSC 128.105(1), Wis. Stats.
    - (b) The 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. The 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. The 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 the 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 this Section 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 Chapter 706, Wis. Stats.
- g. Signal Interference.
  - (1) Except as provided under an approved waiver, the signal interference

- requirements in this Section apply to commercial communications and personal communications in use when the wind energy system begins operation.
- (2) The owner shall use reasonable efforts to avoid causing interference with commercial communications and personal communications to the extent practicable.
  - (3) The 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. The Town may require an owner to provide information showing that wind turbines and other wind energy system facilities will be in compliance with this paragraph.
- h. Emergency Procedures. The owner shall notify the Town of the occurrence and nature of a wind energy system emergency within 24 hours of the wind energy system emergency.
  - i. Decommissioning.
    - (1) The 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.
    - (2) 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.
    - (3) 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.
    - (4) The owner shall file a notice of decommissioning completion with the Town and the Public Service Commission when a wind energy system approved by the Town has been decommissioned and removed.
    - (5) Within 360 days of receiving a notice of decommissioning, the Town shall determine whether the owner has satisfied the requirements of Chapter PSC 128.19, Wis. Stats.
4. Application.
    - a. Pre-Application Notice.
      - (1) At least 60 days before the owner files an application to construct a wind energy system, the owner shall use commercially reasonable methods to provide written notice of the planned wind energy system to all of the following:
        - (a) All adjacent landowners.
        - (b) The Town of West Bend Zoning Administrator.
      - (2) The owner shall include all of the following in the required notice:
        - (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.
      - (3) The owner shall make reasonable efforts to ascertain and accommodate any existing land uses or commercial enterprises located on an adjacent nonparticipating property.
      - (4) The owner shall design a wind energy system to reasonably minimize the conversion of land from agricultural use.
    - b. Application and Notice Requirements.

- (1) Application required. The owner shall file an application conditional use permit with the Town.
- c. Contents of application. The owner shall complete and file with the Town an application on a form provided by the Town that includes all of the following:
  - (1) Wind energy system description and maps showing the locations of all proposed wind energy facilities.
  - (2) Technical description of wind turbines and wind turbine sites.
  - (3) Timeline and process for constructing the wind energy system.
  - (4) Information regarding anticipated impact of the wind energy system on local infrastructure.
  - (5) Information regarding noise anticipated to be attributable to the wind energy system.
  - (6) Information regarding shadow flicker anticipated to be attributable to the wind energy system.
  - (7) Information regarding the anticipated effects of the wind energy system on parcels adjacent to the wind energy system.
  - (8) Information regarding the anticipated effects of the wind energy system on airports and airspace.
  - (9) Information regarding the anticipated effects of the wind energy system on line-of-sight communications.
  - (10) A list of all state and federal permits required to construct and operate the wind energy system.
  - (11) Information regarding the planned use and modification of roads within the Town 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.
  - (12) A representative copy of all notices issued under this Section and Chapters PSC 128.105(1)(a) and 128.42(1).
  - (13) Any other information necessary to understand the construction, operation or decommissioning of the proposed wind energy system.
- d. Accuracy of information. The owner shall ensure that information contained in an application is accurate.
- e. Duplicate copies. The Town may specify a reasonable number of copies to be filed. Each copy shall include all worksheets, maps, and other attachments included in the application. The Town may permit the owner to file an application electronically.
- f. Notice to property owners and residents.
  - (1) On the same day the owner files an application for a wind energy system, the owner shall, under Chapter 66.0401(4)(a)3, Wis. Stats., use commercially reasonable methods to provide written notice of the filing of the application shall be provided only to property owners and residents located adjacent to the small wind energy system. 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:
    - (a) A complete description of the wind energy system, including the number and size of the wind turbines.
    - (b) A map showing the locations of all proposed wind energy system facilities.
    - (c) The proposed timeline for construction and operation of the wind energy system.

- (d) Locations where the application is available for public review.
- (e) Owner contact information.
- (2) After the Town receives an application for a wind energy system, the notice required to be published by the Town under Chapter 66.0401(4)(a)1 Wis. Stats., 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 Town, and the approximate schedule for review of the application by the Town.
- g. Application completeness.
  - (1) Complete applications.
    - (a) An application is complete if it meets the requirements of this Chapter and the filing requirements under Chapter PSC 128.30(2) and 128.50 (1), Wis. Stats.
    - (b) The Town 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 the Town in writing that all the application materials have been filed and the application fee has been paid. If the Town determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
    - (c) The owner may file a supplement to an application that the Town has determined to be incomplete. There is no limit to the number of times that the owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in by the Zoning Administrator.
    - (d) An additional 45-day completeness review period shall begin the day after the Town receives responses to all items identified in the notice.
    - (e) If the Town does not make a completeness determination within the applicable review period, the application is considered to be complete.
  - (2) Requests for additional information. The Town may request additional information necessary to understand the wind energy system after determining that an application is complete. The owner shall provide additional information in response to all reasonable requests. The owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.
- h. Accuracy of Application. The owner shall certify that the information contained in the application is accurate. The Town may reject or deny the application if it contains false, misleading or inaccurate information.
- i. Town Review.
  - (1) Written Decision.
    - (a) The Town 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.
    - (b) The Town shall provide its written decision to the owner and to the commission. The political subdivision 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 register of deeds for the county in which the wind energy system is located.
- (2) Ownership Change. Approval of a wind energy system remains in effect if there is a change in the owner of the wind energy system.
- j. Record of Decision.
  - (1) Recordkeeping.
    - (a) The Town shall keep a complete written record of its decision-making relating to an application for a wind energy system.
    - (b) If the application is denied, the Town shall keep the record for at least seven years following the year in which it issues the decision.
    - (c) If the application is approved, the Town shall keep the record for at least seven years after the year in which the wind energy system is decommissioned.
  - (2) Record of 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 Chapters PSC 128.105(1)(a), 128.30(5), and 128.42(1), Wis. Stats.
    - (c) A copy of any notice or correspondence that the Town issues related to the application.
    - (d) A record of any public meeting under Chapter PSC 128.30(6)(c), Wis. Stats., 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 the Town considered in relation to the application, including copies of all written public comments filed under Chapter PSC 128.30(6)(b), Wis. Stats.
    - (f) Minutes of any Town meetings held to consider or act on the application.
    - (g) A copy of the written decision under Chapter PSC 128.32(3)(a), Wis. Stats.
    - (h) Other materials that the Town prepared to document its decision-making process.
    - (i) A copy of any Town ordinance cited in or applicable to the decision.
- 5. Modifications to an Approved Wind Energy System.
  - a. Material Change.
    - (1) The 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 the Town that authorized the wind energy system, unless the political subdivision automatically approves the material change by taking either of the steps specified in Chapter PSC 128.32(2)(b)1 or 2, Wis. Stats.
    - (2) The owner shall submit an application for a material change to an approved wind energy system to the Town.
  - b. Limited Review.
    - (1) Upon receipt of an application for material change to an approved wind energy system, the Town shall consider only those issues relevant to the proposed change.
    - (2) An application for a material change is subject to Chapters PSC 128.30(1), (3) to (5), (6)(a) and (b), and (7); and 128.31 to 128.34, Wis. Stats.
    - (3) An application for a material change shall contain information necessary to

- understand the material change.
- (4) The Town shall hold a public meeting to obtain comments on and to inform the public about a proposed material change to an approved wind energy system.
6. Complaint Process.
    - a. Making a Complaint.
      - (1) An aggrieved person may make a complaint regarding failure by an owner to comply with an obligation under this Chapter.
      - (2) A complaint shall be made first to the owner of the wind energy system pursuant to a complaint resolution process developed by the owner.
      - (3) A complainant may petition the Town for review of a complaint that is not resolved within 45 days of the day the owner receives the original complaint.
      - (4) The Town's decision is subject to review under Chapter 66.0401(5), Wis. Stats.

B. Solar Energy Systems.

1. Applicability.
  - a. This Section applies to solar energy systems, including photovoltaic and solar thermal systems, constructed after the effective date of the Chapter.
  - b. Any upgrade, modification, or structural change to a solar energy system constructed prior to the effective date of this Chapter shall comply with the provisions of Chapter.
2. Purpose. It is the purpose of this Section to:
  - a. Promote the safe, effective and efficient use of solar energy systems installed to reduce the on-site consumption of utility supplied energy and/or hot water as a permitted Accessory Use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.
  - b. Oversee the permitting of solar energy systems.
  - c. Preserve and protect the public health and safety without significantly increasing the cost or decreasing the efficiency of a solar energy system, per Chapter 66.0401, Wis. Stats.
3. Standards. The installation and operation of a solar energy system shall be subject to the following standards:
  - a. Districts Allowed. A solar energy system shall require a Conditional Use permit in all zoning districts as an accessory to a Principal Use.
  - b. A solar energy system shall be constructed, installed, and operated in conformance with all applicable State and Town building codes, and in accordance with Chapters 66.0401, 66.0403, 700.35, and 700.41, Wis. Stats.
  - c. A solar energy system shall provide power for the Principal Use and/or Accessory Use of the property on which the solar energy system is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
  - d. A solar energy system connected to the utility grid shall provide written authorization from the local utility company to the Town acknowledging and approving such connection.
  - e. Roof-mounted solar energy systems.

- (1) A roof-mounted system may be mounted on a Principal Structure or Accessory Structure.
  - (2) A roof-mounted system, whether mounted on the Principal Structure or Accessory Structure, may not exceed the maximum Principal Structure height or Accessory Structure height specified for the building type in the underlying zoning district.
  - (3) In no instance shall any part of the solar energy system extend beyond the edge of the roof.
  - (4) A roof-mounted system must have a three-foot setback from the edge of the gutter and from the chimney.
  - (5) A roof-mounted system shall be located to ensure that any solar glare is directed away from adjacent properties and roads.
- f. Ground-mounted solar energy systems.
- (1) A ground-mounted system shall not exceed the maximum building height for Accessory Structures.
  - (2) The surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
  - (3) A ground-mounted system or system attached to an Accessory Structure shall not be located within the required front yard setback.
  - (4) Solar panels shall be placed such that concentrated solar radiation or solar glare shall not be directed onto nearby properties or roadways.
  - (5) All exterior electrical and/or plumbing lines must be buried below the surface of the ground and placed in a conduit.
  - (6) A ground-mounted system shall be placed in the side and rear yard only and shall meet all setback and yard requirements for the district in which it is located.
- g. All mechanical equipment associated with and necessary for the operation of the solar energy system shall comply with the following:
- (1) Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other non-invasive plant species that provides a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of this Chapter may be used.
  - (2) Mechanical equipment shall not be located within the Street Yard of the parcel.
  - (3) Mechanical equipment shall comply with the setbacks specified for Accessory Structures in the underlying zoning district.
- h. No adjacent property owners shall be required to remove vegetation or structures that may block sunlight to the solar energy system during the initial installation of a system.
- i. A solar energy system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the prevailing sign regulations.
- j. The design of the solar energy system shall conform to applicable industry standards. All wiring shall comply with the applicable version of the National Electric Code (NEC). The local utility provider shall be contacted to determine grid interconnection and net metering policies. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certifying



organization and any such design shall be certified by an Engineer registered in the State of Wisconsin.

- k. If a solar energy system is defective or is deemed to be unsafe by the Building Inspector, the solar energy system shall be required to be repaired by the Owner to meet federal, state, and local safety standards, or be removed by the property Owner within the time period allowed by the Plan Commission. If the Owner fails to remove or repair the defective or abandoned solar energy system, the Town may pursue a legal action to have the system removed at the Owner's expense.

C. Geothermal Energy Systems.

1. Applicability.
  - a. This Section applies to geothermal energy systems constructed after the effective date of the Chapter.
  - b. Any upgrade, modification, or structural change to a geothermal energy systems constructed prior to the effective date of this Chapter shall comply with the provisions of this Chapter.
2. Purpose. It is the purpose of this Section to:
  - a. Promote the safe, effective and efficient use of geothermal energy systems installed to reduce the on-site consumption of utility supplied energy as a permitted Accessory Use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.
  - b. Oversee the permitting of geothermal systems.
  - c. Preserve and protect the public health and safety.
3. Standards. The installation and operation of a geothermal energy system shall be subject to the following standards:
  - a. Districts Allowed. A geothermal energy system shall require a Conditional Use permit in all zoning districts.
  - b. A geothermal energy system shall be constructed, installed, and operated in conformance with all applicable State and Town building codes, and in accordance with Chapter 280, Wis. Stats.
  - c. A geothermal energy system shall conform to applicable industry standards including those of ANSI. Applicants shall submit certificate of compliance demonstrating that the system has been tested and approved by UL or other approved independent testing agency.
  - d. Above ground equipment shall comply with the setback requirements of the respective zoning district.
  - e. Equipment, piping and devices shall not be located in any easement or right-of-way.
  - f. Setbacks. Geothermal energy systems shall conform to all setbacks requirements for Accessory Structures and shall:
    - (1) Be setback a minimum of 75 feet between a vertical geothermal energy system and a personal onsite wastewater treatment system.
    - (2) Be setback a minimum of 25 feet between a horizontal geothermal energy system and a personal onsite wastewater treatment system.
    - (3) Not be located closer than 200 feet to a water well, except when the well is a private water system well and when the owner is the same for both the

water well and the geothermal system, in which case the water well shall not be closer than 75 feet from the geothermal system.

D. Electric Vehicle Infrastructure.

1. Purpose. The purpose of this Section is to facilitate the use of electric vehicles and to expedite the establishment of a convenient, cost-effective electric vehicle infrastructure that such use necessitates.
2. Permitted locations.
  - a. Level-1 and Level-2 electric vehicle charging stations are a permitted use in the every zoning district, except the C-1, C-2, and P-1 Districts, when accessory to the Principal Use. Such stations located at single-family dwellings shall be designated as private restricted use only.
  - b. Level-1 and Level-2 electric vehicle charging stations require a Conditional Use permit in the C-1, C-2, and P-1 Districts.
  - c. Level-3 electric vehicle charging stations are permitted in the B-1, B-2, and M-1 Districts, when accessory to the Principal Use.
    - (1) If the primary use of the parcel is the retail electric charging of vehicles, then the use shall be considered a gasoline service station for zoning purposes. Such a use shall be located in zoning districts that permit gasoline service stations and shall require a Conditional Use permit.
3. General requirements for parking.
  - a. An electric vehicle charging station space may be included in the calculation for any minimum required parking spaces.
  - b. Public electric vehicle charging stations are reserved for parking and charging electric vehicles only.
  - c. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
4. Lighting. Site lighting shall be provided where an electric vehicle charging station is installed, unless charging is for daytime purposes only.
5. Equipment Standards and Protection.
  - a. Battery charging station outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the surface where mounted. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designed and located as to not impede pedestrian travel or create trip hazards on sidewalks.
  - b. Adequate battery charging station protection, such as concrete-filled steel bollards, shall be used. Curbing may be used in lieu of bollards, if the battery charging station is setback a minimum of 24 inches from the face of the curb.
  - c. The property owner is not restricted from collecting a service fee for the use of an electric vehicle charging station made available to visitors of the property.
6. Usage Fees. Information shall be posted identifying voltage and amperage levels and any time of use, fees, or safety information related to the electric vehicle charging station.
7. Signage.
  - a. Each electric vehicle charging station space shall be posted with signage indicating the space is only for electric vehicle charging purposes. For purposes of this Subsection, "charging" means that an electric vehicle is parked at an electric

vehicle charging station and is connected to the battery charging station equipment. Restrictions shall be included on the signage, if removal provisions are to be enforced by the property owner.

- b. When a sign provides notice that a parking spaces a publicly designated electric vehicle charging station, no person shall park or stand any non-electric vehicle in a designated electric vehicle charging station space. Further, no person shall park or stand an electric vehicle in a publicly designated electric vehicle charging station space when not electrically charging or parked beyond the days and hours designated on the regulatory signs posted. For purposes of this Subsection, "charging," means an electric vehicle is parked at an electric vehicle charging station and is connected to the charging station equipment.
- c. Maintenance. Electric vehicle charging stations shall be maintained in all respects, including the functioning of the equipment. A phone number or other contact information shall be provided on the equipment for reporting when it is not functioning or other problems are encountered.

E. Earth Sheltered Structures. Structures which are built partially or totally into the ground for the purpose of using the insulating value of the soil to conserve energy may be permitted in any Residential District. This Section does not include conventional homes with exposed basements, split-levels or similar types of construction. In addition, the following information requirements and standards shall apply:

- 1. Application. Applications for the construction of an earth sheltered structure shall be accompanied by all of the information required to obtain a Building Permit with special attention to be given to the bearing strength of the structure, provision of proper drainage for sanitary, storm and ground water and wastes, proper ventilation, grading of the lot and its effect on adjacent properties, proper exit availability and exterior renderings of the structures to determine its visual effect on adjacent structures. Such standards shall be certified by a registered engineer or architect.
- 2. Construction. Earth sheltered structures shall be constructed in conformance with all applicable state and local building and zoning codes. A registered engineer or architect shall certify that the design of the structure is in conformance with all applicable state and local codes.

**17.11.13 MOBILE TOWER SITING REGULATIONS**

A. Purpose. The purpose of this Section is to regulate by Conditional Use Permit:

- 1. The siting and construction of any new mobile service support structure and facilities.
- 2. With regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities.
- 3. With regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

B. Authority. The Town Board has the specific authority under Chapters 60.61 and 66.0404, Wis. Stats., to adopt and enforce this Chapter.

## ZONING ORDINANCE

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- C. Definitions. All definitions contained in Chapter 66.0404(1), Wis. Stats., are hereby incorporated by reference.
- D. Siting and Construction of Any New Mobile Service Support Structure and Facilities.
1. Application Process.
    - a. A Conditional Use Permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Town obtainable with this permit.
    - b. A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:
      - (1) The name and business address of, and the contact individual for, the applicant.
      - (2) The location of the proposed or affected support structure.
      - (3) The location of the proposed mobile service facility.
      - (4) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
      - (5) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
      - (6) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
    - c. A permit application will be provided by the Town upon request to any applicant.
    - d. If an applicant submits to the Town an application for a permit to engage in an activity described in this Chapter, which contains all of the information required under this Chapter, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
    - e. Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90-day period:
      - (1) Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations in this Section, the Zoning Ordinance.
      - (2) Make a final decision whether to approve or disapprove the application.

- (3) Notify the applicant, in writing, of its final decision.
- (4) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- f. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under Chapter 17.11.13.D.1.b(6) above.
- g. If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in this Chapter, the Chapter does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
- 2. The fee for the permit is \$3,000.00 payable upon submittal of a complete application.

E. Class 1 Colocation.

- 1. Application Process.
  - a. A Conditional Use Permit is required for a Class 1 collocation.
  - b. An application for a Conditional Use Permit must be completed by any applicant and submitted to the Town. The application must contain the following information:
    - (1) The name and business address of, and the contact individual for, the applicant.
    - (2) The location of the proposed or affected support structure.
    - (3) The location of the proposed mobile service facility.
    - (4) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
    - (5) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
    - (6) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
  - c. A permit application will be provided by the Town upon request to any applicant.
  - d. If an applicant submits to the Town an application for a permit to engage in an activity described in this Chapter, which contains all of the information required under this Chapter, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- e. Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90-day period:
    - (1) Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations in this Section, this Chapter.
    - (2) Make a final decision whether to approve or disapprove the application.
    - (3) Notify the applicant, in writing, of its final decision.
    - (4) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  - f. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under Chapter 17.11.13.E.1.b(6) above.
  - g. If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in this Chapter, the Chapter does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
2. The fee for the permit is \$3,000.00 payable upon submittal of a complete application.

F. Class 2 Colocation.

- 1. Application Process.
  - a. A Conditional Use Permit is required for a Class 2 collocation. A class 2 collocation is a permitted use in the Town but still requires the issuance of the Conditional Use Permit.
  - b. An application must be completed by any applicant and submitted to the Town. The application must contain the following information:
    - (1) The name and business address of, and the contact individual for, the applicant.
    - (2) The location of the proposed or affected support structure.
    - (3) The location of the proposed mobile service facility.
  - c. A permit application will be provided by the Town upon request to any applicant.
  - d. A Class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject as per the Town Code.
  - e. If an applicant submits to the Town an application for a permit to engage in an activity described in this Chapter, which contains all of the information required under this Chapter, the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
  - f. Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 45-day period:
    - (1) Make a final decision whether to approve or disapprove the application.
    - (2) Notify the applicant, in writing, of its final decision.
    - (3) If the application is approved, issue the applicant the relevant permit.

- (4) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
2. The fee for the permit is \$500.00 payable upon submittal of a complete application.

G. Penalty Provisions. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Chapter shall, upon conviction, pay a forfeiture of not less than \$250.00 nor more than \$500.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this Chapter. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

#### **17.11.14 KEEPING OF BEES**

A. Districts Allowed. Notwithstanding any other provision of this Chapter, bees may be kept in the R-1N, R-1R, and R-1S Districts upon approval of a Keeping of Bees License.

B. Standards. The keeping of bees shall comply in all respects with the following:

1. No bees shall be intentionally kept and maintained other than Mason bees or Honeybees.
2. No hive shall exceed 20 cubic feet in volume.
3. An ever-present supply of water shall be provided for all hives.
4. The Town Clerk shall be notified immediately if a hive swarms. The Owner is responsible for tracking and managing the swarm and notifying affected landowners.
5. On residential lots:
  - a. No more than two hives may be kept on a residential zoning lot.
  - b. Hives shall not be located on vacant lots.
  - c. Hives shall be located in the back or rear yard in a sunny location.
  - d. No hive shall be located closer than ten feet from any property line of a residential district lot.
  - e. No hive shall be located closer than ten feet from a public sidewalk or 25 feet from a Principal Structure on an abutting lot in different ownership.
  - f. The area around the hive(s) shall be kept clean of hive scrapings to avoid attracting wasps, nuisance insects, and animals.
  - g. Signage shall be posted informing that bees are kept on the property. Such signage shall conform to the following:
    - (1) Signs shall be no smaller than seven inches by 10 inches and printed in a font size clearly legible to the general public.
    - (2) Signs shall be placed at locations visible to all adjoining parcels.
    - (3) Signs shall be posted to a fence or semi-permanent post at a height no lower than four feet and no higher than six feet.
    - (4) Signs shall be made of aluminum, heavy-duty plastic, or vinyl laminate.
    - (5) Signs shall be composed of black writing on a yellow background.
    - (6) Signs shall include the words 'Caution' or 'Warning' in large block letters at the top and 'Bees', 'Honeybees', 'Beehives', or similar below.
  - h. A flyway barrier at least six feet in height shall shield any part of a property line of a lot in different ownership that is within 25 feet of a hive. The flyway barrier must effectively direct Bees to fly up and over the barrier when flying in the direction of the barrier. The flyway barrier shall consist of a wall, fence, dense vegetation, or combination thereof, and it shall be positioned to transect both legs

of a triangle extending from an apex at the hive to each end point of the part of the property line to be shielded.

C. License Required.

1. An 'Application for License: Keeping of Bees' shall be completed and submitted to the Town Clerk.
  - a. The application shall include a diagram describing the location of the hive(s) in relationship to lot boundaries.
  - b. The license shall be issued only to the primary owner(s) of record of a residence located in the designated residential districts.
  - c. The property owner/licensee shall reside on the premises regulated by the license.
  - d. The keeping of bees for commercial purposes or for any activity or purpose not related to the personal purpose of the license holder, including the commercial sale of honey or other materials related to the keeping of bees, shall be prohibited.
  - e. The license shall include the standards described in Subsection B above.
  - f. The license shall be approved by the Plan Commission and issued by the Zoning Administrator.
2. Revocation. A license may be revoked by the Plan Commission for failure to comply with any of the provisions of this Section.
3. Once revoked, a license shall not be reissued for a two-year period.
4. Any Applicant whose application has been denied or license has been revoked under the provisions of this Chapter shall have the right to appeal said denial.
1. Any license holder who has his/her license revoked must properly remove the hive(s) from the subject property within 96 hours of revocation or decision on appeal.

**17.11.15 BACKYARD CHICKENS**

A. Districts Allowed. Notwithstanding any other provision of this Chapter, backyard chickens may be kept in the R-1N, R-1R, and R-1S District districts upon approval of a Backyard Chicken License.

B. Standards. The keeping of backyard chickens shall comply in all respects with the following:

1. General.
  - a. No more than four chickens may be kept.
  - b. The keeping of roosters is prohibited.
  - c. Chickens raised and kept on the property for food shall not be slaughtered in view of adjoining properties.
  - d. Any henhouse and outdoor run that is abandoned or its use discontinued for the keeping of chickens for a period of 365 consecutive days shall be removed from the premises by the property owner.
  - e. Modifications of a henhouse and outdoor run for some other use is prohibited.
2. Enclosure requirements and prohibitions.
  - a. Chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
  - b. The enclosure shall be a predator-proof, rodent-resistant, insulated structure that is adequately ventilated to allow free movement of the fowl.
  - c. The size of the henhouse shall provide a minimum of three sq. ft. per chicken.



- d. The structure shall not be greater than 100 sq. ft. in size.
  - e. The maximum height of the enclosure, including the area of a covered run, shall not exceed six feet.
  - f. The construction of the enclosure shall utilize a building design and materials suitable for a residential district.
  - g. The enclosure must include a floor.
  - h. The use of dilapidated corrugated metal, dilapidated sheet metal, plastic, polymer or tarp-type material, pallets, scrap materials and/or similar materials shall be prohibited.
  - i. The re-use of storage containers, vehicles or parts thereof, and similar objects for a henhouse/run are prohibited.
3. Location.
- a. The enclosure housing chickens shall be located at least 25 feet from any residential structure on an adjacent lot.
  - b. No henhouse or outdoor run shall be located within 15 feet of any side or rear lot line, and/or sited to obstruct an existing drainage course or create a drainage problem for the property on which it is situated or for any neighboring property.
  - c. No henhouse shall be located within the Street Yard or Primary Street Yard on a corner lot or double frontage lot
4. Level of care.
- a. Chickens shall be kept in a sanitary condition, be provided with fresh water and adequate amounts of food at all times.
  - b. Chickens shall be secured within a henhouse during non-daylight hours.
  - c. Chickens may not roam free outside of a henhouse or enclosed run, or roam off of the permitted property. A dog, cat, or other domesticated animal that kills a chicken off of the permitted property shall not, for that reason alone, be considered a dangerous or aggressive animal.
  - d. All chicken waste shall be properly disposed of in a timely manner.

C. License Required.

- 1. An 'Application for License: Backyard Chickens' shall be completed and submitted to the Town Clerk.
  - a. The application shall include a diagram describing the location of the hive(s) in relationship to lot boundaries.
  - b. The license shall be issued only to the primary owner(s) of record of a residence located in the designated residential districts.
  - c. The property owner/licensee shall reside on the premises regulated by the license.
  - d. A license shall be issued only to the primary owner(s) of record of a residence located in the designated residential districts.
  - e. The property owner/licensee shall reside on the premises governed by the license. [delete as redundant with c. above]
  - f. The propagation of chickens for commercial purposes or for any activity or purpose not related to the personal purpose of the license holder, including fertilizer production and/or the sale of eggs, shall be prohibited.
  - g. The license shall include the standards described in Subsection B above.
  - h. The license shall be approved by the Plan Commission and issued by the Zoning Administrator.

2. Revocation. A license may be revoked by the Plan Commission for failure to comply with any of the provisions of this Section.
  - a. Once revoked, a license shall not be reissued for a two-year period.
  - b. Any applicant whose application has been denied or license has been revoked under the provisions of this Chapter shall have the right to appeal said denial.
  - c. Any license holder who has his/her license revoked must properly remove the chickens and henhouse/run from the subject property within 96 hours of revocation or decision on appeal.
  
- D. Registration Required. The owner, operator, or tenant shall register the premise where chickens are kept with the Wisconsin Department of Agriculture, Trade and Consumer Protection as required by state law and maintain such registration for so long as may be required.

#### 17.11.16 FENCES

- A. Fences. Fences and walls are subject to the provisions of this Section.
  
- B. Height. The height of fences and walls shall be measured at grade.
  1. Residential zoning districts.
    - a. The maximum height of a fence or wall within required side and rear setbacks in a residential zoning district shall not exceed six feet.
    - b. Fences around pools shall not exceed eight feet.
    - c. The maximum height of a solid fence or wall within a required Street Yard or Primary Street Yard setback shall not exceed three feet.
    - d. A fence located in a required Street Yard or Primary Street Yard setback may be increased to a maximum height of four feet if open, decorative, ornamental fencing materials that are less than 50% opaque are used or to a maximum height of five feet if open, decorative, ornamental fencing materials that are less than 20% opaque are used.
  2. Nonresidential zoning districts.
    - a. The maximum height of a fence or wall shall not exceed eight feet except in required Street Yard and Primary Street Yard setbacks where the maximum height of a solid fence or wall shall not exceed three feet.
    - b. A fence located in a required Street Yard or Primary Street Yard setback may be increased to a maximum height of four feet if open, decorative, ornamental fencing materials that are less than 50% opaque are used or to a maximum height of five feet if open, decorative, ornamental fencing materials that are less than 20% opaque are used.
  3. Schools. There is no maximum height for fences around schools.
  4. Boundary fence. A boundary fence or wall shall not be more than six feet in height in residential districts and not more than 12 feet in commercial and industrial districts, except that hedges, shrubbery, trees lines, and other such natural barriers may grow to their natural height. No boundary fence or wall, including a hedge or row planting, shall be permitted in excess of three feet in height between the Street Yard or Primary Street Yard setback line and the abutting lot lines.

- a. In the case of grade separation, such as the division of properties by a retaining wall, fence height shall be determined based on measurement from the average point between highest and lowest grade.
- 5. Sound barrier/privacy fence or wall on a roadway. A sound barrier/privacy fence or wall constructed in a board-to-board or stone, masonry or brick and mortar style may be erected that prevents sound penetration and decreases the noise levels along the back or side lot line of a residential property abutting an arterial or collector street that has access restrictions and that is posted at no more than 45 miles per hour, shall not exceed eight feet in height.

C. Setback from Property Line.

- 1. Residential Districts. Fences in residential districts shall be set back no less than one foot from the property line.
- 2. Non-Residential Districts. Fences in non-residential districts shall be set back no less than two feet from the property line.

D. Materials and Construction.

- 1. Barbed wire fences, electrical fences, and single, double, and triple strand fences are prohibited except on farms existing at the time of adoption of this Chapter.
  - a. Fences on farms adjoining residential parcels must be screened by a non-electric fence with no less than two feet of space separating the fences. The owners of any adjoining residential parcel shall be notified in writing prior to the construction or installation of an electric fence.
- 2. For all zoning districts, fence material must be either naturally resistant or treated wood board, vinyl, galvanized and/or vinyl coated chain link material, wrought iron, brick, natural stone, masonry, or other material as approved by the Plan Commission. Chain link fence slats are subject to the provisions of this Chapter.
- 3. Fences and walls located in the Street yard or Primary Street Yard must be made of materials such as wood, brick, vinyl or stone.
- 4. The finished side of the fence shall be erected to face the adjoining property. The side with protruding studs or posts shall face the building of the lot responsible for the erection of the fence.

E. Exceptions. Protective security and boundary fences on industrial sites, publicly owned lands or semi-private lands such as places of worship, educational institutions, utility substations, etc. are excluded from the provisions of this Section, except that where such fences incorporate the use of barbed wire, such barbed wire shall not be less than seven feet above the ground level, and except such fences shall be a minimum of two-thirds open to vision equally distributed throughout the fence length, and maintain allowable height when located within the defined vision corner.

F. Setback. No fence in a residential district shall extend closer than five feet to or from a road right-of-way nor extend closer than one foot from a side or back yard property line.

G. Maintenance. Both the fence and the property surrounding both sides of the fence shall be properly maintained in good repair to structure and appearance at all times.

- H. Permit Required. A site plan permit or amendment to existing site plan permit is required for all fences in all districts, except for temporary seasonal fences (e.g. snow fences).

**17.11.17 AMATEUR RADIO TOWERS**

A. Applicability.

1. This section applies to all amateur radio towers installed after the effective date of this Chapter.
2. Any upgrade, modification, or structural change to an antenna or its support structure constructed prior to the effective date of this Chapter that materially alters the size, placement, or appearance of the system shall comply with the provisions of this Chapter.

B. Purpose. The purpose of this section is to recognize and accommodate the federal and state declared interest in promoting and preserving amateur radio operations while protecting the legitimate interests of the general public including:

1. Minimizing the unnecessary detriment to the aesthetic quality of the Town and its landscape.
2. Preserving the character of various neighborhoods within the Town.
3. Preserving the values of properties within the Town.
4. Providing for adequate review of designs and installation of facilities that may pose substantial risk of collapse if improperly designed, installed, or maintained.
5. Protecting the owner and operator of an amateur radio antenna and neighboring property owners and the public in general from unreasonable risks of injury or property damage from the collapse of a communications tower or communications antenna or from electrical charges generated or conducted by such facilities.
6. Assuring that all amateur radio operators have a reasonable opportunity to construct and maintain the equipment and facilities necessary to effectively participate in amateur radio operations.

C. Standards. The installation and operation of an amateur radio tower and its antenna and support structure shall be subject to the following standards:

1. Compliance. The amateur radio tower and the operation of the amateur radio service using such antenna shall at all times be maintained in compliance with the applicable regulations and permit conditions issued by the Federal Communications Commission.
2. Districts allowed. An antenna and its support structure shall require a Conditional Use permit in all residential zoning districts.
3. Structure.
  - a. The antenna and its support structure are accessory to the Principal Structure.
  - b. Not more than one support structure for licensed amateur radio operator shall be allowable on the parcel.
  - c. The antenna shall not exceed 70 feet in height above grade measured at the center point of the highest part of the antenna or mast.
  - d. An amateur radio tower and its antenna exceeding 70 feet in height above grade measured at the center point of the highest part of the antenna or mast shall require a Conditional Use Permit.
4. Location.

- a. An amateur radio tower, including its antenna and support structure, that is designed, engineered, and constructed to fall within the boundaries of the parcel upon which it is sited, including those attached to the Principal Structure, shall comply with the side yard and rear yard setbacks for Accessory Structures in zoning district within which it is located.
  - b. All other amateur radio towers, including associated antenna and support structures, shall be setback a distance equal to 100% of its total height, as defined in Section 17.11.17.C.3.c above, from:
    - (1) Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road.
    - (2) Any overhead utility lines, unless written permission is granted by the affected utility.
    - (3) Any property lines, unless written permission is granted from the affected landowner or neighbor.
  - c. The amateur radio tower, including its antenna and support structure, shall be located within the Rear Yard or Secondary Street Yard on a double-frontage lot and shall not be located within any required setback.
5. Access.
- a. All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
  - b. All electrical wires associated with the amateur radio tower and its antenna and support structure shall be located underground.
  - c. Anti-climbing measures shall be incorporated into the amateur radio tower and its antenna and support structure as needed, to reduce potential for trespass and injury.
6. Lighting. The amateur radio tower and its antenna and support structure shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
7. Appearance, Color, and Finish. The amateur radio tower and its antenna and support structure shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit. The support structure shall comply with the same requirements as Accessory Structures in the zoning district.
- D. Waiver of Standards. If effective communications cannot be obtained when facilities are in compliance with the regulations set forth herein, the Zoning Administrator may permit a waiver from the height and location requirements of this section.
1. The waiver request shall:
    - a. Provide technical evidence in the form of a report from a licensed professional engineer familiar with amateur radio operations, or an Extra Class licensed amateur radio operator other than the Owner, that effective communications cannot be obtained by facilities in compliance with the standards.
    - b. Document the minimum reasonable accommodation, in the form of a waiver from these regulations, required in order to permit effective communications.

**17.11.18 GARAGE LOTS**

- A. Districts Allowed. A 'Garage, Off-Site Residential' is permissible in the R-1S Shoreland Residential District upon approval of a Conditional Use Permit.
- B. Applicability.
1. This section applies to a detached Accessory Structure (garage) located on a garage lot associated with a Parent Parcel.
  2. Each lot shall be under common ownership.
  3. The parent parcel shall be a lakefront lot.
- C. Purpose.
1. There are pre-existing residential lakefront lots in the Town that are too small or too narrow to allow for the construction of a garage.
  2. Necessity dictates that special provisions should be made to allow the construction of an off-site garage so long as all of the standards in this section are met.
- D. Standards.
1. An off-site residential garage may be established on a garage lot as long as all of the following apply:
    - a. The garage lot fully fronts the road providing access to the lakefront lot.
    - b. The garage lot is located on the opposite side of road from the lakefront lot.
    - c. Some portion of the road frontage of the garage lot coincides with the road frontage of the lakefront lot.
  2. Although an off-site garage is the only building permitted on a lot hosting this use, it is considered an Accessory Structure to the Principal Structure on the parent parcel, and shall comply with the requirements of Section 17.2.08.B of this Chapter.
  3. A lakefront lot shall not be associated with more than one off-site residential garage.
  4. The floor area of the off-site residential garage shall comply in all respects with the requirements of Section 17.4.05.G as it applies to the combined area maximum for all Accessory Structures on the garage lot and parent parcel.
  5. No items or material of any kind shall be stored out-of-doors on a lot with an off-site residential garage.
  6. No additional Accessory Structures may be located on a lot with an off-site residential garage.
- E. Deed restriction required. Prior to approval of a Conditional Use Permit and the issuance of a Building Permit, the property owner shall file an agreement and deed restriction with the Register of Deeds for Washington County, as approved by the zoning administrator, that prohibits the sale of the lot with the off-site residential garage separately from the lakefront lot to which it is associated (i.e., both lots must be sold together) and that such restriction remain in perpetuity.

**17.11.19 COMMERCIAL AND MANUFACTURING INCUBATORS****A. Commercial Incubators.**

1. Districts Allowed. An 'Incubator: Commercial' is permissible in the B-1 Commercial/Mixed-Use District and B-2 Commercial/Mixed-Use District upon approval of a Conditional Use Permit.
2. Applicability. This Section applies to commercial incubators. See Section 17.11.19.B of this Chapter for manufacturing incubators.
3. Purpose. It is the purpose of this Section to:
  - a. Promote opportunities for small and expanding commercial businesses.
  - b. Support entrepreneurs and grow the economy of the Town of West Bend.
  - c. Oversee the permitting of commercial incubators.
  - d. Preserve and protect the public health and safety.
4. Standards.
  - a. Commercial incubators may be a Principal Structure or Use or accessory to a Principal Structure or Use.
  - b. Allowable Uses.
    - (1) Any use listed as a Permitted Use or Conditional Use in the B-1 District or B-2 District may be potentially permissible within the same District.
    - (2) Uses deemed by the Plan Commission to be incompatible with the Principal Use, as applicable, shall be prohibited.
    - (3) All uses, unless otherwise approved by the Plan Commission, shall be conducted entirely within a building.
  - c. Dimensional and Design Standards.
    - (1) Commercial incubators approved as a Principal Use and/or Structure shall conform to the requirements for Principal Structures and Uses in the B-1 or B-2 District, as applicable.
    - (2) Commercial incubators approved as an Accessory Use and/or Structure shall conform to the requirements for Accessory Uses and Structures in the B-1 District. The exterior materials of a commercial incubator when accessory to a Principal Structure shall be substantially the same in appearance and use substantially the same materials as the Principal Structure.

**B. M-1 Manufacturing Incubators.**

1. Districts Allowed. An 'Incubator: Manufacturing' is permissible in the M-1 Manufacturing District upon approval of a Conditional Use Permit.
2. Applicability. This Section applies to manufacturing incubators. See Section 17.11.19.A for commercial incubators.
3. Purpose. It is the purpose of this Section to:
  - a. Promote opportunities for small and expanding light industrial businesses.
  - b. Support entrepreneurs and grow the economy of the Town of West Bend.
  - c. Oversee the permitting of commercial incubators.
  - d. Preserve and protect the public health and safety.
4. Standards.
  - a. Manufacturing incubators may be a Principal Structure or Use or accessory to a Principal Structure or Use.
  - b. Allowable Uses.

- (1) Any use listed as a Permitted Use or Conditional Use in the M-1 District may be potentially permissible.
  - (2) Uses deemed by the Plan Commission to be incompatible with the Principal Use, as applicable, shall be prohibited.
  - (3) Uses deemed by the Plan Commission to be incompatible with an existing use within the same incubator, even if such a use is non-adjoining, shall be prohibited.
  - (4) All uses, unless otherwise approved by the Plan Commission, shall be conducted entirely within a building.
  - (5) Corporate and administrative offices not ancillary to the Principal Use are prohibited.
- c. Dimensional and Design Standards.
- (1) Manufacturing incubators approved as a Principal Use and/or Structure shall conform to the requirements for Principal Structures and Uses in the M-1 District.
  - (2) Manufacturing incubators approved as an Accessory Use and/or Structure shall conform to the requirements for Accessory Uses and Structures in the M-1 District. The exterior materials of a manufacturing incubator when accessory to a Principal Structure shall be substantially the same in appearance and use substantially the same materials as the Principal Structure.



**CHAPTER 17.12 ZONING BOARD OF APPEALS****17.12.01 ESTABLISHMENT**

There is hereby established a Zoning Board of Appeals for the Town of West Bend for the purpose of hearing appeals and applications, and for granting variances and exceptions to the provisions of this Chapter.

**17.12.02 MEMBERSHIP**

The Zoning Board of Appeals shall consist of five members appointed by the Town Chairman and confirmed by the Town Board.

- A. Terms. Terms shall be for staggered three-year periods.
- B. Chairman. Chairman shall be designated by the Town Chairman.
- C. Alternates. Two Alternate Members shall be appointed by the Town Board Chairman for a term of three years and shall act only when a regular member is absent or refuses to vote because of interest.
- D. Secretary. Secretary shall be the Town Clerk.
- E. Staff. The Zoning Administrator, Building Inspector, and any other staff or Town officers shall attend all meetings for the purpose of providing technical assistance when requested by the Board.
- F. Oaths of Office. Official Oaths shall be taken by all members in accordance with Chapter 19.01, Wis. Stats., within 10 days of receiving notice of their appointment.
- G. Vacancies. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

**17.12.03 ORGANIZATION**

The Zoning Board of Appeals shall organize and utilize rules of procedures for its own government as hereby set forth.

- A. Meetings.
  - 1. Meetings shall be held at the call of the Chairman who shall establish the meeting order of business.
  - 2. Meetings shall comply with the requirements for open meetings in accordance with Chapters 19.83, 19.84, and 19.85, Wis. Stats. and other statutes and laws as relevant.
  - 3. Minutes of the proceedings and a record of all actions shall be kept by the Secretary, or other designated person, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the Board and shall be a public record.

## ZONING ORDINANCE

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4. If a quorum is present, the concurring vote of a majority of the members present shall be necessary to correct an error, grant a variance, make an interpretation, and permit a substituted use.

### **17.12.04 POWERS**

The Zoning Board of Appeals shall have the following powers:

- A. Errors. To hear and decide appeals when it is alleged there is error in any order, requirement decision, or determination made by the Zoning Administrator, Building Inspector, Town Clerk, or other officers of the Town. The Board of Appeals may not hear or decide upon appeals of any Town denial of a conditional use permit.
- B. Variances. To hear and grant appeals for variances as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship. The spirit and purposes of this Chapter shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted.

### **17.12.05 APPEALS AND APPLICATIONS**

Appeals concerning the literal enforcement of this Chapter may be made by any person aggrieved or by any officer, department, board, or bureau of the Town. Such appeals shall be filed with the Zoning Administrator within 60 days after the date of written notice of the decision or order of the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Zoning Administrator. Such appeals and applications shall include the following:

- A. Name and Address of the appellant or applicant and all abutting and opposite property owners of record.
- B. Plat of Survey prepared by a registered land surveyor.
- C. Additional Information as may be required by the Zoning Board of Appeals.

### **17.12.06 HEARINGS**

The Zoning Board of Appeals shall fix a reasonable time and place for the hearing, shall give public notice thereof as specified in Chapter 17.14, and shall give due notice to the parties in interest, the Zoning Administrator, Building Inspector, and the Town Board. At the hearing the appellant may appear in person, by agent, or by attorney.

### **17.12.07 FINDINGS**

No variance to the provisions of this Chapter shall be granted by the Board unless it finds by the preponderance of evidence presented that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

- A. Preservation of Intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the District in which the development is located. No variance shall

have the effect of permitting a use in any District that is not a stated Permitted Use, Accessory Use, or Conditional Use in that particular District.

- B. Exceptional Circumstances There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties of uses in the same District and the granting of the variance would not be of so general or recurrent nature as to suggest that this Chapter should be changed.
- C. Economic Hardship and Self-Imposed Hardship Not Grounds for Variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- D. Preservation of Property Rights. The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same District and same vicinity.
- E. Absence of Detriment. No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this Chapter or the public interest.

#### **17.12.08 DECISION**

The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, Building Inspector, Plan Commission, and Town Board.

- A. Conditions may be placed upon any Building Permit ordered or authorized by this Board.
- B. Variances, Substitutions, or Use Permits granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.

#### **17.12.09 REVIEW BY COURT OF RECORD**

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Zoning Board of Appeals.

**CHAPTER 17.13      CHANGES AND AMENDMENTS**

**17.13.01    AUTHORITY**

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Board may, by ordinance, change the District boundaries or amend, change, or supplement the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

**17.13.02    INITIATION**

A change or amendment may be initiated by the Town Board or Plan Commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.

**17.13.03    PETITIONS**

Petitions for any change to the District boundaries or amendments to the regulations shall be filed with the Town Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use, and have attached the following:

- A. Plot Plan drawn to a scale of one inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent Zoning Districts, and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.
- B. Owners Names and Addresses of all properties lying within 200 feet of the area proposed to be rezoned.
- C. Additional Information required by the Plan Commission or Town Board.

**17.13.04    REVIEW AND RECOMMENDATIONS**

The Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified and granted, or denied.

**17.13.05    HEARINGS**

The Town Board shall hold a public hearing upon each petition giving public notice thereof as specified in Chapter 17.14, listing the time, place, and the changes of amendments proposed. The Town Board shall also give at least 10 days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.

**17.13.06    TOWN BOARD ACTION**

As soon as possible after such public hearing, and after careful consideration of the Plan Commission's recommendations, the Town Board shall act on the petition either approving, modifying and approving, or disapproving of the same.

**17.13.07 PROTEST**

In the event of a protest against such District change or amendment to the regulations of this Chapter, duly signed and acknowledged by the owners of 20 percent or more of the areas of the land included in such proposed change, by the owners of 20 percent or more of the land immediately adjacent extending 100 feet there from, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such change or amendment shall not become effective except by the favorable vote of 3/4 of the full Town Board membership.

**CHAPTER 17.14 PUBLIC HEARINGS**

**17.14.01 PUBLIC HEARINGS**

Notice of any public hearing which the Town Board, Plan Commission, or Zoning Board of Appeals is required to hold under the terms of this Chapter shall specify the date, time and place of hearing, and the matter to be presented at the hearing. Pursuant to Chapter 985 of the Wisconsin Statutes, the notice shall be published as a Class 2 notice, to-wit:

- A. The notice of public hearing shall be published in a newspaper of general circulation in the Town of West Bend at least once each week for two consecutive weeks, the last publication of which shall be at least 1 week before the public hearing.
- B. Notice of the public hearing shall be mailed to all parties-in-interest at least 10 days before the hearing. Parties-in-interest shall be defined as the petitioner, the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the petition and the owners of all lands included in the petition and all lands lying within 200 feet of lands included in the petition. The failure to give any notice to any property owner shall not invalidate the action taken by one of the aforementioned bodies.

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**CHAPTER 17.15      DEFINITIONS****17.15.01   GENERAL DEFINITIONS**

- A. **Meanings.** For the purpose of this Chapter, certain words or phrases shall have meanings that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning.
1. Words used in the present tense in this Chapter include the future.
  2. The word "person" includes a firm, association, partnership, trust, company, or corporation as well as an individual.
  3. The word "shall" is mandatory, the word "should" is advisory, and the word "may" is permissive.
  4. Any words not defined in this Section shall be presumed to have their customary dictionary definitions.
- B. **Words and Phrases Defined.**
1. **Accessory Structure.** A structure which:
    - a. Is or will be subordinate to and serves a Principal Structure, land, or water.
    - b. Is or will be located on the same lot or parcel.
    - c. Is detached from the Principal Structure.
    - d. Is not used as living quarters, nor has a permanent well or sanitary connection.
  2. **Accessory Use.** A use which:
    - a. Is or will be subordinate to and serves a Principal Use.
    - b. Is or will be located on the same lot or parcel as the Principal Use.
  3. **Alley.** A special public right-of-way affording only secondary access to abutting properties.
  4. **ANSI.** Refers to the American National Standards Institute.
  5. **Assembly.** When used in describing an industrial operation, the fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, welding or other similar technique. Assembly shall not include the construction, stamping or reshaping of any of the component parts.
  6. **Base Density.** A total permissible number of residential units that may be built on any given parcel of land to establish the number of units the land can reasonably accommodate. Providing a base density, as opposed to requiring a minimum lot size, allows for flexibility on the part of the landowner in determining the distribution of residential units on the parcel while protecting significant environmental features.
  7. **Basement.** That portion of any structure which is below grade, or which is partly below and partly above grade but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling.
  8. **Battery charging station.** An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles.
  9. **Battery electric vehicle.** Means any vehicle that operates exclusively on electrical energy from an off-board source (generally, the electric grid) that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating.
  10. **Bees.** Honey bees or mason bees raised for honey or pollination.

11. **Bed and Breakfast.** Any place of lodging that provides 8 or fewer rooms for rent to no more than a total of 20 tourists or other transients for more than 10 nights in a 12-month period, 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, as defined in relevant Wis. Stats.
12. **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.
13. **Building Height.** The vertical distance measured from the mean elevation of the finished lot grade along the Street Yard or Primary Street Yard setback on a corner lot or double frontage lot or Shore Yard face of the structure to the highest point of the roof, whichever is greater. The basement shall be included in the height limitation if 50% or more of the foundation is exposed. The precedent height shall be determined by scale of the building blueprints submitted for review.
14. **Charging levels.** The standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms 1, 2, and 3 are the most common charging levels, and include the following specifications:
  - a. Level-1: Voltage from 0 through 120; considered slow charging.
  - b. Level-2: Voltage from 120 through 240; considered medium charging.
  - c. Level-3: Voltage greater than 240; considered fast or rapid charging.
15. **Commercial communications.** 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.
16. **Common Open Space.** Any land area that is designated as "Common Open Space" through deed restrictions in perpetuity and held in trust by a homeowners association, the Town or other designated conservation organization. Types of Common Open Space include but are not limited to the following:
  - a. *Community Garden and Greenhouse* are areas for use by residents and others (not immediately adjacent to residential lots) that are planned and managed for growing vegetable and flowers. There should be pedestrian and vehicular access to the area as well as small amounts of visitor parking (this may include street parking).
  - b. *Countryside Views* are areas that facilitate public views of common open space (and other features that comprise the countryside character of West Bend) from existing arterials and collector roads adjacent to the proposed development. The view shed area should border a public right-of-way which primarily carries traffic generated by the general public rather than only vehicles associated with the immediate land use.
  - c. *Cultivated Fields and Pastures* are agricultural areas set aside for farming with a long-term management plan for continuous cultivation or use as pasture land for livestock.
  - d. *Environmental Preserves* are areas that preserve environmental features that enhance the health, environmental quality, social value, and natural beauty of the community. Preserves should include the environmental corridors (primary, secondary, and isolated natural resource areas), lakes and streams, wetlands, drainage ways, floodplains, habitat areas, wildlife habitats, woodlands, prairies, steep slopes, as identified by SEWRPC or other recognized surveys. These areas may also include public trail connections to view and, if feasible, enter the preserve.

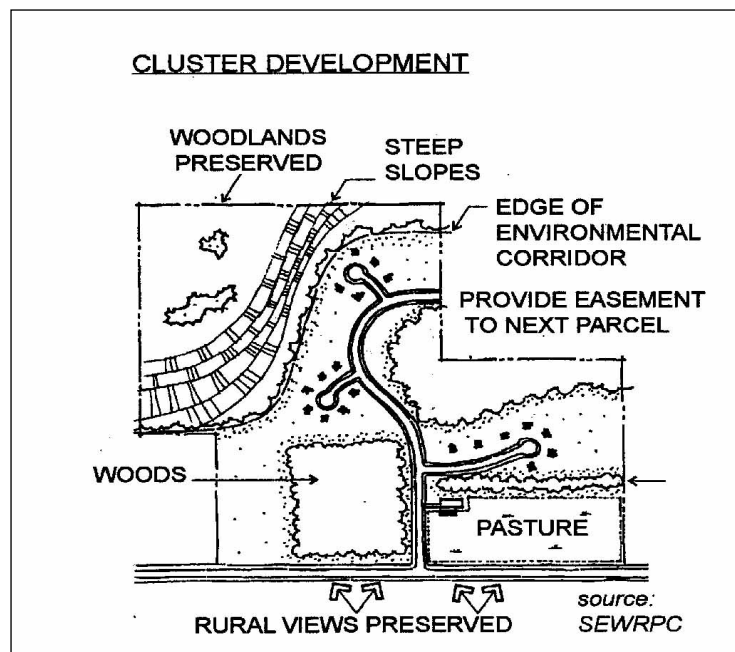


- e. *Environmental Restorations* are natural areas and landscapes designed for aesthetic impact to display different forms of plant materials using a traditional aesthetic approach of formal or picturesque gardening, botanical display, or environmental restoration. These landscapes are also designed to improve the ecological condition of the natural environment (for example, this may include restored prairies or wildlife habitats). These areas shall be designed by a recognized landscape architect or ecologist with substantial experience and professional credentials in landscape architecture, garden design, ecology or similarly appropriate field. These areas may include structures for aesthetic purposes as well as environmental management. These areas should also include public trail connections to view and, if feasible, enter the preserve.
- f. *Equestrian Common Open Spaces and Features* are common open spaces, and related features, intended for equestrian use. These spaces are an essential and traditional component of the countryside character of the Town and should be maintained and expanded. These spaces include ranches, corrals, trails, fences, barns and stables, signage, and related facilities. Equestrian facilities should be connected to the overall equestrian trail system within the Town. When this is not feasible, plans should demonstrate how such facilities can be effectively integrated with the overall pattern of equestrian use within the community.
- g. *Forestation Areas* are agricultural areas planted for commercial tree-growing businesses with long term management plans for continuous operation. The management plan for forestation areas, especially those used for commercial purposes, must demonstrate that it will be harvested in a manner that retains the aesthetic value of the plant materials as an amenity for surrounding property owners and members of the general public.
- h. *Gateway Features* are specially designed and landscaped areas at the entrances to neighborhoods, districts, boulevards, and residential subareas. They should be located at primary entries to developments or neighborhoods from Town-wide arterials. They should contain significant visual features, built or natural. These may include trees, fences, ornamental landscapes, unique structures, or public art.
- i. *Landscaped Boulevards* are the landscaped central medians that provide an aesthetic amenity and informal gathering place for residential neighborhoods. Boulevards shall be planted with rhythmic rows of trees along each side of the median and along the outer side of the public right-of-way. The edges of the median may include continuous hedges or ornamental fences that border the curb. The outer sides of the street may include sidewalks. The central median shall consist primarily of grass areas suitable for walking and informal uses.
- j. *Landscaped Cul-de-sac Islands* are the landscaped central islands in cul-de-sac bulbs that provide an aesthetic amenity and informal gathering place for residential neighborhoods. Island shall be planted with trees, shrubs and perennial plantings to create a visual focus for the neighborhood. A central gathering space should be created within the island to allow gatherings by residents. The edges of the island may include continuous hedges or ornamental fences that border the curb to help enclose the space.
- k. *Neighborhood Parks and Squares* are areas that afford opportunities for passive and/or active enjoyment of outdoor areas by residents and visitors both as individuals, informal groups, and organized groups. Typical activities include picnicking, strolling, sitting, private contemplation, conversing with friends and neighbors, child play, skating, informal sports, walking, jogging, and organized sports.

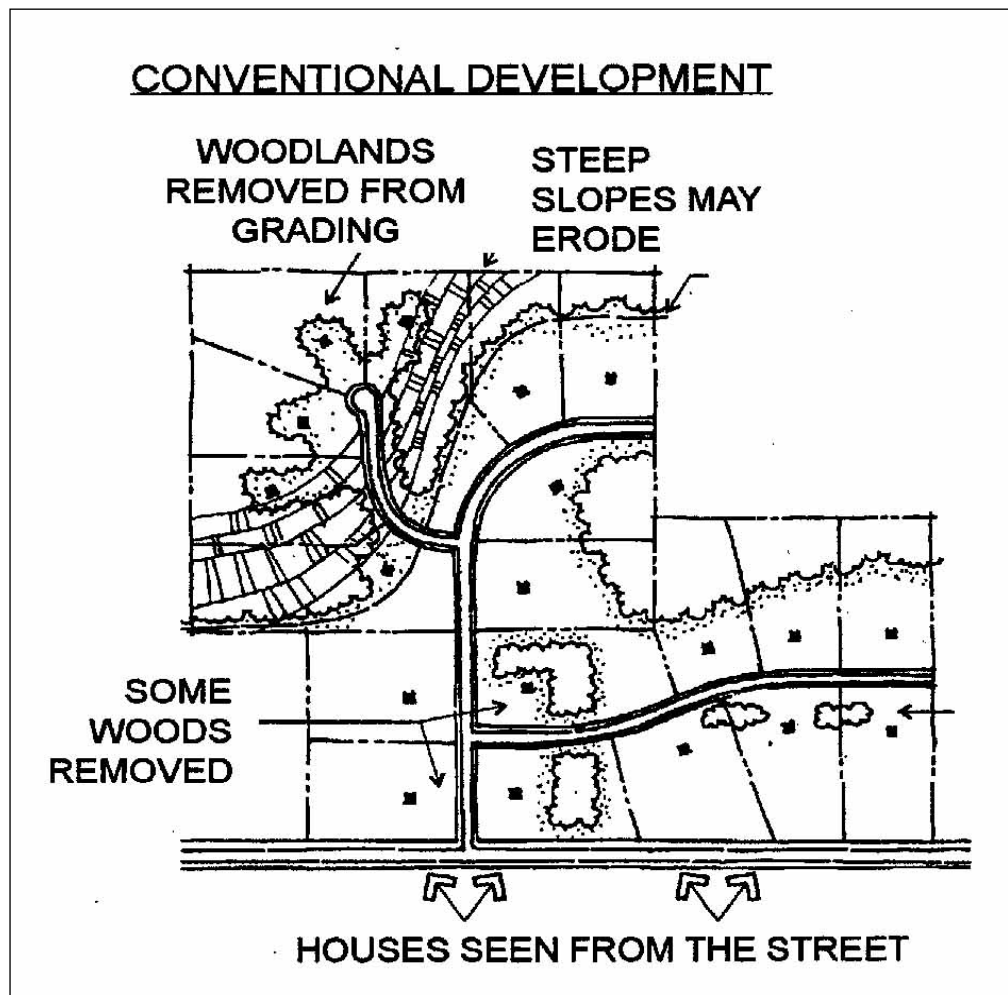
The park shall be a public or semi-public place as defined above. Parks and squares shall be located within easy access of public rights-of-way, especially those with higher traffic volumes relative to the surrounding street system. The form shall be a simple shape (such as a square, rectangle, circle, ellipse, crescent, triangle, or trapezoid). Parks and squares shall be surrounded by a public right-of-way. The right-of-way should serve vehicles and include a sidewalk or other pedestrian walkway. Where possible, there should be on street parking available to the public along the edge of the park or square. The edge of the park or square must include a continuous row of trees, ornamental fence, or combination of those elements. There shall be clearly marked points of entry and gateways. The interior of the park may include a variety of features for passive enjoyment or active recreation. The ground may be grass, pavement, or other plant materials. There should be a clear understanding of whether or not the park or square will be owned by a public entity and, if not, the circumstances under which ownership of the park or square might be transferred to a public entity.

- l. *Orchards* are agricultural areas planted as orchards with long term management plans for continuous operation.
- m. *Ornamental and Display Gardens* are landscapes designed for aesthetic impact to display different forms of plant materials using a traditional aesthetic approach of formal or picturesque gardening, botanical display, or environmental restoration. These landscapes are also designed to improve the ecological condition of the natural environment (for example, this may include restored prairies or wildlife habitats). These areas should be designed by a recognized landscape architect or ecologist with substantial experience and professional credentials in landscape architecture, garden design, ecology or similarly appropriate field. These areas may include structures for aesthetic purposes as well as environmental management.
- n. *Parkway Landscapes* are heavily landscaped areas along existing arterials. Parkways should include a double row of canopy shade trees planted in a rhythmic pattern with a walkway or bicycle path located between the rows. The parkway or edge should not include berms.
- o. *Play Areas* are places with play equipment for children to play informally that should be located in parks and squares. Play areas shall have access from a trail or sidewalk and shall be connected to trail systems entering the park. Play areas should be sited within a small space or along the edge of a space and should have a clearly defined perimeter with fencing or hedges.
- p. *Scenic Drives* are single-loaded vehicular rights-of-way which provide an open view of common open space. A pedestrian walkway must be included along at least one edge of the scenic drive. This may be a sidewalk, side path, or trail. The common open space area shall be at least sufficiently deep to provide a view of natural features rather than built areas.
- q. *Traditional Farmsteads* are structures that reflect the agricultural and rural history of the Town, including farmhouses, barns, stables, and a variety of related facilities and common open space. Many of these, while not qualifying as historic landmarks using strict national or state standards, are still part of the cultural and visual history of the community. They provide an essential part of the character of the community and should be preserved. In general, such structures and facilities created prior to 1950 shall be considered as a traditional farmstead. Those components of the farmstead that are to be preserved should be documented by a local historic society or by a person with credentials in historic preservation. The proposed inclusion of the

- traditional farmstead must state what components of the farmstead will be preserved. A study of the historic properties of the Town of West Bend is available for reference.
- r. *Trails and Walkways* promote broad social use of a linear system of paths for walking, horseback riding, or bicycling that connect trail users to rights-of-way and other public or semi-public places. These should be determined by the context of circulation, access points, and other common open space components that should be linked together. Trails should be located along the edge of other common open space or public rights-of-way. Trails should be physically separated from side or rear lot lines (approximately 25 feet). Trails shall be a continuous path and should link to all existing and proposed trails and rights-of-way that abut the perimeter of the development. Trails should be constructed with suitable materials for long term operation and maintenance. The suitability of the materials will be determined by the Town. There should be a clear understanding of whether or not the trail system will be owned by a public entity and, if not, the circumstance under which public access is allowed.
17. **Conditional Uses.** Uses of a special nature as to make impractical their predetermination as a Principal Use in a District.
18. **Decommissioning.** The 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 4 feet or more below grade.
19. **Development.** Any manmade change to improved or unimproved real estate, including but not limited to construction of or addition or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.



20. **Development, Conservation.** A housing development in a rural area that is characterized by compact lots, clustered home sites and common open space, and where the natural features of land are preserved and enhanced to the greatest extent possible. This type of development is sometimes referred to as a “cluster development”.
  - a. The illustration below provides a visual representation of various features of a conservation or cluster development.
21. **Development, Conventional.** A housing development that subdivides an entire parcel of land into private lots and does not contain significant common open space.
  - a. The illustration below provides a visual representation of various features of a conservation or cluster development.



22. **Developer's Agreement.** An agreement by which the Town and the developer agree in reasonable detail as to all of those matters to which the provisions of this Chapter apply and which does not come into effect unless and until an irrevocable letter of credit or other appropriate surety has been issued to the Town.
23. **District.** A part or parts of the Town for which the regulations of this Chapter governing the use and location of land and buildings are uniform (such as the Residential, Business, and Industrial District classifications).
24. **Drive-in Restaurant.** An establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those

- establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises.
25. **Dwelling.** A building or portion thereof, used exclusively for residential occupancy, including single-family, two-family and multi-family dwellings, but not including hotels, motels, lodging houses, boardinghouses, tents, cabins, or mobile homes.
  26. **Dwelling, Multi-Family.** A building or portion thereof used for occupancy by three or more families living independently of each other.
  27. **Dwelling, Single-Family.** A dwelling consisting of one dwelling unit designed for, converted to, and/or occupied by one family and not attached to another dwelling unit.
  28. **Dwelling, Two-Family.** A detached building used for residential occupancy by two families living independently of each other.
  29. **Dwelling Unit.** Consists of one or more rooms, including a bathroom and complete kitchen facilities, which are arranged, designed or used as living quarters for one family or household.
  30. **Electric vehicle.** Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; either partially or exclusively, on electrical energy from the grid, or an off-board source (generally, the electric grid, that is stored on-board via a battery for motive purpose. Electric vehicle includes:
    - a. A battery electric vehicle.
    - b. A plug-in hybrid electric vehicle.
  31. **Electric vehicle charging station.** A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.
  32. **Electric vehicle charging station-private restricted use.** An electric vehicle charging station that is:
    - a. Privately owned and restricted access (e.g., single-family home, executive parking, designated employee parking); or,
    - b. Publicly owned and restricted (e.g., fleet parking with no access to the general public).
  33. **Electric vehicle charging station-public use.** Means an electric vehicle charging station that is:
    - a. Publicly owned and publicly available (e.g., Park & Ride parking, public library parking lot, on-street parking); or,
    - b. Privately owned and available to visitors of the use (e.g., shopping center parking).
  34. **Electric vehicle infrastructure.** Means conduit/wiring, structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations and rapid charging stations.
  35. **Electric vehicle parking space.** Means any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.
  36. **Environmental Conservancy (EC).** Areas designated (EC) in the Cooperative Boundary Plan Between the City of West Bend and the Town of West Bend, Washington County, Wisconsin (2001) as Environmental Conservancy lands. For the purposes of this Chapter these areas are zoned, C-2 Conservancy Overlay District
  37. **Environmental Conservancy District Areas.** This area is defined as those lands designated and mapped by the Southeast Wisconsin Regional Planning Commission (SEWRPC) as either; Primary Environmental Corridor, Secondary Environmental Corridor, or Isolated Natural Resource Area and lands held in conservation by non-profit organizations. Approximate locations of the Environmental Conservancy District areas are

shown on the Town's Land Use Plan map in the adopted Town of West Bend Comprehensive Plan.

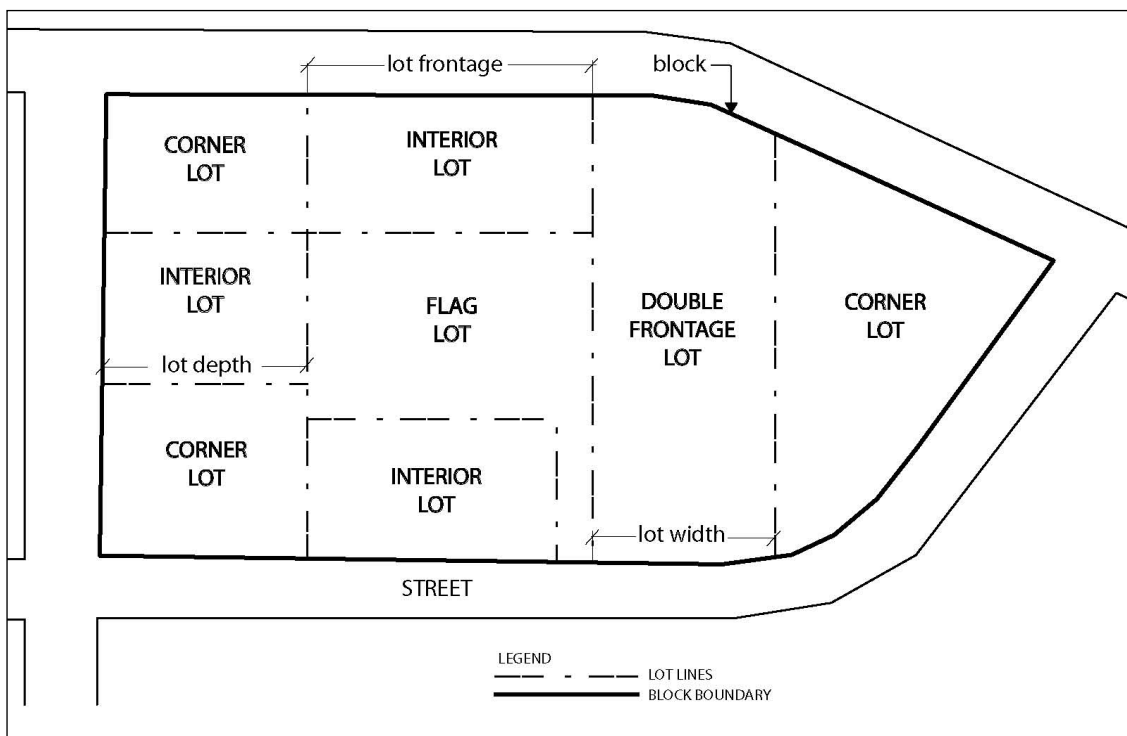
38. **Essential Services.** Services provided by public and private utilities necessary for the exercise of the Principal Use or service of the Principal Structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.
39. **Family.** Any number of persons related by blood, adoption, or marriage living together in 1 dwelling unit, or 4 or fewer persons not so related, living together in 1 dwelling unit.
40. **Fence, Open.** A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Open fences are those with more than 50% of their surface area open for free passage of light and air. Examples of such fences include barbed wire, chain link, picket, rail fences, and others as identified in Chapter 17.11.16.
41. **Fence, Ornamental.** A fence intended to decorate, accent, or frame a feature of the landscape. Ornamental fences are often used to identify a lot corner or lot line; or frame a driveway, walkway, or planting bed. Ornamental fences are those with more than 80% of their surface area open for free passage of light and air. Ornamental fences are often of the rail, or wrought iron type and other as identified in Chapter 17.11.16.
42. **Fence, Security.** A fence intended to guard property against unauthorized entry, and to protect stored goods and products from theft and other unauthorized handling. Security fences usually exceed six feet in height, are often made of wrought iron or woven wire, and may incorporate additional security features such as barbed wire or as identified in Chapter 17.11.16.
43. **Fence, Solid.** A structure of boards, rails, planks, stakes, slats, or similar material erected as an enclosure, barrier, or boundary. Solid fences are those with 50% or less of their surface area open for free passage of light and air. Examples of such fences are stockade, board-on-board, board and batten, basket weave, and louvered fences or as identified in Chapter 17.11.16.
44. **Frontage.** The smallest dimension of a lot abutting a public street measured along the street right-of-way line. For lots abutting a lake or stream, the smallest dimension measured along the shoreline.
45. **Garage Lot.** An undeveloped lot, or lot with an Off-Site Residential Garage, associated with a lakefront lot as defined in this section and in Chapter 17.11.18. The garage lot shall be a separate tax parcel from the lakefront lot.
46. **Garage, Off-Site Residential.** A free standing residential Accessory Structure intended to house motor vehicles, yard equipment, and household items belonging to the person that owns the lot on which it is located and as further defined in Chapter 17.11.18.
47. **Garage, Private.** A structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the resident(s) upon the premises. Carports are considered garages.
48. **Garage, Public or Commercial.** Any garage other than a private garage.
49. **Gazebo.** An unglazed and unscreened, open air roofed garden structure that offers an open view of the surrounding area, typically used for relaxation or entertainment. For the purposes of this Chapter a gazebo cannot exceed 300 square feet in area and it cannot be permanently occupied as a residence, used for long-term storage, or be served by sanitary sewer service.

50. **Geothermal Energy System.** A sealed, watertight loop of pipe buried outside of a building foundation, intended to re-circulate a liquid solution through a heat exchanger. This includes but is not limited to: vertical closed loop, horizontal closed loop and body of water closed loop systems.
51. **Geothermal Energy System, Horizontal.** A geothermal energy system constructed to contain horizontal piping and the installation and grouting of the horizontal piping when such piping does not exceed 20 feet in depth.
52. **Geothermal Energy System, Vertical.** A geothermal energy system constructed to contain vertical piping and the installation and grouting of the vertical piping exceeding 20 feet in depth.
53. **Ground-Mounted Solar Energy System.** A solar energy system not attached to another structure and is ground mounted.
54. **Home Occupation.** Any occupation for gain or support conducted entirely within buildings 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 uses only household equipment, and for which no stock in trade is kept or sold except that made on the premises. A home occupation includes uses such as babysitting, millinery, dressmaking, canning, laundering, and crafts, but does not include the display of any goods nor such occupations or uses as barbering, beauty shops, dance schools, real estate brokerage, or photographic studios.
55. **Impervious Surface.** Any artificial or natural surface which does not allow the entrance or passage of water or sediment into the ground surface. These areas seal the ground surface from infiltration of water into the subsurface and prevent recharge of the ground water and increase the amount of stormwater runoff. Runoff from impervious surfaces tends to increase the potential for flooding, and carries sediment and pollutants that are detrimental to the quality of surface waters. New developments typically increase the amount of impervious surface. It is important to manage and minimize the amount of impervious surface in new and existing developments to help protect the surface waters and help recharge natural ground water. Impervious surfaces include, but are not limited to buildings and roof areas, structures, concrete or asphalt surfaces, gravel or traffic bond surfaces, decks with no spaces in between the decking, and bricks or pavers with no spacing between, which are placed on traffic bond.
56. **Impervious Surface Area.** That total area of a lot which is covered with an Impervious Surface as indicated in this Chapter.
57. **Irrevocable Letter of Credit.** An agreement, entered into by a bank, savings and loan, or other financial institution which is authorized to do business in the State of Wisconsin and which has a financial standing acceptable to the Town of West Bend, and which is approved, as to form, by the Town Attorney.
58. **Living Area.** The total 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.
59. **Loading Area.** A completely off-street space or berth on the same lot as the Principal Use it serves for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.
60. **Lot.** For the purpose of this Chapter a lot shall be defined as a parcel of land on which a Principal Structure and its Accessory Structure are placed, together with the required open spaces, provided that no such parcel shall be bisected by a public street and shall not include any portion of a public right-of-way. No lands dedicated to the public or reserved for roadway purposes shall be included in the computation of lot area. A lot of record

prior to April 1, 1986, which is bisected by a public street or private roadway shall be 1 lot for the purpose of this Chapter.

- 61. **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. The Primary Street Yard shall be that associated with the mailing address or fire number, as applicable. The other street yard shall be the Secondary Street Yard. (See Lot Type Illustration)
- 62. **Lot, Double Frontage.** A parcel of land, other than a corner lot, with frontage on more than 1 street or with frontage on a street and a navigable body of water. Double frontage lots, for the purpose of this Chapter, shall be deemed to have two Street Yards and no Rear Yard. The Primary Street Yard shall be that associated with the mailing address or fire number, as applicable. The Secondary Street yard shall be opposite the Primary Street Yard. (See Lot Type Illustration).
- 63. **Lot, Garage.** An undeveloped lot, or lot with an Off-Site Residential Garage, associated with a lakefront lot as defined in this section and in Chapter 17.11.18. The garage lot shall be a separate tax parcel from the lakefront lot.
- 64. **Lot, Lakefront.** A property with a legal description which extends to the Ordinary High Water Mark of a lake.
- 65. **Lot Width.** The width of a parcel of land measured at the setback line.

**Lot Type Illustration**



- 66. **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 shops; and overhaul shops.
- 67. **Manufacturing.** When used in describing an industrial operation, the making or processing of a product with machinery.



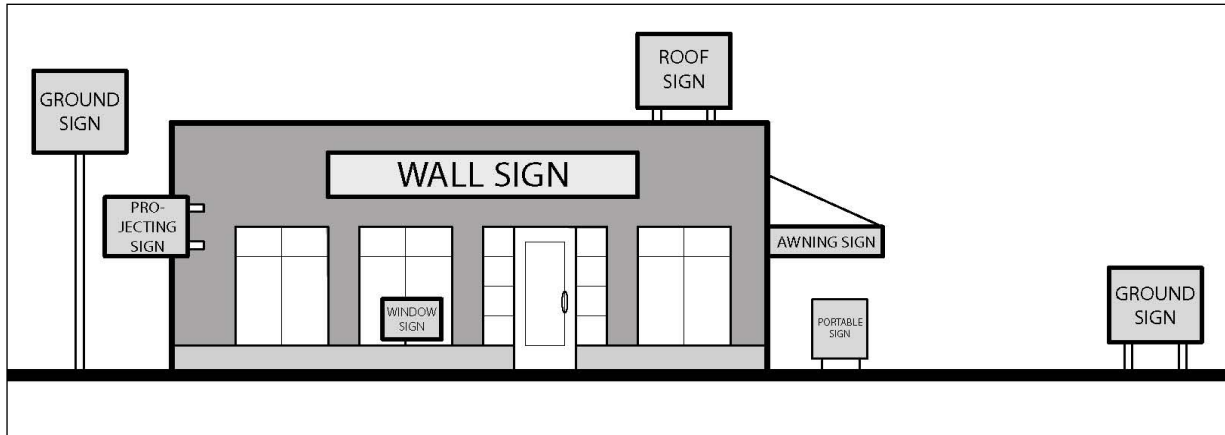
68. **Maximum blade tip height.** The nominal hub height plus the nominal blade length of a wind turbine, as listed in the wind turbine specifications provided by the wind turbine manufacturer. If not listed in the wind turbine specifications, "maximum blade tip height" means the actual hub height plus the blade length.
69. **Minor Land Division.** Minor land divisions include the division of land by the owner or his agent resulting in the creation of 2, but not more than 4, parcels of building sites, any one of which is 10 acres or less in size; or the division of a block, lot or outlot within a recorded subdivision plat into not more than 4 parcels or building sites without changing the exterior boundaries of said block, lot or outlot. Such minor land divisions shall be made by a Certified Survey Map (CSM).
70. **Minor Structure.** Any small, movable Accessory Structure such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under 4 feet in height.
71. **Motel.** A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.
72. **Nameplate capacity.** The nominal generating capacity of a wind energy system, as listed in the wind turbine specifications provided by the wind turbine manufacturer.
73. **Nonconforming Uses or Structures.** Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this Chapter or amendments thereto which does not conform to the regulations of this Chapter or amendment thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.
74. **Non-electric vehicle.** Any motor vehicle that does not meet the definition of electric vehicle.
75. **Nonparticipating property.** Real property that is not a participating property.
76. **Nonparticipating residence.** A residence located on nonparticipating property.
77. **Ordinary High Water Mark.** The point on the bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation, or other easily recognized characteristic.
78. **Overlay District.** A zoning district that is super-imposed on one or more other zoning districts and imposes additional restrictions on the underlying districts.
79. **Owner (Wind Energy System).**
  - 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.
80. **Parking Lot.** Any public or private land area designated and used for parking motor vehicles. A parking lot may be at ground level and not be subject to the setback and other yard requirements of a structure; or may be located within a structure which must meet the yard requirements of a specified Zoning District.
81. **Participating property.** 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 the 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 this chapter and that the landowner's acceptance of payment establishes the landowner's property as a participating property.
- 82. **Participating residence.** A residence located on participating property.
  - 83. **Parties in Interest.** Includes all abutting property owners, all property owners within 200 feet, and all property owners of opposite frontages.
  - 84. **Personal communications.** Includes wireless telecommunications, personal communications service, radio, television, wireless internet service, and other systems used for personal use purposes.
  - 85. **Pervious Surface.** Any artificial or natural surface which allows the entrance or passage of water or sediment into the ground surface via the porous nature of the material itself. The void areas and the infiltration rates of these materials allow rainwater and surface water to penetrate deep into the soil areas allowing the natural recharge of groundwater. The Town of West Bend promotes and in some cases requires the use of pervious materials in lieu of impervious materials in developed areas of the Town; therefore the Town is encouraging the use of materials and technologies which achieve the goals of protection of surface water quality, prevention of flooding and groundwater recharge. Some examples of these materials include open cell block grass pavers, spaced paving bricks or pavers, pervious asphalt and pervious concrete.
  - 86. **Photovoltaic Cell.** A semiconductor device that converts solar energy into electricity.
  - 87. **Plug-in hybrid electric vehicle.** An electric vehicle that:
    - a. Contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor.
    - b. Charges its battery primarily by connecting to the grid or other off-board electrical source (generally, the electric grid).
    - c. May additionally be able to sustain battery charge using an on-board internal-combustion-driven generator.
    - d. Has the ability to travel powered by electricity.
  - 88. **Premises.** Any lot or parcel of land owned by any person, firm or corporation, public or private, improved with building, whether occupied or unoccupied.
  - 89. **Principal Structure.** The primary structure on a parcel of land where the Principal Use occurs.
  - 90. **Principal Use.** The Permitted or Conditional Use on a parcel of land.
  - 91. **Processing.** When used in describing an industrial operation, the series of continuous actions that changes 1 or more raw materials into a finished product. The process may be chemical as in the processing of photographic materials; it may be a special method such as processing butter or cheese; it may be a mechanical process such as packaging a base product.
  - 92. **Recycling.** The process by which waste products such as metal cans, scrap metal, paper, or glass are reduced to raw materials and transformed into new and often different products. For the purpose of this Chapter, recycling does not include the reclamation of sewage sludge, food wastes, and other organic materials.
  - 93. **Redevelopment.** Any substantive change to a developed site, its structures, or its uses.
  - 94. **Residence** (specifically regarding Wind Energy System). An occupied primary or secondary personal residence including a manufactured home as defined in Chapter 101.91(2), Wis. Stats., 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 Chapter 340.01(48r), Wis. Stats., notwithstanding the length of the vehicle.
  - b. A camping trailer as defined in Chapter 340.01 (6m), Wis. Stats.
  - c. A permanently abandoned personal residence.
95. **Seat.** Furniture upon which to sit having a linear measurement not less than 24 inches across the surface used for sitting.
  96. **Setback.** The minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the Principal Structure.
  97. **Shadow flicker.** 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.
  98. **Shoreland.** Those lands lying within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond of flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater. Shorelands shall not include those lands adjacent to farm drainage ditches where (a) such lands are not adjacent to a navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were non-navigable streams before streams before ditching or had no previous stream history; and (c) such lands are maintained in non-structural agricultural use.
  99. **Short-term Rental.** A residential dwelling that is offered for rent for a fee and for fewer than 29 consecutive days.
  100. **Sign.** A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization, or business.
  101. **Sign, Awning.** A sign that is mounted or painted on, or attached to an awning, canopy, or marquee. (See Sign Type Illustration )
  102. **Sign, Copy.** The message or advertisement, and any other symbols on the face of a sign. (See Sign Type Illustration)
  103. **Sign, Face.** The area or display surface used for the message.
  104. **Sign, Ground.** Any sign placed upon or supported by the ground independent of any other structure. (See Sign Type Illustration)
  105. **Sign, Portable.** A sign that is not permanent, affixed to a building, structure, or to the ground. Such sign may be mounted on wheels to make it transportable. (See Sign Type Illustration)
  106. **Sign, Projecting.** A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building. (See Sign Type Illustration)
  107. **Sign, Roof.** A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above a point of a building with a flat roof, the eave line of a building with a gambrel, or hip roof, or the deck line of a building with a mansard roof. (See Sign Type Illustration).
  108. **Sign, Wall.** A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and does not project more than 12 inches from such building or structure. (See Sign Type Illustration)

109. **Sign, Window.** A sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window. (See Sign Type Illustration)

**Sign Type Illustration**

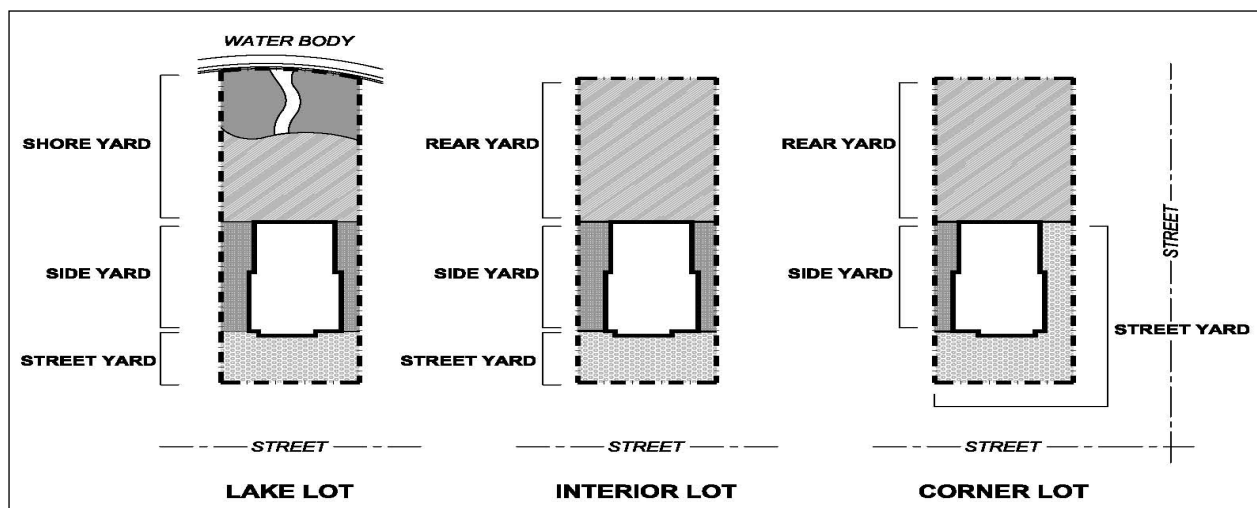


110. **Small wind energy system.** A wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.
111. **Solar Collector.** A device, structure or part of a device or structure a substantial purpose of which is to transform solar energy into thermal, mechanical, chemical or electrical energy.
112. **Solar Glare.** The effect produced by light reflecting from a solar panel with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
113. **Solar Panel.** A group of photovoltaic cells are assembled on a panel. Panels are assembled on-site into solar arrays.
114. **Street.** A public right-of-way not less than 50 feet wide providing primary access to abutting properties.
115. **Structural Alterations.** Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.
116. **Structure.** Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled structures, decks, towers, masts, poles, booms, signs, decorations, carports, machinery, and equipment ice fishing shanties, gas or liquid storage tanks.
117. **Substantial Improvement.** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the present equalized 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:
- a. 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,
  - b. Any alteration 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.

118. **Sustained Yield Forestry.** Management of forested lands to provide annual or periodic crops of forest products.
119. **Swimming Pool.** Any structure, portable or permanent, containing a body of water 36 inches or more in depth, intended for recreational purposes, but not including a wading pool, an ornamental reflecting pool or fish pond or similar type pool, located and designed so as not to create a hazard or to be used for swimming.
120. **Transitory Structure.** A non-permanent Accessory Structure in a Residential District including: enclosed structures no larger than 120 sq. ft. in area; open gazebos; cabanas; screen houses; fences; towers; personal energy systems; in ground and above ground swimming pools; children's playhouses, play apparatus, swing sets, and the like; hot tubs/spas; patios and decks; raised bed gardens; trellises; bee hives; enclosures for backyard chickens; dog enclosures; and other structures deemed to be substantially the same by the Plan Commission.
121. **Turbine host property.** Real property on which at least one wind turbine is located.
122. **Unnecessary Hardship.** That circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.
123. **Use.**
  - a. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or,
  - b. Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.
124. **Variance.** An authorization granted by the Zoning Board of Appeals to construct, alter, or use a building or structure in a manner that deviates from the dimensional standards of this Chapter. A variance may not permit the use of a property that is otherwise prohibited by the Chapter or allow flood land construction that is not protected to the flood protection elevation.
125. **Wetlands.** Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
126. **Wind energy system.** A system as defined in Chapter 66.0403(1)(m), Wis. Stats., used to convert wind energy to electrical energy.
127. **Wind energy system emergency.** 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.
128. **Wind energy system facility.** 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.
129. **Wind energy system lease.** A written agreement between a landowner and the 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.

130. **Wind Tower.** The monopole, freestanding, or guyed structure that supports a wind turbine generator.
131. **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.
132. **Yard, Primary Street.** A yard associated with the primary mailing address or fire number for the Principal Structure extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the street right-of-way of a public street or road or the paving edge of a private roads and a line parallel thereto through the nearest point of the Principal Structure. (See Yard Type Illustration).
133. **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 Primary Street Yard on a corner lot. (See Yard Type Illustration).
134. **Yard, Secondary Street.** A yard that abuts an existing or proposed street or highway not otherwise defined as a Primary Street Yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the street right-of-way of a public street or road or the paving edge of a private roads and a line parallel thereto through the nearest point of the Principal Structure. (See Yard Type Illustration).
135. **Yard, Shore.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the Ordinary High Water Mark of a navigable body of water and a line parallel thereto through the nearest point of the Principal Structure. (See Yard Type Illustration).
136. **Yard, Side.** A yard extending from the Street Yard to the Rear Yard or Shore 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. (See Yard Type Illustration).
137. **Yard, Street.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the street right-of-way of a public street or road or the paving edge of a private roads and a line parallel thereto through the nearest point of the Principal Structure. Corner lots shall have two such yards. The Primary Street Yard on a double frontage lot or corner lot shall be that associated with the mailing address or fire number, as applicable. (See Yard Type Illustration).
138. **Yard Type Illustration.**



**CHAPTER 17.16      ADOPTION**

**17.16.01 VILLAGE POWERS**

The electors of the Town of West Bend, Washington County, Wisconsin, authorized the Town Board to exercise all powers related to villages and conferred on villages by Chapter 61 of the Wisconsin Statutes at an Annual Meeting held on the 5th day of April, 1954.

**17.16.02 PUBLIC HEARING**

Pursuant to and in accordance with the Laws of the State of Wisconsin and this Chapter the Town of West Bend Plan Commission held a public hearing on this Chapter on the 20th day of September 2018 and a second hearing on the 24<sup>th</sup> day of January 2019.

**17.16.03 PLAN COMMISSION RECOMMENDATION**

The Town of West Bend Plan Commission recommended the adoption of this Chapter at a meeting held on the 24<sup>th</sup> day of February 2019.

**17.16.04 TOWN BOARD APPROVAL**

The Town Board of Supervisors concurred with the recommendations of the Plan Commission and adopted this Chapter at a meeting held on the 12<sup>th</sup> day of February 2019.