

# TOWN OF GENESEE

## ZONING CODE

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Town of Genesee Zoning Code

June 13, 2022

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## ARTICLE I: IN GENERAL

### Section-1: Authority and Intent.

(A) This Code is adopted under the authority granted by Chapters 59, 60, 62, 87, 145, 236 and 281 of the Wisconsin State Statutes and amendments thereto. Except as otherwise provided in this Code, the current and future provisions of the State Statutes adopted herein are adopted and made a part of this Code by references as if fully set forth herein. A violation of any such provisions shall constitute a violation of this Code. Any further amendments, revisions, modifications, or additions of the current or future statutes incorporated herein are intended to be made part of this Code in order to secure unified statewide regulation.

(B) For the purpose of promoting health, safety, morals or the general welfare of the community, this Code is enacted to regulate the height, location and size of buildings; to classify and regulate the use of buildings and lands according to their specific characteristics; to regulate the density of population and the use of lot area; to regulate and determine the areas of open space surrounding buildings; to divide the Town into districts of such number, shape and area to carry out the regulations of this Code; to provide for the administration and enforcement of this Code; and to prescribe penalties for the violation of the provisions of this Code.

(C) In order to adopt this Code known as the Zoning Code of the Town of Genesee adopted March 23, 2015, and all amendments thereto, the Town Board of the Town of Genesee, Waukesha County, Wisconsin, does ordain their adoption and does ordain the following:

### Section-2: Purpose.

The provisions of this Code shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Town. Among other purposes, such provisions are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to encourage the protection of groundwater resources; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to preserve burial sites, as defined in Wis Stat. s. 157.70(1)(b). The provisions within this Code have been made with reasonable consideration, among other things, of the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

**Section-3: General information.**

It is not intended by this Code to: repeal, abrogate, annul, impair or interfere with any existing easement, covenants or agreements between parties, or with any rules, regulations or permits previously adopted or issued pursuant to law; provided, however, that where this Code imposes a greater restriction upon the use of building or premises, or upon the height, location, or size of a building, or upon the open space requirements, the provisions of this Code shall govern.

**Section-4: Definitions.**

- (A) **General interpretation.** For the purpose of this Code and when not inconsistent with the context; words used in this Code, in the present tense include the future, in the singular number include the plural, and in the plural number include the singular and the term "shall" is always mandatory, not merely permissive.
- (B) **Specific words and phrases.** The following words, terms and phrases, when used in this Code shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

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

**Adult book store:** A commercial establishment that has a significant or substantial portion of its stock-in trade, or derives a significant or substantial portion of its revenues from books, magazines and other periodicals, videos, streaming videos, DVDs, tapes, and other similar items, which are distinguished or characterized by their emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment. This definition excludes films, motion pictures, video cassettes, streaming videos, DVDs, slides or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America.'

**Adult cabaret:** A commercial establishment, such as a nightclub, dance hall, bar, restaurant, or similar establishment, that regularly features (1) persons who appear semi-nude; (2) live performances that are characterized by the exposure of specific anatomical areas or by specified sexual activities; or (3) film, motion pictures, video cassettes, streaming videos, DVDs, slides or other photographic reproductions, which are characterized by the exhibition or display of specified sexual activities or specified anatomical

areas. This definition excludes films, motion pictures, video cassettes, slides, or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America

**Adult entertainment:** Any exhibition of any motion pictures, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated specified sexual activities or specified anatomical areas as defined in this section.

**Adult family home:** A place licensed by the state under s. 50.033(1m), Wis. Stats.

**Adult mini-motion picture theater:** An enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this Section, for observation by patrons therein.

**Adult motion picture theater:** An enclosed building with a capacity of 50 or more persons used for presenting materials distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this Section, for observation by patrons therein.

**Adult-oriented establishments:** Includes, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments or adult cabarets. The term "adult-oriented establishments" further includes any premises to which public patrons or members are invited or admitted and which are physically arranged to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

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

**Agricultural sales and service:** A place where equipment, products, byproducts, or materials primarily associated with agricultural operations are sold, processed, handled, repaired, or stored. Examples include agricultural implement sales, storage, or repair operations; feed and seed stores; agricultural chemical dealers and/or storage facilities; animal feed storage facilities; food processing facilities; and canning and other packaging facilities

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

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shall also generally define a dwelling unit (DU).

**Apartment house:** See **Dwelling**, multiple.

**Applicant:** Any person or entity applying for any permit, variance, special exception, conditional use, site plan, plan of operation, rezoning, license, or other application for governmental approval under this Code. An applicant shall be a landowner, specifically a person or entity holding fee title to the parcel as set forth below or such other person having an interest in the parcel where the landowner has authorized such application:

- (1) In the case of corporation, an officer or member of the corporation who has overall responsibility for the operation of the site for which the permit is sought
- (2) In the case of a limited liability company, a member or manager.
- (3) In the case of a partnership, a general partner
- (4) In the case of sole proprietorship, the proprietor.
- (5) For a unit of government, by an elected official or other duly authorized representative.
- (6) In the case of an individual, by the individual, the individual's attorney, or one allowed to act as power of attorney.

**Arcade:** Any premises containing three or more amusement devices for the primary use and entertainment of the public. Premises for which a license to sell fermented malt beverages and/or intoxicating liquors has been issued may be excluded from this designation.

**Area wide stormwater facilities:** Stormwater facilities designed to provide peak flow reduction, water quality treatment, and/or groundwater recharge for entire watersheds or drainage areas, which may extend across property lines. Area wide stormwater facilities coordinate stormwater management for the watershed, including existing and future land development activities and best management practices for individual sites, and to provide for long-term maintenance and funding of the facilities.

**Base setback line:** The ultimate street line as established by the building location provisions of this Code, and from which all required setbacks shall be computed.

**Basement:** That portion of a building that is partly or completely below the average level of the adjoining ground. If the basement is occupied for living purposes or has six (6) feet of exposure on at least one side, it is defined as a story per this Code.

**Bed and breakfast facility:** An owner-occupied residence often in a building with landmark or historical significant qualities where lodging for paying guests is offered and which offers breakfast to those guests as its only meal.

**Beekeeping:** The act of cultivation of bees as a commercial venture or hobby for the production of honey.

**Boarding house:** A building or premises where meals or meals and lodging are offered for compensation

for five or more persons, but not more than 12 persons, and having no more than five sleeping rooms for this purpose. An establishment where meals are served for compensation for more than 12 persons shall be deemed a restaurant. An establishment with more than five sleeping rooms shall be deemed a hotel.

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

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

**Building, accessory:** A building or portion of a building subordinate to the principal building and used for a purpose customarily incident to the permitted use of the principal building.

**Building, height of:** The vertical distance from the lowest exposed point to the highest point of any roof line.

**Building inspector:** A person who has been designated, or appointed by the Town Board, to fulfill the obligations of construction inspections within the Town of Genesee.

**Building, principal:** The main building on a lot, intended for primary use as permitted by the regulations of the district in which it is located. Any building intended to be used for human habitation shall constitute the principal building. Where the construction of the building constitutes one or more than one structure it shall be determined by the Building Inspector based upon the above-ground elements, if there is a separation between the above-ground elements so that they appear to be separate structures, the above ground elements shall be regulated as separate structures, and such separate structures may be restricted or prohibited as regulated herein. This shall be true even if the above ground elements are connected below ground, or by insubstantial means that do not dispel the above ground appearance of separate structures. Insubstantial means include, without limitation: unenclosed connections; connections that lack a roof or floor; connections that are not heated, ventilated or air conditioned in the manner of the main structure; connections that lack substantial structural elements that are present in the main structure; and connections that lack a foundation or footing.

**Code:** Means the Town of Genesee Zoning Code.

**Community living arrangement:** Any one of the following facilities (1) residential care centers for children and youth, as defined in s. 48.02 (15d), Wis. Stats., operated by a child welfare agency licensed under s. 48.60, Wis. Stats.; (2) group homes for children, as defined in s. 48.02 (7), Wis. Stats.; and (3) community-based residential facilities, as defined in s. 50.01 (l g), Wis. Stats. The term does not include adult family homes, as defined in s. 50.01, Wis. Stats., day care centers, nursing homes, general hospitals, special hospitals, prisons, and/or jails

**Composting facility:** A place where vegetation (including food wastes) may be collected and composted. The term includes the storage and manipulation of materials prior to, during, and following composting.

**Condominium:** Property subject to a condominium declaration established under Chapter 703 of the Wisconsin Statutes as amended and renumbered from time to time.

**Contractors yard:** An exterior premises on which construction and maintenance materials (i.e., salt, sand, cement, stone, etc.), bulk materials (i.e., sand, gravels, stone, timbers, wood chips, etc.), or construction or maintenance equipment (i.e., bulldozers, front-end loaders, backhoes, trucks, trailers, etc.) are stored to be utilized for off-site construction and/or maintenance purposes. Where landscape materials are stored or sold for retail or wholesale markets, and not as an accessory to an otherwise permitted use by right, such use shall not be considered a contractors yard.

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

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

**District:** A section of the Town for which the regulations governing the height, area and the use of building and premises are the same.

**Dog:** A domestic mammal (*Canis familiaris*) closely related to the common wolf, but not including coyotes, wolf mixes or hybrids of wolves or coyotes.

**Dwelling, multiple:** A building or portion thereof designed for and occupied by more than one family, including duplexes, row houses, condominiums, apartment houses and apartment hotels.

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

**Dwelling, two-family:** A detached or semi-detached building designed for and occupied exclusively by two families.

**Emergency shelter:** A place where primarily indigent, needy, homeless, or transient individuals are temporary housed and provided with ancillary services

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

**Environmental corridors (primary and secondary and isolated natural resources areas):** Environmental Corridors: Environmental corridors (Primary, Secondary, and Isolated Natural Resource Areas) are concentrations of key significant natural resource elements including surface water such as lakes, streams, and rivers and their associated undeveloped floodlands and shorelands; woodlands, wetlands, and wildlife habitat; prairie remnants; areas of groundwater discharge and recharge; unfarmed wet, poorly drained and organic soils, rugged terrain and high relief topography; and significant geological formations and physiographic features. In general, Primary Environmental Corridors are concentrations of significant natural resources at least 400 acres in area, at least two miles in length, and at least 200 feet in width. Secondary Environmental Corridors are concentrations of significant natural resources at least 100 acres in area and at least one mile in length (possibly smaller and shorter if considered a primary link). Isolated Natural Resource Areas are concentrations of significant natural resources at least five acres in area and at least 200 feet in width. Generalized environmental corridor boundaries are mapped by the Southeastern Wisconsin Regional Planning Commission, typically at five-year intervals, and precise boundaries are field delineated by or reviewed and approved by the Southeastern Wisconsin Regional Planning Commission Staff. A description of the processes for further defining and delineating Primary and Secondary Environmental Corridors and Isolated Natural Resource Areas is set forth in the Southeastern Wisconsin Regional Planning Commission's Technical Record, Volume 4, No. 2 and is incorporated herein by reference.

**Environmental significant areas:** Are lands which are zoned as C-1 Conservancy District, A-E Exclusive Agricultural Conservancy District, or E-C Environmental Corridor District or designated as primary environmental corridor, secondary environmental corridor or isolated natural areas in the Town of Genesee Comprehensive Land Use Plan – 2035 or SEWRPC Environmental Corridor Inventory.

**Family:** One or more persons who live together in one dwelling unit (DU) as a single housekeeping entity.

**Farm or Agricultural Operation:** One or more parcels of land owned and managed by a single entity and zoned for agricultural or farm use upon which natural fibers, animals, or food for human or animal consumption is produced.

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

**Farm, general:** A tract of land devoted principally to the raising of crops, livestock and/or farm products, but not including commercial stables or private stables.

**Farm, pig:** A of land devoted principally to the raising and feeding of pigs and hogs.

**Farm, poultry and/or egg production:** A tract of land devoted in whole or part principally to the raising of poultry and/or egg production for commercial purposes.

**Feed lot:** A lot or facility used or proposed to be used for the confined feeding and/or holding of animals where the number and kind of animals exceed 75 units per acre of confined area. One animal unit shall be equivalent to 1,000 pounds of live animal weight, and the acreage used to compute the density shall include all fenced areas, pens, yards or similar uncovered structures and all covered enclosures where the

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animals are enclosed for 30 or more continuous 24-hour days per year. Dairy farm operations utilizing seasonal winter confinement of livestock are excluded from this definition unless the Town Board determines that the operations of a particular dairy farm meet the provisions of this section and the intent of this Code will be furthered by regulation of such operations under this definition. The intent of this definition is to clearly distinguish the feed lot type of farming situation which concentrates large numbers of livestock on small acreage from the more general type of farm operation in which cultivation and livestock grazing or feeding is conducted on a smaller scale. It is not the intent of this definition to prohibit these kinds of operations, but to recognize the potential as a pollution source and to effectively control it.

**Finding:** A written conclusion or determination that is made in connection with reaching a decision.

**Floodplain:** Those lands, including the floodway subject to inundation by the 100-year reoccurrence flood, or, where such data is not available, the maximum flood of record.

**Flood protection elevation:** The flood protection elevation shall correspond to a point two feet of freeboard above the water surface profile associated with the regional flood **and** the official floodway lines. See **Freeboard.**

**Floor area:** The sum of the horizontal areas of each floor of an enclosed building as measured to the outside edges of the outside walls. This definition does not include basements or exterior balconies and as further described in this Code.

**Floor area ratio (FAR):** The calculation of the total floor area of buildings allowed on a given lot, expressed as a percentage ratio to the total area of the lot; i.e., a floor area ratio of 100 percent allows a floor area equal to the total area of the lot, a floor area ratio of 50 percent allows a floor area of one-half the total area of the lot, etc. A floor area ratio of 50 percent could be applied to a one-story building occupying 50 percent of the lot, or a two-story building occupying 25 percent of the lot.

**Foster and treatment home:** A place licensed by the state for the care of foster children and which is operated by a corporation, child welfare agency, church, or other such entity.

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

**Funeral home:** A place where the deceased may be prepared for burial or cremation and people may gather for visitation or funeral ceremonies. The indoor display of funeral equipment may also occur. The term includes mortuaries.

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

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**Garage, private:** A private garage is one where private vehicles are kept for storage purposes only and wherein such use is accessory to the residential use of the property on which it is stored.

**Garage, public or commercial:** Any building or premises, other than a private or a storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored for monetary gain as a business.

**Garage, storage:** Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold, and vehicles are not equipped, serviced, repaired, hired or sold for monetary gain as a business.

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

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

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

**Group day care center:** A place licensed as a day care by the state where care is provided for 9 or more children. This use may include outdoor play areas, playhouses, and related recreational equipment, such as swings, slides, basketball hoops, and jungle gyms.

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

**Highwater elevation:** The ordinary high water mark of a pond, stream, lake, flowage or wetland referred to an established datum; or where such elevation is not available, the field elevation where the presence of water is so continuous to leave a distinct mark due to erosion, change in or destruction of vegetation, or changes in other easily recognizable topography, geological or vegetative characteristics.

**Highway:** A right-of-way designated by the county established street and highway width map or any other comprehensive system for the principal purpose of providing vehicular thoroughfare and not necessary affording direct access to abutting property.

**Home occupation:** A gainful occupation conducted by a member or members of a family within their place of residence, where the space used is incidental to residential use and no article is sold or offered for sale except such as is produced by such home occupation.

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

**Hot tub:** An outdoor warm water reservoir usually with hydro massage jets. A hot tub may be built in or portable. The term includes spa.

**Hotel:** A building in which lodging, with or without meals, is offered for compensation and which may have more than five sleeping rooms for this purpose.

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

**Human habitation:** Utilization of a building or structure for overnight living or longer periods of time, and including the aggregate of normal occupancy activities such as lounging, cooking, eating, sleeping, bathing, sanitation, etc.

**Hunting preserve:** A place where the public or those with a membership can, for a fee or other consideration, hunt game animals not confined within a fenced enclosure. This use may include one or more buildings and other structures directly related to operation of this use, such as an office, structures and enclosures for rearing game animals for hunting purposes, and buildings for housing maintenance equipment, supplies, and related materials.

**Infiltration swales:** A shallow grassed or vegetated channel designated to capture, detain and treat stormwater and convey larger flows. It takes surface flows from adjacent paved surfaces and allows it to infiltrate through a soil bed into underlying soils. The swale provides conveyance for larger storm events to the storm drain system. Variations on designs include an underlying drain rock reservoir, with or without a perforated under drain.

**Inhabit:** Means to be present in or occupy any building or structure which is designed or intended to be occupied, used, for human habitation.

**Impervious surface:** Land area and surfaces where precipitation is unable to infiltrate into the soil. Such surfaces include, but are not limited to roadways and pathways that are paved with concrete or asphalt, roofs, patios, and similar surfaces.

**In-law unit:** A room or suite of rooms used or occupied as a separate housekeeping entity and located in a single-family dwelling occupied by persons related by blood or marriage to the family or persons occupying the single-family dwelling.

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

**Kennel, commercial:** An establishment, structure or premises where dogs or other household pets are raised, sold, bred or boarded for any length of time for commercial purposes or exceeds five (5) dogs. The raising and selling of three or more litters of animals per year shall constitute a commercial kennel. This definition includes businesses termed “doggy day care” and dog rescue operations or any similar operations. The training or grooming of dogs without other related kennel activities, as listed above, is not considered a commercial kennel, but those activities are considered commercial type uses which are otherwise regulated in this Code.

**Kennel, hobby:** A non-commercial establishment, structure, premises, or pursuit accessory to the principal use of the property where three (3) or more household pets of six (6) or more months of age are permitted by right are kept for such private purposes as pets, field trials, shows or hobby. The raising of not more than two litters of dogs per year on a premise and the sale or disposal of said dogs, within six months of their birth shall not be considered a hobby kennel. More than five (5) dogs on a single property shall constitute a Commercial Kennel.

**Land-altering activity:** Any man-made change of the land surface, including removing vegetative cover which changes the land surface, cutting of trees which changes the land surface, excavating, soil removal, filling, grading, dredging and channel improvements in excess of those limits set forth in this Code, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens and harvesting of trees, and tree nurseries.

**Landscaping, lawn and garden business:** Means any property on which or from which landscaping equipment ( other than one riding mower and/or one push lawnmower) consisting of trucks, trailers, materials and equipment to be stored and maintained on the site for the purpose of taking to the clients’ properties to perform landscaping construction and landscaping maintenance services, such as lawn installation, plant installation, hardscaping, water feature installation, landscape lighting installation, snow plowing and removal and other traditional landscape construction services, the growing of trees, shrubs, bulbs, annuals, perennials and other plants imported to the site which are to be installed by the business on the clients’ properties, storage of bark, mulch, grass seed, cover straw, lawn fertilizer, boulders, modular block, pond and waterfall kits, landscape lighting, natural stone and brick, and other items to be imported to the site and then installed on the clients’ properties; wholesale or retail nursery sales of trees, shrubs, bulbs, annuals, perennials and other plant material grown and/or imported and sold to wholesale customers, (i.e., other landscapers) or of hardwood, bulk bark, mulch, grass seed, cover straw, lawn fertilizer, boulders, modular block, pond and waterfall kits, and landscaping natural materials, shall be imported and sold to wholesale customers

**Lighting, high intensity:** Lighting that is greater than 0.5 foot candles, measured at a property line.

**Lighting, low intensity:** Lighting that is 0.5 foot candles or less, measured at a property line.

**Living area:** The occupied or usable floor area in a building designed and built with necessary ceiling,

flooring, and electrical, heating and plumbing facilities to accommodate human habitation.

**Lodging house:** A building where lodging only is provided for compensation and having not more than five sleeping rooms for this purpose.

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

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

**Lot depth:** The mean horizontal distance measured between the street line and the opposing rear line(s) of the lot.

**Lot, legal nonconforming:** A lot that at the time it was legally created, conformed to then existing rules and regulations, but is now inconsistent with the dimensional requirements set forth in this Code.

**Lot lines:** The lines bounding a lot.

**Lot line, side:** A lot line extending from a street line towards the interior of the lot and separating adjoining lots.

**Lot of record:** A platted lot or lot described in a Certified Survey Map, which has been approved by the Town and has been recorded in the office of the Waukesha County Register of Deeds, or a metes and bounds description of a lot which has been recorded in the Waukesha County Register of Deeds Office prior to the adoption of the original Waukesha County Zoning Code on February 26, 1959.

**Lot width, minimum average:** The mean horizontal distance measured between side lot lines, perpendicular to the lot depth and at a point in relation to the depth where the product of the two would produce the minimum required lot area.

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

**Master grading plan:** A detailed plan that depicts the existing and proposed elevations or topography of a subdivision or other unified development site. A Master Grading Plan contains components that depict site drainage patterns, erosion control measures, road and lot elevations, and other data deemed appropriate by the Waukesha County Department of Parks and Land Use or Town Engineer.

Town of Genesee Zoning Code

June 13, 2022

**Mobile home:** That which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or as intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances. The term "mobile home" does not include a recreational vehicle nor does it include a manufactured home as defined in Wis. Admin. Code Comm. § 27.10(3).

**Mobile home park:** Any plot or plots of ground upon which two (2) or more mobile home units occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations. Wisconsin Statutes, Section 66.0435 and amendments thereto.

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

**Motel:** A building or series of buildings in which lodging is offered only for compensation, has more than five sleeping rooms or units, and is distinguished from a hotel primarily by reason of providing direct, independent access and adjoining parking for each rental unit.

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

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

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

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

**Nursing home:** A place where 5 or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their mental or physical condition, require 24-hour nursing services, including limited nursing care, intermediate level nursing care, and skilled nursing services. The term does not include (1) a convent or facility owned or operated exclusively by and for members of a religious order that provides reception and care or treatment of an individual; (2) a hospice as defined in state law; or (3) a residential care complex

**Occupy:** Means to commence use of any building or structure which is designed or intended to be occupied, used, or inhabited.

**Offset:** The horizontal distance measured from the side or rear lot line, not along a street, to any roofed or enclosed portion of a building not including an overhang, as defined herein, of 24 inches or less.

**Offsite parking lot:** A place where motor vehicles associated with an offsite use may be parked for a short duration. It may be available to the public or reserved to accommodate parking for a specific purpose or special event.

**Open space:** Land area used for recreation, agriculture, and resource protection, amenities for recreational purposes or buffers.

**Open space, common:** Lands which are open space and owned in common by individuals within a development or land trusts or other private conservation organizations, if access is available to the public, and as may be agreed to in the approval of the development by the Town Plan Commission or Town Board.

**Open space, public:** Lands which are open space, dedicated and owned by a public entity, such as a Town, city, village or other public entity, and used for any public purpose other than streets or highways.

**Code:** Means the Town of Genesee Zoning Code.

**Outdoor/Indoor recreational facilities:** Land and structures, along with accessory equipment, designed and utilized for leisure time activities of a predominantly “outdoor or indoor” nature and of having a more specific purpose such as tennis courts, swimming pools, basketball or racquetball courts, ice arenas, facilities used for sports orientated and/or cultural events, etc., other than passive park-like open areas, and further classified as follows:

- (1) **Public:** Facilities owned and operated by a governmental agency for limited or general public use.
- (2) **Private commercial:** Facilities owned and operated by an individual, group or corporation for profit as a business whether or not open to the general public use.
- (3) **Private non-commercial group:** Facilities owned and operated by a group for the exclusive use of the members of such group and their guests and not for profit as a business.

**Outdoor shooting range:** An outdoor area where patrons shoot guns, such as pistols, rifles, and shotguns, and bow and arrows for target practice. The term includes archery ranges, trap and skeet clubs, target ranges, and the like

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

considered part of the overhang.

**Parking space:** An area permanently reserved and maintained for the parking of one motor vehicle which meets the dimensional standards of this chapter

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

**Person:** Means an individual, association, partnership, limited liability company, or corporation.

**Personal storage facility:** A place, building or portion thereof, or a group of buildings where storage units are offered to the general public for rent, lease, sale, or other arrangement for the storage of personal property and the units are not for commercial storage purposes. The term includes a tract of land used to store vehicles and/or watercraft such as, for example, a car, truck, recreational vehicle, boat, or other conveyance that is self-propelled by an internal combustion engine.

**Plan of operation:** Plan of Operation is a statement of operation, prepared and signed by the owner and tenant or operator of the business or use and approved by the Plan Commission that includes a detailed description of the request, number of employees, hours of operation, and types of uses, products or services offered and any special events which are to be conducted on the property.

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

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

**Planting screen:** An area landscaped with natural growing plant material which effectively screens off from vision objects it is intending to hide from view.

**Polystructure:** Means an enclosure having a frame of steel or other materials which is covered with plastic, polyurethane, vinyl, canvas or other flexible sheeting material



**Pool, kiddie/wading:** means an above ground water pool that is designed to be no deeper than twenty-four (24) inches at its deepest point, that does not exceed that maximum depth at any time, that is temporarily located on a lot, without electricity, filter, or heater,

**Pool, relaxation/floating:** means a structure above or below ground level, or combination thereof, designed to hold water that is more than twenty-four inches and no more than 30 inches deep at its deepest point, which does not exceed that maximum depth at any time, to be used for recreation or relaxation purposes, such as a hot tub.

**Pool, swimming:** means a structure above or below ground level, or combination thereof, designed to hold water more than 30 inches deep at its deepest point, to be used for recreation or relaxation purposes. Also included in this definition is any water pool structure that is not a relaxation/floating pool or kiddie/wading pool as defined herein.

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

**Porous pavement:** A special type of asphalt or concrete pavement that allows rain and snowmelt to pass through it, thereby reducing the runoff from a site and surrounding areas. The porous pavement surface is typically placed over a highly permeable layer of open-graded gravel and crushed stone. A filter fabric is placed beneath the gravel and stone layers to screen out fine soil particles. For the purpose of this Code, permeable pavers, which are blocks with gravel in between them, will also be considered porous pavement.

**Portable on-demand storage structures (PODS and SAM):** Means any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements

**Potbellied pig:** A pig that is white, black or pinto in color, stands less than 14 inches at the shoulders and less than 30 inches in length when grown, weighs less than 220 pounds, that is distinguished by having erect ears, a straight tail with a plume at the end, and hair on the back that does not part, and is kept by its **owners** as a household pet.

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

**Private club or lodge:** A building or grounds used for regular or periodic meetings or gatherings of a group of persons organized for a nonprofit purpose, but not groups organized to render a service customarily carried on as a business.

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

**Public and semi-public structures and uses:** Structures and uses principally of an institutional nature and serving a public need, such as hospitals, rest homes, schools, including private, academic and nursery schools, libraries, post offices, museums, police and fire stations, public and private utility facilities and other public services, not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

**Public notice:** The means that a governmental body uses, or is required to use, in accordance with applicable law to formally notify people and other interested entities of a pending governmental hearing or proposed action

**Quarrying:** The removal of rock, slate, gravel, sand, topsoil, or other natural material from the earth by excavating, stripping, leveling, or any other such process, including the mining of non-metallic minerals for commercial purposes and personal gain.

**Rain gardens:** A manmade depression in the ground that is vegetated and used as a landscape tool to improve water quality. The rain garden forms a bio retention area by collecting water runoff and storing it temporarily, permitting it to be filtered and slowly absorbed by the soil.

**Recreational vehicle:** A vehicle including, but not limited to, a recreational vehicle (RV), motor home, camper vehicle, truck camper, all-terrain vehicle (ATV), or snowmobile which is commonly used for recreational entertainment, travel and touring. Vehicles included in this category include, for example, travel trailers, tent trailers and camping trailers, all of which must be towed by another vehicle, as well truck campers, motor homes and camper vehicles, all of which have a motor within the body of the vehicle and are self-propelled.

**Recycling center:** A place where recoverable materials, which have been previously removed from the waste stream, may be stored prior to shipment to others who use those materials to manufacture new products. Typical recoverable materials include glass, paper, metal, wood, rubber, asphalt/concrete, and plastic.

**Refuse disposal site:** means a tract of land operated, subject to restrictions of use and under supervision, by a public or private agent where more than one family may take all types of refuse, including organic and inorganic wastes (but excluding human excretions and sewage and/or other liquid waste), for compacting and burial by sanitary landfill methods. Hard or clean fill operations involving material such as foundry sand, dirt, gravel, concrete, or other forms of clean fill material shall not be required to conform to the provisions of this Code.

**Regulated household pets:** All dogs, cats and birds are regulated household pets.

**Remodeling:** Any structural alteration(s), addition(s), modification(s), or lateral enlargement(s) of any such existing structure(s), principal or accessory. The term "remodeling" shall also refer to the conversion

of living spaces of other floor areas into space for living purposes; such as converting a part of the living into a bedroom or bathroom regardless of whether such change(s) require structural alteration(s) to the basic structures. Ordinary maintenance repairs, including painting, decorating, paneling, replacement of doors, shingles, siding, windows, and other nonstructural components shall not be considered remodeling.

**Resort:** A place with lodging facilities and on-site amenities primarily intended for the use of overnight guests. Guest rooms may be located in one or more buildings and may include kitchen facilities. In addition to lodging facilities and recreational amenities, such as golf, horseback riding, or lake/beach access, a resort may also include a lodge or other gathering place for guests, dining facilities, administrative facilities, and maintenance and storage facilities.

**Restaurant:** Any building, room or place where meals are prepared or served or sold to transients or the general public, and all places used in connection with it and includes any public or private school lunchroom for which food service is provided by contract. "Meals" does not include soft drinks, ice cream, milk, milk drinks, ices and confections. "Restaurant" does not include:

- (A) Taverns that serve free lunches, consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish, or bread and butter.
- (B) Churches, religious, fraternal, youths or patriotic organizations, service clubs and civic organizations which occasionally prepare, serve or sell meals to transients or the general public.
- (C) Any public or private school lunchroom for which food service is directly provided by the school or a private individual selling foods from a movable or temporary stand.
- (D) Any bed and breakfast establishment that serves breakfasts only to its lodgers.
- (E) The serving of food or beverage through a licensed vending machine.
- (F) Any college campus, as defined in s. 36.05(6m) Wis. Stats., institution as defined in s. 36.51 (1)(b), Wis. Stats., or technical college that serves meals only to the students enrolled in the college campus, institution or school or to authorized elderly persons under 36.51 or 38.36, Wis. Stats.
- (G) A concession stand at a locally sponsored sporting event, such as a little league game.
- (H) A potluck event.

**Retaining wall:** A structure more than 36 inches in height as measured from finished grade or a combination or series of multiple structures more than 36 inches in height from finished grade, constructed of man-made or natural materials for the main purpose of retaining land or stone and resisting the lateral pressure of the land or stone. For the purposes of this Code, outcroppings are also considered retaining walls if they meet the retaining wall definition

**Retirement home:** A place where individuals, generally of retirement age or older, may occupy independent dwelling units. The units may be rented or owned as in a condominium. This use may include limited on-site commercial and medical facilities for the exclusive use of residents.

**Right-of-way:** A strip of land dedicated or acquired for public or private use.

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

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

**Roadside stand:** A farm building used or intended to be used solely by the owner or tenant of the farm on which such building is located for the sale of the farm products raised on such farm.

**Rural accessory building:** An existing building, which is: (1) set apart from other buildings as being distinct, due to its construction technique, construction materials, age, local historic significance, or design as determined by the Town Board; and (2) is characteristic of past agricultural practices or rural life, whether presently utilized or not for agricultural practice, as determined by the Town Board; and (3) which is sufficiently structurally sound to meet minimum safety requirements for the proposed use, as determined by the Town Building Inspector, provided that such determination shall not relieve the property owner of any responsibility or liability as to the building and shall not form a basis of liability against the Building Inspector or the Town.

**Salvage yard:** A place where salvage materials, such as scrap metal, rubber tires, junk vehicles, and used timber and lumber, or similar materials, that may be bought, sold, exchanged, stored, baled, packed, disassembled, or handled. (Note: In contrast see recycling center.)

**Sand or gravel pits.** See **Quarrying.**

**Seasonal product sales:** An outdoor area where merchandise typically associated with a seasonal holiday or festival is displayed and offered for sale at retail immediately before the event. Examples of such merchandise include Christmas trees and wreaths for Christmas and pumpkins for Halloween. The term does not include fireworks sales for the Fourth of July.

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

**Self-service storage facility and mini warehouses:** A building or a portion thereof, or a group of buildings, divided into separate, self-contained, self-service storage units that are rented or leased by the owner and used to meet the storage needs of a household or for the storage of personal property of the general public. The units are not for commercial storage purposes.

**Setback:** The horizontal distance between the "base setback line" and the nearest roofed or enclosed portion of a building, excluding the 24-inch roof overhang defined herein.

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

**Service oriented business:** A business operated by a single person or family where personal services are performed or assistance is given, as opposed to products, and involves predominantly professional operations as outlined in this Code regarding a limited family business.

**Screening:** A feature such as a wall, fence, hedge, berm, or similar feature used to shield or obscure elements of a development from adjacent sites

**Sign:** means any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to goods, products, services, promotions, events, occasions, facilities, persons, property interest, or business either on the lot or on any other premises. All signs shall comply with the Town of Genesee Sign Ordinance.

**Sign area:** That part of a total sign structure which encompasses the sign message exclusive of a structure upon which the sign area is affixed or which supports the sign area. However, for the purpose of computing square footage of a sign area, any exposed structure which supports a sign may not comprise more than one-third of the visible or exposed surface of one side of a total sign structure.

**Signable area:** The area of the façade of the building facing or abutting upon a street right of way up to the ceiling line of the top floor which is free of windows and doors or major architectural detail on which signs may be displayed.

**Sign structure, total:** The sign area, plus any exposed area or members of the supporting structure on or to which the sign, or sign message, is affixed. Decorative, landscaped earthen berms or structures which are composed principally of exposed earth and/or landscape (plant) materials is not included as part of the total sign structure.

**Site plan and/or plat of survey:** A map of the property (in standard engineering or mapping scale which provides a clear representation of the property to a scale not to exceed two hundred (200) feet to one (1) inch), in quadruplicate, showing the location and dimensions of all existing and proposed buildings and structures and other attributes on the site, the location, number and arrangement of parking spaces or loading areas, lighting fixtures, easements, dumpsters, signs, landscaping and screening, and any other factors affecting the development of the site. The site plan shall also indicate all areas which are to be used as special event parking on the parcel.

**Sketch plans:** Means an informal plan to scale indicating the pertinent existing features of a tract of land and the adjacent land uses, with the general layout of the proposal, including open space areas, lot lines, roads, and outlots designated for stormwater facilities.

**Solid waste landfill:** A place where solid waste from municipal and/or industrial sources may be

permanently buried consistent with environmental protection standards. Typically, the solid waste is spread in layers, compacted, and covered with a fresh layer of earth materials each day. The term does not include land application units, surface impoundments injection wells, or waste piles.

**Solid waste transfer station:** A place where solid waste may be temporary stored prior to transport to a processing plant or to final disposal.

**Special event:** An event of limited duration approved by the Plan Commission, which is open to the public and is not otherwise, permitted in the district. Examples include auctions, art fairs, festivals, and fundraisers.

**Special event parking:** place where parking for motor vehicles is allowed when specifically related to a special event of regional significance as designated by the Town Plan Commission.

**Special exception:** means a request for a minor adjustment to the requirements of the Zoning Ordinance only where specifically authorized by this Ordinance, owing to special conditions of the property. The special exception must be necessary and desirable and must not adversely affect adjacent property owners. A special exception differs from a variance in that a special exception does not necessarily require the demonstration of an unnecessary hardship or practical difficulty. In the granting of a special exception, the approving body must still consider whether the proposed special exception would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects and may impose such restrictions or conditions they deem necessary for the protection of adjacent properties and the public interest and welfare.

**Specified anatomical areas means:**

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below the point immediately above the top of the areola;
- (2) Human male genitals in a discernible turgid state, even if opaquely covered.

**Specified sexual activities:** Simulated or actual:

- (1) Showing of human genitals in a state of sexual stimulation or arousal;
- (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus;
- (3) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

**Stables:**

- (1) Private stable. A tract of land on which horses or other livestock are kept for noncommercial use of the owner or persons residing on the tract of land.
- (2) Commercial or Boarding stable. A tract of land on which horses or other livestock are kept for hire, board, training, sale or any other commercial use.

**Story:** that portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and the ceiling or roof,

next above it, including basements that are exposed at least six (6) feet on at least one side.

**Street.** See Road.

- (1) **Street, arterial:** Arterial Street means a road providing for efficient, safe and direct connection to or separation of developed areas for circulation to destinations outside the developed area and deemed as such on the “Established Street and Highway Width Map for Waukesha County” or other official map adopted by the Town.
- (2) **Street, collector:** Collector Street means a road providing for circulation to serve local traffic moving between minor streets and arterial streets as designated on the “Established Street and Highway Width Map for Waukesha County” or other official map adopted by the Town.
- (3) **Street, minor:** Minor Street means any other road not deemed as a collector or arterial street on the “Established Street and Highway Width Map for Waukesha County” or other official map adopted by the Town.

**Street frontage:** means a street contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property.

**Street line:** means a dividing line between a lot, tract, or parcel of land and a contiguous street.

**Structural alteration:** Any change(s) in the supporting members of a building or any substantial change(s) in the roof structure or in the exterior walls.

**Structure:** means any manmade object with form, shape and utility that is constructed or otherwise erected, attached to or permanently or temporarily placed either upon the ground or upon another structure. For the purpose of this Code the term "structure" includes swimming pools, hot tubs, patios, decks, gazebos, radio towers and television towers, but does not include landscaping or earth work including graded areas, filled areas, ditches, berms or earthen terraces. The term "structures" does not include flag poles, mail boxes, fences, basketball hoops, satellite dishes of 18 inches or less in diameter or small objects that are easily moved by hand, such as lawn chairs, portable grills, portable picnic tables, lawn ornaments, temporary fences, bird feeders, birdhouses or birdbaths.

**Structure, legal nonconforming:** means a building, structure, or portion thereof, lawfully existing at the time of the passage of the Code from which this Section is derived, but which does not conform in one or more respects to the regulations of this Code.

**Substantial Evidence:** means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons meet would accept in support of a conclusion.

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

**Tavern:** A place where alcoholic beverages are offered for retail sale for on-site consumption pursuant to a license or permit issued under the Wisconsin Statutes and where food consumption, if any, is clearly secondary and subordinate to the sale of alcoholic beverages. The term includes bars, drinking establishments, microbreweries, and lounges

**Temporary structure:** means a movable structure not designed for human habitation or occupancy, but for the temporary protection of goods or chattels during a period of construction, but not to exceed one year; for the enclosure or screening of goods or property; or for the display of signs and advertising.

**Town:** The Town of Genesee, County of Waukesha, State of Wisconsin.

**Town Attorney:** A person who has been designated or appointed by the Town Board to handle legal obligations or matters of the Town of Genesee.

**Town Board:** Means the Town of Genesee board of supervisors under the jurisdiction of this Code

**Town Board of Appeals:** An officially constituted body established pursuant to Section 62.23(7)(e) of the Wisconsin Statutes whose principal duties are to hear appeals and, where appropriate, grant variances from the literal requirements of this Code.

**Town Clerk:** Means the Town of Genesee Clerk who is appointed or otherwise designated by the Town Board.

**Town Engineer:** A person or engineering firm who has been designated or appointed by the Town Board to handle engineering matters for the Town of Genesee.

**Town Park Board:** A body established pursuant to Wis. Stats. § 60.66 or any other agency created by the Town Board and authorized by statute to plan land use.

**Town Plan Commission:** Means the Town of Genesee Town Plan Commission established under village powers pursuant to Wis. Stats. § 62.23.

**Town Planner:** A person or planning firm who has been designated or appointed by the Town Board to handle planning matters for the Town of Genesee.

**Trailer park and mobile home park:** A site containing spaces with required improvements and utilities that are leased for the long-term placement of manufactured houses. The site may include services and facilities for the residents.



**Tourist home:** Means a building in which lodging, with or without meals, is offered to transient guests for compensation, and having no more than five sleeping rooms for this purpose with no cooking facilities in any such individual room or apartment.

**Tower:** A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, and monopole towers. The term includes personal communication service towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

**Traffic artery.** See **Highway.**

**Truck terminal:** A place where goods carried by motor transport are received and temporarily stored until transferred to another truck for delivery.

**Use, accessory:** Means a use subordinate to and customarily incident to the permitted principal use of the property or buildings, and located upon the same lot as the principal use.

**Use, legal nonconforming:** Means the use of a building or land lawfully carried on at the time of the passage of the Code from which this Section is derived or amendments thereto, but which does not conform to the use regulations of this Code.

**Use, principal:** Means the main or primary use of property or buildings as specified and permitted by the regulations of the district in which it is located.

**Utility cabinets:** Means pedestals, loaders, junction boxes, cross connect boxes and any similar facilities which relate to the provisions of telephone, electric, natural gas, cable television, cable Internet, or similar public services, and which are owned by the providers of such services.

**Utility cabinets, large:** Means pedestals, loaders, junction boxes, cross connect boxes and any similar facilities which relate to the provisions of telephone, electric, natural gas, cable television, cable Internet, or similar public services, and which are owned by the providers of such services, and which are larger than a small utility cabinet, as defined in this definition, but less than six feet in height.

**Utility cabinets, small:** Means pedestals, loaders, junction boxes, cross connect boxes and any similar facilities which relate to the provision of telephone, electric, natural gas, cable television, cable Internet, or similar public services, and which are owned by the providers of such services, and for which there are no more than three such small utility cabinets on any lot, which shall be no greater than the following: One cable company cabinet being no more than 35 inches (height) by 32 inches (width) by 17 inches (depth), one electrical facility cabinet being no more than 40 inches (height) by 38 inches (width) by 30 inches (depth), and one telephone company.

**Variance:** An authorization granted by the Town Board of Appeals pursuant to State Law and the terms of

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this Code to depart from the literal requirements of this Code.

**Vision setback:** means an unoccupied triangular space at the street corner of a corner lot, as established by this Code.

**Vision triangle:** The unoccupied triangular space at the street corner of a corner lot which is created by a line joining points on the lot lines located a minimum 15 feet from the intersection of said lot lines. Corner lots located on arterial streets shall be increased to 30 feet.

**Warehouse:** A building where goods, merchandise, and other arterials are temporarily stored for eventual shipment. The term includes moving and storage facilities. The term does not include bulk fuel storage.

**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.

**Yard sale:** A temporary event where used household items are offered for sale.

**Zoning district, overlay:** A type of zoning district that is superimposed over one or base zoning districts, or portions thereof and thereby imposes additional requirements, modifies existing requirements of the underlying base zoning district, or both.

#### **Section-5: Compliance.**

Except as may be otherwise specifically provided, the use, size, height and location of structures or buildings now existing or hereafter erected, converted, enlarged, or structurally altered, and the use of land, shall be in compliance with the applicable provisions of this Code and all other applicable Town Codes and Ordinances. All prior zoning/use approvals issued by Waukesha County Department of Parks and Land Use authorized under the Waukesha County Zoning Code prior to the enactment of this Code shall remain applicable unless modified, changed, amended, or deleted by the Town of Genesee Board, Town of Genesee Plan Commission or where applicable, the Town Planner. If all of or a portion of a property lies within 1,000 feet of the ordinary high water mark of a lake, pond or flowage; or 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater, then the Waukesha County Shoreland Ordinance applies.

#### **Section-6: Building and zoning permit.**

- (A) **Required.** No building or structure shall be erected, structurally altered, or relocated until a building and zoning permit has been issued by the building inspector, certifying that such building, as proposed, would be in compliance with the provisions of this Code and with the applicable building codes, regarding buildings and building regulations.
- (B) **Application.** An application for a building and zoning permit shall be made to the building

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inspector. Such application shall be in accordance with the building/zoning code.

- (C) **Issuance.** Building and zoning permits shall be issued by the building inspector and Zoning Administrator, respectfully and conform to the provision of this Code and the applicable building code.

**Section-7: Use permit.**

- (A) **Required.** No vacant land shall be occupied or used except for agricultural purposes, and no building shall be hereafter erected, structurally altered, relocated, used, or occupied until a use permit has been issued certifying that any such building, use, or occupancy complies with the provisions of this Code and applicable Town Ordinances. This permit shall be obtained before any change is made in the type of use or before any nonconforming use is resumed, changed, extended or granted conditional use status pursuant to this Code and all other applicable Town Ordinances.
- (B) **Application.** All permits shall be applied for from the zoning administrator. Application for a use permit shall be made to the Town Planner, prior to or at the same time as the application for a building and zoning permit. All necessary (building and/or zoning) permits shall be prepared in quadruplicate, signed by the applicant and shall include for the purpose of proper enforcement of this Code the following data:
  - (1) A statement by the applicant as to the intended use of the premises and of any existing or proposed buildings thereon.
  - (2) An accurate map of the property drawn to a reasonable scale and properly dimensioned showing:
    - (a) The boundaries of the property involved.
    - (b) The location of the centerline of any abutting streets.
    - (c) The location on the lot of any existing structures or buildings, proposed additions or new structures or buildings, including the measured distances between such structures or buildings, lot lines and street lines measured to the nearest portion of such structure or building.
    - (d) The proposed floor elevation of any proposed buildings in relation to the existing and/or established grade of any abutting streets.
    - (e) The high water line of any stream or lake, conservancy or wetland and/or floodplain which the property abuts.
    - (f) The proposed locations of the septic systems, including tank, drain field, and/or mound, and private wells or the location(s) of any soil borings on the property and within fifty (50) feet of the property lines.
  - (3) Where the use involves human occupancy, a plan of the proposed sewage disposal system approved by Waukesha County through issuance of a county sanitary disposal

permit when a private system is proposed.

- (4) Fees shall be fully paid by the applicant at the time of filing of each application for a permit in accordance with the fee schedule established by the Town Board from time-to-time, and such payment shall be made to the Town of Genesee. Waukesha County shall be exempt from fees for Waukesha County projects.
  - (5) Accommodations for persons with disabilities: The Zoning Administrator may issue a permit to modify the standards of this Ordinance in order to provide reasonable accommodations as required by provisions of federal and state law. Such modification shall be the minimum necessary to be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer used by the disabled person(s). A person applying for a permit for construction under the section shall establish the nature and extent of the disability and that the modification requested is the minimum necessary to provide reasonable use of the facility. The reasonable accommodations shall be evidenced by an instrument that is reviewed and approved by the Zoning Administrator and recorded in the Office of the Register of Deeds.
- (C) **Issuance.** Building and zoning permits shall be issued by the Building Inspector and Zoning Administrator after adequate investigation as to compliance. Use permits shall be issued by the Town Planner after adequate compliance with all applicable conditions of approval.
  - (D) **Building and zoning permit.** Provided the application is in order, the applicable application fee has been paid, and any building, occupancy, or use as proposed would be in compliance with the provisions of this Code and all other applicable Town Ordinances, a certification that such permit has been issued shall be displayed/posted in a prominent place on the premises during the period of any construction involved in readying the land or buildings for occupancy.
  - (E) **Use permit.** Within ten days after the notification of the completion of the erection, alteration, or relocation of a building, or of intent to commence a use, the Zoning Administrator or his deputy shall make an inspection of the premises and any buildings thereon, and if such building, use, or occupancy comply with the requirements of this Code and the Town building code, regarding buildings and building regulations, a use permit shall be issued.
  - (F) **Expiration.** If, within six months of the date of issuance of a building and zoning permit, the proposed construction has not commenced, or if within 24 months an occupancy permit has not been issued, such building and zoning permit shall expire, except that, upon showing of valid cause, the Town Board may grant one (1) extension of such zoning permit for a period not to exceed six months. In the Town's Board's review of the property, it must determine by majority vote that the incomplete construction does not adversely impact the health, safety prosperity and general welfare of the Town and the neighborhood. If the permit is extended the Town Board may impose and enforce conditions of approval of the zoning/building permit including but not

limited to, (1) the removal of all construction materials and debris stored outdoors; (2) the removal of all dumpsters; (3) the installation of all enclosure systems (i.e., entry doors, windows, garage doors); and (4) the installation of construction materials related to all exterior surfaces. In addition, a Letter of Credit or some other form of financial assurance in an amount and form acceptable to the Town Board is required by the Town in an amount sufficient for the Town to have the construction completed per the conditions of approval for the zoning and building permit and the property owner shall grant the Town an easement in a form acceptable to the Town Attorney to permit the Town to complete such construction. The second and any subsequent permits shall not be eligible for any extensions. Subsequent permits are subject to all fees in effect at the time of permit issuance and are subject to the Code in effect at the time of such subsequent permit issuance.

(G) **Zoning and Occupancy and Use Permits – Site Plans and Plans of Operation:**

Certain permitted uses as well as certain conditional uses require the submission of a detailed Site Plan and a Plan of Operation which provides a detailed description of the proposed use and serve as a basis for consideration prior to approval of the Town Plan Commission. The purpose of said Site Plan and Plan of Operation review is to document the permit file, determine adequacy of the data submitted to describe the permitted and accessory uses and buildings proposed and document the plan and method of operation to enable a determination on compatibility with the requirements of this Code and consideration of approval. A Site Plan and Plan of Operation shall include the following information, as well as any other specific information requested by the Town Plan Commission, or Town Planner to review the plans and determine compliance with the regulations of this Code.

- (1) A Plan of Operation is a statement of operation, signed by the owner and tenant or operator of the business or use, including a detailed description of the request, number of employees, hours of operation, and types of uses, products or services offered and any special events which are to be conducted on the property.
- (2) Two (2) copies of a Site Plan and/or Plat of Survey of the property (in standard engineering or mapping scale which permits a clear representation of the property to a scale not to exceed two hundred (200) feet to one (1) inch), showing the location and dimensions of all existing and proposed buildings and structures and other attributes on the site, the location, number and arrangement of parking spaces or loading areas, lighting fixtures, easements, dumpsters, signs, landscaping and screening, and any other factors affecting the development of the site. The site plan shall also indicate all areas which are to be used as special event parking on the parcel.
- (3) A storm water management and erosion control plan consistent with the requirements of the Waukesha County Construction Site Erosion Control and Storm water Management Code. A Grading plan, where required, shall be submitted in the same scale as the Site Plan, including existing and proposed contours at a maximum of two(2) foot vertical intervals for slopes less than twelve (12) percent and at no more than five (5) foot intervals for slopes twelve (12) percent or greater, existing and proposed features (i.e.

berms, swales, ponds, ditches, storm sewers, inlets, etc.), vegetative plan, timetable for completion, the name of the responsible party and a letter of credit, if deemed necessary. The Town Plan Commission, Town Planner, or Town Engineer have the discretion to request a grading plan in a scale different than the Site Plan in order to show with sufficient detail the contours and features of the property.

- (4) Two (2) sets of building plans, State approved if required, at a standard architectural scale, including exterior elevation drawings of all sides of all buildings proposed.
- (5) A detailed colored rendering of all signs visible from the exterior, along with the location, dimensions, overall height and illumination of the signs.
- (6) Lighting or photometric plan, including cut sheets of each type of exterior light fixture proposed or existing.
- (7) A detailed landscaping plan showing the location, sizes and types of proposed vegetation, including seeding mixtures and the amount of topsoil and mulch, the timetable for completion, and any surfacing plan for parking and loading areas.

## ARTICLE II: LAND USE REGULATIONS – USES, STRUCTURES & BUILDINGS

### Section-10: Site regulations; building must be on a lot.

Building on a lot: Every building hereafter erected, structurally altered, or relocated shall be located on a lot as defined in this Ordinance. Any building used for the Principal Use permitted in a particular District shall constitute the Principal Building and in no case, except in Restricted Business, Limited Business and General Business Districts and Planned Unit Developments, shall there be more than one (1) principal building on a lot unless otherwise stated in this Ordinance. An accessory Building is considered attached to and part of a Principal Building only if the attachment consists of a breezeway that is at least six (6) feet in width and contains an entire roof structure as determined by the Town Building Inspector. The principal building, as herein described, shall be built first in all districts. In any residential district where a building other than a residence is considered principal, such construction shall be subject to the prior approval of the Town Plan Commission. The Town Plan Commission may allow the issuance of a new residential home building permit and the occupancy of an existing residential structure on a parcel for one continuous two-year period, subject to specific Town Plan Commission approval and the following conditions:

- (1) Subject to the occupancy of the existing single-family residential structure being made by the same person who will occupy the new single-family residential structure for which the new residential home building permit is issued.
- (2) Subject to the applicant submitting to and receiving approval from the Town Plan Commission written proof that the waste disposal system for the property upon which the current residence exists conforms to the applicable sanitary ordinances of the county environmental health division or is otherwise allowed to be used by the county environmental health division.
- (3) Subject to the applicant submitting to the Town Board and receiving approval as to form from the Town Attorney and as to amount from the Town Building Inspector or Town Engineer, a letter of credit or cash in the amount of 115 percent of the removal and restoration costs relative to the existing single-family residence as determined by the Town Building Inspector or Town Engineer; and also submitting to and receiving approval from the Town Attorney and the Town Building Inspector or Town Engineer, an agreement which would allow the Town to access the property and remove the existing structure at the applicant's expense if the new applicant fails to do so within sixty (60) days of issuance of an occupancy permit for the new residence; upon either of the following occurrences:
  - (a) Prior to the issuance of a new residential home building permit for any lot on which an existing residential home is occupied; or
  - (b) Prior to occupancy of any existing residential home on any lot for which a new residential home building permit has been issued.

- (4) Subject to such additional conditions as the Town Plan Commission may require in the interest of the health, safety and welfare of the Town.

**Section-11: Building or creation of lots on a private street or way:**

- (A) The intent of this provision is to discourage the creation of lots and placement of structures which do not have adequate access for emergency vehicles and equipment and to provide a right-of-way width which could accommodate a public right-of-way, if necessitated in the future.
- (B) Subject to the approval of the Town Plan Commission and the Town Board, a parcel may be created and a building may be permitted on a tract of land which does not abut or have direct frontage on a public street or officially approved way (frontage on a controlled access highway or a freeway where vehicular access is prohibited does not constitute access or frontage for the purposes of this provision) if all of the following conditions are satisfied:
  - 1. Such tract of land is at least three (3) acres in area and has a minimum average width of two hundred (200) feet,
  - 2. Access to the tract of land shall be by a recorded permanent easement at least thirty-three (33) feet in width to a public street or way,
  - 3. Access to the tract will be via a paved or gravel driveway having a width of at least twelve (12) feet, and
  - 4. The proposed access does not conflict with Town, County, or State plans for the future development of streets in the area.
- (C) Typical or normal lots with lot lines radiating from the terminus or center of a public cul-de-sac street are not affected by this provision that requires minimum road frontage on a public street.
- (D) In a situation where more than one (1) principal residence or parcel is proposed, the easement for access shall be at least sixty-six (66) feet in width and the paved or gravel drive shall be sixteen (16) feet in width, unless required to be greater, pursuant to another local Town Ordinance.
- (E) Where such a lot has a narrow strip of land as part of the lot (not as an approved easement) extending to the public road from the main part of the lot where the building could lawfully be placed (flag lot), such a narrow portion shall not constitute frontage or part of the three (3) acre lot size requirement unless that narrow portion of the lot is as wide as the required minimum average width for the district in which it is located.
- (F) Not more than two (2) such parcels or buildings shall be permitted on an easement unless the Plan Commission and Town Board find that:
  - 1. The requested additional parcel(s) are necessitated by exceptional circumstances, and
  - 2. Permitting more than two (2) such parcels will not violate the intent of this section.



**Section-12: Junk or undesirable buildings or structures or uses.**

- (A) **Junk:** As defined by this Code, junk shall at all times be stored in an enclosed building thereby securing it from the view of the public and adjacent property owners.
- (1) This subsection is not intended to regulate or place limitations on any properly zoned junk yard, salvage dealer, or other junk, waste disposal or storage activity for which a valid license from the State of Wisconsin or other necessary municipal issuing authority is required and proper permits have been issued and all such licenses and permits are in full force and effect and the operation is in full compliance therewith.
  - (2) This subsection is not intended to regulate or place limitations on the storage of idle, but operable farm equipment on farms greater than 35 contiguous acres or the storage of inoperative or abandoned farm equipment on farms greater than 35 contiguous acres if such inoperative or abandoned farm equipment is screened from view of the public and adjacent property owners by a natural or man-made visual barrier.
  - (3) This subsection is not intended to regulate or place limitations on the storage of idle but operative snow removal vehicles or equipment or lawn mowing equipment if such idle but operative snow removal vehicles or equipment or lawn mowing equipment are screened from view of the public and adjacent property owners by a natural man-made visual barrier.
  - (4) This subsection is not intended to regulate or place limitations on the orderly storage of firewood for fuel or personal use.
  - (5) This subsection is not intended to regulate the temporary storage of construction materials which are for use on the site for the project authorized by an active zoning permit and which are stacked, stored and secured on the site in an orderly method.
- (B) **No undesirable structures:** No building or structure shall be erected, structurally altered or relocated in a manner which shall be of such character as to adversely affect the nearby properties or general desirability of the neighborhood.
- (1) If a question arises about a building or structure, the issue shall be submitted by the Zoning Administrator to the Town Plan Commission for its review.
  - (2) A determination by the Town Plan Commission shall be made and stated in writing, including the reason for denying a permit or conditions of approval for a permit, and may be based upon considerations that the design or appearance is of such an unorthodox or abnormal character as to have an adverse effect on the nearby properties or general desirability of the neighborhood.

**Section-13. Junked vehicles.**

A motor vehicle, as defined herein, which is no longer licensed, which has been abandoned, disassembled, is non-operable or incapable of self-propulsion on a public highway, disabled, junked, or wrecked shall not be stored anywhere on any premises except in an authorized salvage yard, or is completely enclosed in a structure.

**Section-14: Street grade.**

Every building erected, structurally altered or relocated shall be at a grade approved by the building inspector as being in satisfactory relationship with the established street grades, or with the existing street grade where one is established, with particular consideration for proper drainage and safe vehicular access.

**Section-15. Use regulations.**

- (A) **Uses restricted.** In any district, no building or land shall be used and no building or structure shall be hereafter erected, structurally altered or relocated except in conformance with the regulations hereinafter established for the district in which the property is located, or as otherwise provided in this Code. Where a change in use or a new use of a building, structure or premises is proposed in any Business, Industrial District or Public and Institutional District or at the site of a legal non-conforming use or a conditional use, a Site Plan and Plan of Operation shall be prepared for review and approval pursuant to this Code. Where a change in ownership or operator of a building, structure or premises is proposed in any Business, Industrial District or Public and Institutional District or at the site of a legal non-conforming use or a conditional use, a Plan of Operation shall be prepared for review and approval pursuant to this Code.
- (B) **Accessory uses.** In any district, accessory buildings, structures, and uses customarily incident to the permitted uses in that district shall be permitted subject to such requirements as may be designated for that district in which they are located, or as further regulated in this Code.
- (D) **Unclassified uses.** Any use not specifically listed as a permitted use shall be considered to be prohibited except as may be otherwise specifically provided for. In case of question as to the classification of a use, the question shall be submitted to the Town Plan Commission and Town Board for determination.
- (E) **Additional requirements.** For any use or structure in any district, which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, the owner or occupant may be required to correct, improve or abate such conditions by such measures as may be mutually directed by the Town Plan Commission and Town Board consistent with reasonable technology and economic practicality and in conformance with reasonable standards as may be determined by the Town Plan Commission and the Town Board as may be contained in this Code. Any building determined to be unfit for human habitation or which may endanger health, safety and welfare of the public as may be determined by the Town Board after recommendation by the

Town Plan Commission shall be removed pursuant to the procedures outlined by the Wisconsin Statutes.

**Section-16. Building location.**

**(A) Setbacks.**

- (1) Base setback lines, from which building setbacks shall be measured, are established for all streets and highways in the Town as follows:
  - (a) On all streets or highways for which the ultimate width has been established by the Highway Width Ordinance of Waukesha County, the base setback line shall be located at a distance from the centerline equal to one-half of such established width as designated on the "Established Street and Highway Width Map of Waukesha County."
  - (b) On all other streets, which shall be designated as "local streets," the base setback line shall be 33 feet from the centerline of such street or 60 feet from the center point of a cul-de-sac unless specifically designated otherwise by action of the Town Board, except for streets platted at 60 feet, then the base setback line shall be 30 feet from the centerline of such street.
  - (c) When a lot abuts a frontage road, the base setback line shall be located at a distance from the centerline equal to one-half the right-of-way width of such frontage road.
  - (d) Such setback lines shall be parallel to and measured at right angles to the centerline of the street or highway.
  - (e) There shall be a required setback equal to the offset requirements of the district in which the property is located, from a private right-of-way providing ingress and egress to the subject land or other lands.
- (2) Vision setback lines at the intersections of public streets or highways and of a street or highway with a railroad, where the grade is not separated, are established as follows:
  - (a) Across each sector between the intersection of a street or highway with a railroad, a vision setback line shall be established by a straight line connecting points on the base setback line and the railroad right-of-way line, which points are located 120 feet from the intersection of these two lines.
  - (b) Across each sector between intersecting streets or highways, one or more of which has an established width of 100 feet or more, a vision setback line shall be established by a straight line connecting two points on the intersecting base

setback lines, which are located 60 feet from the intersection.

- (c) Across each sector between any other intersecting streets a vision setback line shall be established by a straight line connecting two points on the intersecting base setback lines which are located 30 feet from the intersection.
- (3) No principal building or its accessory buildings shall be erected, altered, horizontally added to, relocated or placed so that any roofed or enclosed portion is closer to the base setback line than the setback distance hereinafter specified by the regulations for the district in which such building is located with the following exceptions applicable only where the setback requirements of the properties involved are identical:
- (a) If there is a building which is non-conforming with respect to road setback, with a similar use as the proposed building, located on an adjacent parcel on one side of the proposed building or within two hundred (200) feet of the proposed building, the average road setback of that building of similar usage and the required minimum road setback shall apply.
  - (b) If there are two (2) buildings which are non-conforming with respect to road setback, with similar uses as the proposed building, located on adjacent parcels on each side of said building or within two hundred (200) feet of the proposed building, the average of the road setbacks of those buildings of similar usage shall apply.
  - (c) In the case of a proposed addition to an existing building which has less than the required road setback, the road setback of such existing building may be used to determine the required road setback for the proposed addition, as set forth above.
  - (d) On corner lots of record, as of the date of adoption of this Code, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than thirty (30) feet. Where such reduction would result in an area narrower than thirty (30) feet after applying the offset reduction, the Town Plan Commission shall have the authority to modify the setback or offset provision to the extent necessary to minimize the encroachment on both the offset and setback standard while maintaining the thirty (30) feet area required herein.
- (4) No other structures of any kind, except as necessary highway and traffic signs, open stairs extending six (6) feet or less from the enclosed portion of the structure, open stairs in combination with stoops and/or porches which are unenclosed and provide no more than twenty (20) square feet in area and extend no more than six (6) feet from the enclosed portion of the structure, public utility lines, rural mailboxes, and those signs permitted in a residential or agricultural district shall be hereafter erected, altered or placed within such base setback area. Monuments and entrance gates are structures which require a

zoning permit and shall be located at least ten (10) feet from the base setback line and shall not restrict safe access and visibility of the intersecting drive and the road and shall be subject to review and approval by the Town Plan Commission.

- (5) In the vision setback area, no structure of any kind shall be permitted which exceeds a height of three feet above the elevation of the center of the intersection, except for necessary highway and traffic signs, public utility lines and open fences through which there is clear vision, nor shall any plant material be permitted which obscures safe vision of the approaches to the intersection.
- (6) Additions to and replacements of existing structures may be made within the established setback areas, subject to approval of the Town Board and the Board of Appeals provided the owner will file, with the Waukesha County Register of Deeds Office an agreement in writing to the effect that the owner will remove all new construction, additions and replacements created after the adoption of the Code from which this Section is derived at his expense, when necessary for the improvement of the highway. A revocable occupancy permit may be required by the Town Board.
- (7) In all cases where any of the highways for which setback lines are established by this Section are located on municipal boundaries, such establishment shall apply only within the Town of Genesee.
- (8) Every structure shall have a setback of at least fifty (50) from a Conservancy District and seventy-five (75) feet to the 100-year floodplain, whichever is greater, unless excepted by another section of this Code, or as follows:
  - (a) A principal building or an addition to a principal building immediately adjacent to a principal building may be located as close as fifty (50) feet from the 100-year floodplain if the existing natural ground elevation adjacent to the lowest level of the principal building, including an exposed basement, is at least three (3) feet above the 100-year floodplain elevation.
  - (b) A deck or patio may be located as close as fifty (50) feet to the 100-year floodplain.
- (9) A retaining wall shall be setback at least twenty-five (25) feet from the Conservancy District or 100-year floodplain. A retaining Wall may be located closer than twenty-five (25) feet to the Conservancy District or 100-year floodplain if the Plan Commission determines that the retaining wall is necessary to abate a known and identified soil erosion and sedimentation problem.
- (10) In the case of an addition to a principal building into the minimum required road setback area and where such addition would not extend closer to the established setback line,

than the existing building to which it is attached or immediately adjacent and said addition may be closer than the required distance would allow when using the setback averaging formula set forth in this Section above, the board of appeals may grant a special exception to the addition so long as the extension does not encroach closer to the setback line than the existing building to which it is attached.

- (11) In the case of an extension or addition of a structure into the minimum required road, 100-year floodplain or conservancy setback and where such extension would not extend closer to the established setback line, one-hundred year floodplain or Conservancy District than the existing structure to which it is attached and said extension may be closer than the required distance would allow, using the averaging formula, a Variance would be required by the Board of Appeals for such an extension or addition.
- (12) Where an overhang exceeds two (2) feet as defined herein, the additional overhang is not allowed unless the building is relocated the additional distance from the base setback line or lot line that the amount the overhang exceeds two (2) feet unless a variance is granted by the Board of Appeals.
- (13) Retaining walls do not need to meet the road setback requirements of the individual zoning district.

**(B) Offsets.**

- (1) No principal building or its accessory buildings shall be erected or altered so that any roofed or enclosed portion thereof is closer to any lot line than the offset distance hereinafter specified by regulations for the district in which such building is located, with the following exceptions:
  - (a) In the case of any lot of record which has a minimum average width of less than the required minimum average width of the district in which it is located, the side lot offset may be reduced proportionately to the ratio between the actual minimum average width and the required minimum average width, provided that no offset shall in any case be less than ten feet. Exceptions to these offsets may be permitted for detached accessory buildings, up to 200 square feet in size, on lots of 100 feet in width or less which may be reduced to five feet; provided, that no detached accessory building shall be located closer than ten feet to any structure used for residential purposes. Attached open decks and patios shall be permitted to within 40 percent of the limits in this subsection.
  - (b) The offset may be reduced on lots 1 1/2 acres or less for one detached accessory building, which is less than 200 square feet, to a minimum of five feet from the lot line, unless otherwise regulated under any other provisions of this Code.

- (2) A lot that abuts a district boundary line; the offset from such lot line shall be not less than the offset applicable to the district in which the lot is located.
- (3) Minimum offsets for buildings housing livestock, fur bearing animals, pigeons, swine, goats and poultry shall be not less than fifty (50) feet from an adjacent property line. This does not include dog houses.
- (4) When a detached accessory structure lies on an adjacent lot and closer than five (5) feet of the common lot line, a new detached accessory structure may be located the same distance from the common boundary as the existing detached structure on the adjacent lot, as long as they are within ten (10) feet of each other. In such a case, the new detached accessory structure shall contain a firewall sufficient to meet the one-hour fire rating contained in the building code. However, unless a common wall with a one-hour fire rating is constructed with agreement of both property owners, building sidewalls may be no closer than three (3) feet in order to accomplish proper maintenance. A deed restriction shall be recorded prior to issuance of the zoning permit prohibiting the construction of fences between said buildings and permitting maintenance of said buildings from adjacent properties.
- (5) One detached accessory building, which is less than two hundred (200) square feet in area, may be located five (5) feet to the side lot line unless otherwise excepted under any other provision.
  - (a) In the case of an extension or addition of a structure into the minimum offset distance, and where such extension would not extend closer to the side lot line than the existing structure to which it is attached, a Special Exception may be granted by the Town Plan Commission to allow such an extension or addition as long as said extension or addition does not encroach closer to the side lot line closer than an existing structure to which it is attached.
  - (b) Offsets on decks and patios may be reduced to 60% of the distance between the principal structure and the lot line, otherwise required for the principal structure, but shall in no case be located closer than five (5) feet of a lot line. This includes any reduction allowed in other provisions of this Code.
  - (c) Retaining walls do not need to meet the offset requirements of the individual zoning districts if they comply with the provisions of this Code.
- (6) In the case of multiple family or commercial use structures, the offsets may be modified as follows:
  - (a) Two or more buildings on adjoining lots may be erected with common or directly adjoining walls, provided the requirements of the applicable state administrative

code relative to such construction are complied with, and provided that at both ends of such "row" type buildings the applicable offset requirements shall be complied with.

- (7) Maintenance and use of setback and offset areas. Any such required setback or offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse and shall not be used for placement of compost bins, storage or display of equipment, products, vehicles or any other material.
- (8) Accessory building location. No detached accessory building shall be erected, structurally altered, or placed on a lot so that any roofed or enclosed portion thereof is closer than ten feet to the principal building on such lot, or as otherwise permitted by the building code, relative to buildings and building regulations.
- (9) Vertical Locations: No building intended for human habitation shall be located so that its lowest floor, including any basement floor, is less than one (1) foot above the highest seasonal ground water level.

#### **Section 17 - Height regulations.**

- (A) **Maximum height.** Principal Structures: The following height provision applies to principal structures in all Districts except for the P-I, Q-1, M-1 and M-2 Districts, where height regulations are specified in each respective District section: Overall Maximum building height, forty-four (44) feet. A structure with a flat roof is limited to an overall height of thirty-five (35) feet.
- (B) **Maximum height.** Accessory Structures: The following height provisions apply to accessory structures in all Districts except for A-E, A-B, P-I, Q-1, M-1 and M-2 Districts, where height regulations are specified in each respective District section:
  - (1) Maximum overall height is limited to eighteen (18) feet, or
  - (2) Maximum overall height is limited to sixty (60) feet if the structure is used for farm or agricultural purposes in the A-5 and A-1 Districts.
- (C) **Exceptions; no Town Plan Commission approval required.** The following should be excepted from the height regulations of all districts, but are subject to all other regulations of the Town:
  - (1) Chimneys and flues.
  - (2) Electrical transmission and distribution facilities.
  - (3) Roof-mounted television and radio receiving antennas not exceeding ten feet in height from the roof and roof-mounted licensed amateur radio operator antennas not exceeding ten (10) feet in height from the roof.



- (D) **Exemptions; Town Plan Commission approval required.** The following shall be exempted from the height regulations of all districts, subject to the approval of the Town Plan Commission, but are subject to all other regulations of the Town: Cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, wind towers, spires, masts, free standing towers, roof-mounted licensed amateur radio operator antennas ten (10) feet or more in height from the roof, aerial and necessary mechanical appurtenances.
  
- (E) **Increase permitted.** All other buildings or structures not exempted by subsections (C) and (D) of this Section may be increased by not more than ten (10) feet, subject to satisfying the following conditions:
  - (1) All required offsets and setbacks are increased by one foot for each foot which such building or structure exceeds the height limit of the district in which it is located.
  
  - (2) Subject to all other regulations of the Town.

**Section - 18. Area regulations.**

- (A) **Floor area.**
  - (1) Any building intended in whole or part for residential purposes shall provide a minimum floor area as specified by the regulations for the district in which such building is located. Such minimums are stated in terms of the minimum total floor area required for a building and that portion of the total which must be provided on the first-floor level. Such minimum total shall be increased by 200 square feet for any building not having a basement of at least 300 square feet in area.
  
  - (2) The maximum total floor area of the buildings on a lot shall not exceed that permitted under the floor area ratio as specified by the regulations for the district in which such buildings are located unless allowed per other Sections of this Code. The finished basement or exposed basement area used for living space shall not be computed in the maximum floor area ratio requirements but the floor area of an exposed basement may be used in computing the minimum floor area requirement. Garage space in an exposed basement is not required to be computed in the maximum floor area ratio.
  
  - (3) Floor area shall be measured at each level from the outside edge of a wall to the outside edge of wall and for purposes of computing total minimum floor area shall not include garages; other outbuildings, open porches or basements. Breezeways, exposed basements, split levels and the secondary floors of multistoried residences may be included in computing total minimum floor area according to the following schedule:
    - (a) All of the breezeway may be included if walled-in from floor joists to rafters and

heated by the central heating system. Open breezeways shall not be included.

- (b) That portion of the basement of an exposed basement residence or split level which has been designed as an integral part of the living area of the home may be included in computing total minimum floor area when at least one side is exposed and access has been provided to the outside at grade level by means of at least one door. Such computations shall maintain a minimum basement floor area of 300 square feet.
  - (c) That portion of the secondary floors of multistoried buildings, which have a minimum distance between the ceiling face and the top of the lower floor ceiling joist of seven (7) feet, may be included in computing the total minimum floor living area, provided there are permanent stairways leading from each floor to the next floor.
  - (d) In a split level building the first-floor area shall include all area which is not over another living area of the building.
- (4) In split level units, the floor area shall be computed as follows:
- (a) If less than one-half of the lower level(s) is above ground, such level shall be considered a basement and cannot be include in total floor area of the building unless such basement qualifies as an exposed basement.
  - (b) If more than one-half of the lower level(s) is above ground, such areas can be included in determining floor area. If there is no basement below this level(s), two hundred (200) square feet of floor area shall be required in addition to the floor area requirement of the zoning district. This required floor area shall be finished as an integral part of the dwelling unit within six (6) months of the date upon which the building permit is issued.
- (5) The Town Plan Commission may grant an exception to permit a building of less than the required minimum floor area; where such grant would not be contrary to the spirit or intent of the Code, would not be of such character or quality as to depreciate the property values of the surrounding area, and provided that in no case shall a minimum floor area of less than 1000 square feet be permitted.
- (B) **Lot size.**
- (1) No lot shall be created, and no building shall be erected on a lot of less area or of minimum average width less than specified by the regulations of the district in which such building is located, except as may be provided in subsections 18(B)(5), 33(D), 40(B)(27) and 40(B)(30) of this Code or is a preexisting legal lot of record.

- (2) For the purpose of this Section, the lot area shall be measured from the base setback line.
- (3) The lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the lot depth.
- (4) No lot area shall be reduced by any means to create a lot of less than the required size, or so that the existing offsets, setbacks or lot area would be reduced below that required by the regulations for the district in which such lot is located, except as provided by Subsection 33(D).
- (5) Where a lot has less land area or width than required for the district in which it is located and was of record as of February 26, 1959, such lot may be used for any purpose permitted in such district, but not for residential purposes for more than one family; provided, however, that building location, height regulations, and area regulations shall comply with the R-3 Residential District except where otherwise specified in other sections of this Ordinance.

**Section-19. Accessory Uses and structures.**

**(A) Size and location.**

- (1) No accessory buildings shall be erected, structurally altered or placed on a lot in any district so that any portion thereof is closer than ten (10) feet to the principle building or other accessory buildings and structures on such lot unless it complies with all local building code requirements. All requests for accessory structures in excess of one thousand six hundred (1,600) square feet shall be submitted to the Town Plan Commission prior to the erection of the building and the Town Plan Commission may approve, conditionally approve or reject the request based upon the following standards. In reaching its decision, the Town Plan Commission shall consider the purposes of the Zoning Code, the extent to which the structure would exceed the limits of the Zoning District requirements and the development patterns in the surrounding area, and the structure might have on neighboring properties.
- (2) Square Footage and Number of Accessory Buildings
  - (a) In all Districts, the aggregate floor area of accessory buildings shall not exceed the maximum per lot square footage as outlined in the following table. Accessory buildings shall also not exceed the floor area ratio requirements for the applicable district. Temporary buildings shall be included in calculating the square footages for any lot.

AE	500 square feet
AT	500 square feet
A-5	2 Percent of Lot

	Size
EC	1,000 square feet
A-1, A-2	2 Percent of Lot Size
A-3	2 Percent of Lot Size
R-1	1,000 square feet
R-2	900 square feet
R-3,	500 square feet
B-1	1,000 square feet
B-2	1,000 square feet

(b) Exceptions: The maximum square footage for accessory buildings set forth in Subsection (a) above shall be subject to adjustment as follows:

(i) Except in the “EC” Environmental Corridor District and subject to the applicable district floor area ratio requirements, the maximum square footage for accessory buildings shall be increased by 50 sq. ft. for every ½ acre of land that the subject property exceeds the district minimum lot size.

(ii) For parcels of three (3) acres of more in size in any zoning district other than the Environmental Corridor District, the accessory building areas may be greater than those requirements set forth in subsection 2(a), if the Town Board in its discretion, upon consideration of a recommendation from the Town Plan Commission, grants a special exception and makes all of the following findings:

- 1 That one or more rural accessory buildings(s) as defined herein, are located on the property;
- 2 That such rural accessory building(s) is (are) not a nuisance or detriment to the existing neighborhood;
- 3 That the property is in compliance with the floor area ratio requirements of the District in which it is located; and
- 4 That the total floor area of all accessory buildings, excluding the floor area of such rural accessory building(s), is in compliance with the requirements set forth in subsection 2(a).

(iii) Environmental Corridor District Accessory Buildings

- 1 For any size parcel in the EC Environmental Corridor District, the Town Plan Commission, may in its discretion, grant a special exception to the maximum square footage requirements for accessory building set forth in subsection 2(a) where all of the following criteria have been met;
  - a The Zoning administrator determines that no more than 32,600 sq. ft. of land disturbance has or will occur for all structures, septic systems, driveways and parking areas, patios, decks, pools, lawns and play areas. For purposes of this Section, the areas of disturbance shall include any area where, due to development, the natural vegetation has previously been removed or land altering activities have previously occurred and areas where, due to any proposed accessory building(s), natural vegetation will be removed or land altering activities will occur.
  - b Only one accessory building will be allowed on a parcel which is entirely within the Environmental Corridor District.
  - c The use of the accessory building is for personal use only by the person(s) occupying the subject parcel.
  - d The location of the proposed accessory building is not high-quality environmental corridor or wildlife habitat area. The Town Plan Commission may require the applicant to provide an environmental assessment by a qualified professional as to the impact the proposed accessory building and any associated vegetative disturbance or land altering may have on the environmental quality of the corridor.
- 2 If a special exception is granted under subsection (2) (b) above for a parcel in the EC Environmental Corridor District, the Town Plan Commission may designate a specific location for the accessory building to eliminate any unnecessary vegetative disturbance or land altering activity.
- 3 If a special exception is granted under subsection (2)(b) above, a Deed Restriction shall be filed in the Waukesha County Register of Deeds Office prior to the issuance of a building permit setting

forth the square footage of the allowable disturbance along with a detailed map designating the allowable area of disturbance for all improvements. Said Deed Restriction shall also restrict and set forth any additional conditions of approval of the special exception by the Town Plan Commission and/or Town Board and shall be approved by the Town Attorney as to form.

- (iv) On parcels of 15-acres or more, in area, the building areas may be greater than those set forth in subsection 2(a) when used solely for agricultural purposes and when consistent with the floor area ratio requirements of the Zoning Code.

**(B) Number of Accessory Structures.**

- (1) No more than two (2) accessory buildings per parcel are permitted in any district except as follows:
  - (a) On parcels of fifteen (15) acres or more, in area used solely for agricultural purposes, more than two (2) accessory buildings may be permitted by the Town Plan Commission subject to compliance with the floor area ratio requirements of the Zoning Code.
  - (b) In all Business, Industrial, Public and Institutional and Quarrying Districts (B-1, B-2, B-3, B-4, BP, Q-1, M-1, M-2 and P-I, when approved by the Town Plan Commission as part of a site plan and plan of operation review, and where said buildings are used accessory to the principal use on the Lot, and when consistent with the maximum overall Floor Area Ratio requirements of this Ordinance.
  - (c) Where a Conditional Use Permit has been issued for the lot that expressly permits more than two accessory buildings/structures.
  - (d) Where more than two (2) accessory buildings are proposed, the Town Plan Commission shall review the request and render a finding to allow or disapprove said structure.
- (2) In no case shall any accessory structure be used for purposes not allowed in the underlying zoning district or as may be authorized by a conditional use permit.
- (3) A polystructure, subject to the dimensional regulations of this Code, shall only be allowed for the purposes of housing plant materials associated with a nursery or greenhouse operation, whether retail, wholesale or private and shall not be used for storage of any other types of materials not directly related to the nursery or greenhouse operation unless otherwise specifically authorized as part of a conditional use. This subsection does

not apply to the use of a polystructure as part of a general farm operation as defined in this Code on a parcel of 35 acres or more.

(C) **Garages.**

- (1) **Required.** A private garage at least 240 square feet in area shall be required for each dwelling unit hereinafter erected. Such structures shall be either attached or detached and conform to the offset and setback requirements of the district involved.
- (2) **Special exception.** Upon petition from a property owner, the Town Plan Commission may grant a special exception to the minimum attached garage size limitations of subsection (C)(1) of this Section or maximum accessory building square footages allowed in the table in subsection (A)(2)(a) of this Section as follows:
  - (a) The petitioner shall submit a petition to the Town clerk. The petition shall include building and site plans, which include elevations, along with such additional information as the Town Plan Commission may require. The building and site plans shall depict the proposed construction and the location of the proposed construction on the lot, including the location in relation to existing structures on the lot and adjacent lots. The petition shall be accompanied by payment of such application fees as may be established from time to time by the Town Board by separate resolution.
  - (b) Upon receipt of the complete petition, required plans, and application fees, the Town clerk shall provide a copy of the petition and plans to the zoning administrator and the Town Plan Commission, and shall place the matter upon an upcoming Town Plan Commission agenda for consideration. The Town clerk shall notify the petitioner of the date.
  - (c) Prior to the Town Plan Commission meeting where the matter will be heard, the zoning administrator shall review the request, shall view the proposed location, and shall submit a written recommendation to the Town Plan Commission. Along with the recommendation, the zoning administrator shall advise the Town Plan Commission whether detached accessory structures are prohibited on the lot by applicable laws and deed restrictions.
  - (d) The following limitations apply:
    - (i) Special exceptions may be granted under this subsection only in regard to the maximum size limitation of subsections (A)(2)(a) and (A)(2)(b) of this Section.

- (ii) Special exceptions are prohibited if the requested location, structure, or use thereof, would conflict with any applicable federal, state, county codes, statutes, rules, ordinances or lawful orders, or with any Town ordinances other than the maximum size limitations of subsection (A)(2)(a) or (A)(2)(b) of this Section.
  - (iii) Special exceptions are prohibited from allowing garages that would have doors for more than four side-by-side vehicles facing the right-of-way from which the dwelling unit has street access.
  - (iv) The architecture of the attached or detached structure shall be compatible with the residence. Special exceptions are prohibited if the Town Plan Commission finds that the architecture is not compatible.
  - (v) In no case shall any accessory structure be used for purposes not allowed in the underlying zoning district or as may be authorized by a conditional use permit.
- (e) After reviewing the petition, the plans submitted, the zoning administrator's recommendation, and all additional information received in the matter, the Town Plan Commission shall either grant or deny the special exception, or grant the special exception upon specified reasonable conditions including screening and landscaping if appropriate. To grant or conditionally grant the special exception, the Town Plan Commission must find that the requested attached garage or accessory structure will not be adverse to the public health, safety or welfare; will not be in conflict with the spirit or intent of this Code; and will not otherwise be detrimental to the Town or the immediate neighborhood where the structure would be located. The Town Plan Commission shall issue its decision in writing, including any conditions of approval, and shall provide a copy of the decision to the petitioner.
- (f) In the case of the granting of a special exception to the square footage requirements of an attached garage, the grant shall be subject to an equivalent reduction being made in the square footage of accessory structures that are allowed on the lot, in accordance with subsection (2)(a) of this Section.

(D) **Swimming pools.**

- (1) **Uses Permitted:** Above and below ground Swimming Pools, as defined herein, are permitted in any district except A-E, or C-1 as accessory to a residential use, upon the issuance of a building/zoning permit, and an electrical permit if applicable, subject to the following:
- (a) All swimming pools shall be surrounded by a fence (that is not merely a planting or hedge) not less than four (4) feet nor more than six (6) feet in height designed



to prevent unguarded entry to the swimming pool. Sidewalls of above-ground swimming pools which are at least four (4) feet high above ground all around the swimming pool may be used in lieu of a fence and decks extending at least five (5) feet from the walls of the pool, but only if entry to the swimming pool or swimming pool deck can only be made by a tip up ladder or a self-closing and self-latching gate that prevents unsupervised access by young children. If an access ladder is provided, it shall be so designed that it can be locked, tipped or otherwise placed to prohibit unsupervised access to the pool by children.

- (b) Access to swimming pools shall be controlled to prevent unguarded entry to the swimming pool. Access to in-ground swimming pools shall be controlled by a self-closing and self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner is not present at the swimming pool. For an above-ground swimming pool, if a tip-up ladder is used to prevent unsupervised access by young children, such tip-up ladder shall be kept up in a position that prevents access by young children at all times when the owner is not present at the swimming pool.
- (c) The application for a building permit shall include a plat of survey drawn to scale showing the location of the swimming pool, the location of any fence, deck, patio and any accessory heating, pumping and filtering units that may be placed outside the swimming pool. The survey shall also show the lot lines of the lot, the location of the residence on the lot, the location of the well and septic system, the location of any other structure(s) on the lot, the location of any electrical transmission lines on the lot and the location of residences and structures on neighboring lots.
- (d) Swimming pools shall not be constructed directly under or over electric transmission lines or within 15 feet of such lines. The Town Plan Commission may permit a swimming pool to be located within 5 feet of an underground electric transmission line when the permit applicant has written approval from Wisconsin Electric Power Company. All electrical connections to a swimming pool shall be properly grounded so that no electrical current can be discharged into any part of the swimming pool or surrounding fence and in full compliance with all applicable aspects of the electrical code.
- (e) No water drained from swimming pools shall be discharged onto adjacent properties, without written consent of the adjacent property owner, or on to a public road right-of-way, or into a municipal sewerage system, or directly into a navigable body of water.
- (f) Equipment shall be provided by the owner for the disinfection of all swimming pool water. No gaseous chlorination shall be permitted.

- (g) Heating units, pumps, and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance. Such equipment shall be located in compliance with the setback and side yard requirements for a building in the district in which it is located and no closer than 10 feet to a lot line, whichever requirement is greater.
  - (h) There shall be an unobstructed areaway around all swimming pools of at least three (3) feet in width.
  - (i) No swimming pool shall be located closer than 10 feet to a principal building and shall be in compliance with the setback and side yard requirements for a building in the district in which it is located and no closer than 10 feet to a lot line, whichever requirement is greater and not be located on the street side of a residence.
  - (j) No areaway, patio or deck surrounding a swimming pool shall be located closer than the required offset to a lot line.
  - (k) Swimming pools are accessory structures, subject to all provisions of this Code that regulate accessory structures. In the event of a conflict between the requirements of this Section and any other requirements of this Code, the more restrictive shall apply.
  - (l) The swimming pool must be intended to be used solely by the occupants of the principal use of the property on which the swimming pool is intended to be located and their guests. Operation of a business, including but not limited to swimming lessons for persons who do not reside on the property, is prohibited unless allowed by the district regulations for the district in which the swimming pool is located and all approvals required by this Code and other applicable laws are granted.
  - (m) All applicable Town of Genesee, County of Waukesha and State of Wisconsin codes, ordinances, regulations and rules must be strictly followed at all times, including but not limited to any setback and offset requirements and sanitary and environmental regulations.
- (2) **Relaxation/floating pools**, as defined herein, are permitted in any district except A-E and C-1 as accessory to a residential use, subject to the issuance of a building/zoning permit, issuance of an electrical permit if applicable and subject to the following:
- (a) Access to relaxation/floating pools shall be controlled to prevent unguarded entry to the relaxation/floating pool. This shall be done by completely covering the

relaxation/floating pool in a manner that is secure and prevents unauthorized access, or by any manner that would be required by this Code if this were a swimming pool.

- (b) No water drained from relaxation/ floating pools shall be discharged onto adjacent properties, without written consent of the adjacent property owner, or on to a public road right-of- way, or into a municipal sewerage system, or directly into a navigable body of water.
  - (c) The relaxation/floating pool shall be located in compliance with the setback and side yard requirements for a building in the district in which it is located and not closer than 10 feet to a lot line, whichever requirement is larger and not on the road side of a residence.
  - (d) Relaxation/floating pools are accessory structures, subject to all provisions of this Code that regulate accessory structures. In the event of a conflict between the requirements of this Section and any other requirements of this Code, the more restrictive shall apply.
  - (e) Heating units, pumps, and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance. Such equipment shall be located in compliance for a building in the district in which it is located, and not closer than 10 feet to a lot line, whichever requirement is greater.
  - (f) The relaxation/floating pool must be intended to be used solely by the occupants of the principal use of the property on which the relaxation/floating pool is intended to be located and their guests. Operation of a business, including but not limited to swimming lessons, is prohibited unless allowed by the district regulations for the district in which the relaxation/floating pool is located and all approvals required by this Code and other applicable laws are granted.
  - (g) All applicable Town of Genesee, County of Waukesha and State of Wisconsin codes, ordinances, regulations and rules must be strictly followed at all times, including but not limited to any setback and offset requirements and sanitary and environmental regulations.
- (3) **Kiddie/Wading Pools** as defined herein, are permitted in any district except A-E or C-1 as an accessory to a residential use, without the issuance of a Building/zoning permit, and are not subject to the regulations of this Code that apply to swimming pools and relaxation/floating pools.

(E) **Fuel tanks.** All accessory structures involving the utilization or storage of flammable and explosive

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materials shall be provided with adequate safety devices against the hazard of fire and explosion and comply with all the requirements of the fire department and/or zoning administrator. The above ground storage capacity of materials that produce flammable or explosive vapors shall not exceed 500 gallons unless approved by the Town Plan Commission or located within an agricultural or industrial district. All above and below ground storage tanks shall be compliant with all Federal and State rules and regulations.

(F) **Special use systems.**

(1) **Types of special uses.**

- (a) **Solar energy conversion system.** Solar energy conversion system commonly referred to as "active" or "passive" solar collection and heating systems and including systems defined by Wis. Stats. § 13.48. Except that photovoltaic array solar systems mounted to the roof of a structure shall only require a zoning permit and building permit. A public hearing is not required for a roof mounted photovoltaic solar system.
- (b) **Wind energy conversion systems.** Wind energy conversion systems commonly referred to as "windmills", which are used to produce electrical power and as regulated by Chapter PSC 128 and amendments thereto.
- (b) **Exterior Fuel-Fired Heating Devices,** any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source that is not located in the structure for which it is producing heat or energy. All Exterior fuel-fired heating devices shall comply with Town of Genesee Ordinance No. 06-12 and No. 07-04 and are not required to comply the requirements of this section.

(2) **Use permitted.** Special use systems (Wind and Solar Conversion Systems) are permitted in any district other than A-E or C-1, when used solely by the occupants of the principal use, and subject Wis Stats. 66.0401 and the following:

- (a) **Permit required.** A separate special use permit shall be required for each system. Such permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (b) **Basis of approval.** The Town Board shall base their determination on general considerations as to the effect of such grant on the health, general welfare and safety of the Town and specifically of the immediate neighborhood in which such use would be located. These considerations shall include the effect on the established character and quality of the area, the demand for related services,

the possible hazardous, harmful, noxious, offensive, or nuisance effect as a result of noise, glare, dust, smoke or odor, and such other factors as would be appropriate to carrying out the intent of this Code.

- (c) **Fees.** The Town Board shall by resolution establish fees for the processing and issuance of special use permits.
  
- (d) **Permit procedure.**
  - (i) The Town Board is the agency which approves special use permits and further designates the Town Planner as the official to receive, process and, following approval by the Town Board, issue special use permits.
  
  - (ii) The permit application shall be made to the Town Planner on forms provided by the Town and include the name and address of the applicant, a site plan, a plan of operation, proposed improvements to site, and any additional information deemed necessary by the Town Planner for proper review of the application.
  
  - (iii) The Town Planner shall review the application and, if the application is complete and contains all required information, shall refer it to the Town Board.
  
  - (iv) Determination: Following public hearing per Section 102, and necessary study and investigation, the Town Board shall as soon as practical render its decision in writing. Such decision shall include an accurate description of the special use permitted, of the property on which permitted and any and all conditions made applicable thereto, or if disapproved, shall indicate the reasons for disapproval. The Town Board may impose any conditions or exemptions necessary to minimize any burden on any persons affected by granting the special use permit.
  
  - (v) Termination: When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Town Board following a public hearing per Section 102.
  
  - (vi) Special Requirements:
    - (1) No Exterior Fuel-Fired Heating Devices shall be allowed on any

parcel one (1) acre or less in size.

- (2) In addition to the general standard requirements as stated in this Section, such Special Uses shall be subject to more specific standards and requirements pertinent to the particular use, which standards and requirements may be set in a supplementary guide for a Special Use regulation adopted by the Town Board, and modified from time to time in order that they reflect the best and most contemporary regulatory practices.

(3) **Standard requirements.**

- (a) Except as may be specifically otherwise provided, any such special use shall conform to the building location, height and building size regulations of the district in which it is located.
- (b) Building, site and operation plans of the proposed use shall be submitted for approval of the Town Board. Such plans shall be in sufficient detail to enable the Town Board to evaluate the suitability of architectural and landscape treatment; the proper location of the building or buildings on the lot; the satisfactory provision for parking and circulation needs, for drainage and sewage disposal, for adequate planting screens where necessary, and for operational control devices where necessary to eliminate noise, glare, dust, odor, smoke or other objectionable operating condition; and the general compatibility of the proposed use with the area in which it is located.

(4) **Modification of regulations.** Requirements applicable to uses by the regulations of this Code may be modified or waived by the Town Board of Appeals pursuant to Section 100 (C)(1), if in the Board of Appeals opinion, they are not appropriate or necessary to the proper regulation of the special use, and where such modification or waiver would not, in the Board of Appeals opinion, result in adverse effect upon the surrounding properties and makes all of the following findings:

- (a) The proposed use is compatible with the Town of Genesee Comprehensive Development Plan – 2035 and the Waukesha County Development Plan and the designated future uses and with the existing natural environment.
- (b) The setbacks and offsets distances are large enough to control any adverse effects of noise, odor, light, or other potential nuisances.
- (c) The granting of a special exception for the proposed use will not be detrimental to the health, safety, or appearance of the neighborhood or other adjacent uses.
- (d) The proposed use will be consistent with the definition of a Special Exception and

will meet the standards and criteria of the Zoning District in which such use is proposed to be located.

- (5) **Approval does not waive permit requirements.** The approval of a permit under this Section shall not be construed to waive the requirement to obtain a building or plumbing permit prior to installation of any system.

(G) **Guesthouses.** Guesthouses are permitted in any district in which a single-family dwelling is permitted subject to the following:

- (1) **Permanent habitation prohibited:** A guesthouse must be used only for occasional occupancy by guests of the owner, and shall not be leased or rented for human occupancy.
- (2) **Accessory to a single-family dwelling:** No guesthouse is permitted unless a single-family dwelling is already present on the lot. Only one (1) guesthouse per lot is allowed.
- (3) **Area requirements:** No guesthouse is allowed unless the lot upon which the guesthouse is to be located is at least double the minimum area and lot width requirements of the district. This requirement is intended to prevent the creation of a non-conforming lot in the event that the guesthouse is sold.
- (4) **Building location:** A guesthouse must be able to meet minimum setback and offset requirements of the district in which it is located. This requirement is intended to prevent the creation of a non-conforming structure in the event that the guesthouse is sold.
- (5) **Floor area:** The floor area of a guesthouse may be any size. In order to sell a guesthouse as a separate unit, its floor area must conform to the district regulations in which it is located.
- (6) In the event that a guest house is sold as a parcel separate from the single-family dwelling, the parcel must be lawfully created and recorded and, there must be direct access to a public road. If this is impossible, the Town Plan Commission and Town Board may approve a private easement to a public road if the following requirements are met:
  - (a) The private easement is at least thirty-three (33) feet wide for one (1) family and sixty-six (66) feet wide for two families.
  - (b) The creation of a private drive would not adversely affect the existing or future development of the area.

(H) **Portable-on-demand storage structures (PODS or SAM)**

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- (1) A portable-on-demand storage structure may be utilized as a temporary structure within the Town when in compliance with the standards of this subsection. Any use of such structures within the Town not in compliance with this subsection shall be unlawful.
- (2) Length of time structures may be on property;
  - (a) A portable on-demand storage structure may be located as a temporary structure on property within the Town for a period not exceeding thirty (30) days in duration from time of delivery to time of removal. No more than two portable on-demand storage structures may be located on a specific piece of property within the Town at one time; such structures shall be individually limited to the duration time period established herein. Such temporary structure may not be located on a specific property more than two times in any given calendar-year period. Such structure may not exceed eight feet six inches in height, 10 feet in width or 20 feet in length. It shall be the obligation of the owner or user of such temporary structure to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary structure. In the event of high winds or other weather conditions in which such structure may become a physical danger to persons or property, the appropriate law enforcement officers may require the immediate removal of such temporary structure.
  - (b) In the event of fire, tornado, flood, natural disaster, or another uncontrollable event causing substantial damage to the structure, the property owner may apply to the Town Building Inspector for permission to extend the time that a portable on-demand storage structure may be located as a temporary structure on the property. Application for such extended duration shall be made in writing and filed with the Town Clerk's office and shall give sufficient information to determine whether such extended duration should be granted. The Town Building Inspector shall determine whether or not to grant such extended duration and the length of such extension. In the event of an adverse decision by the Town Building Inspector, the applicant may appeal such decision to the Town Board. In the event of such appeal, the decision of the Town Board shall be final.
  - (c) Any portable on-demand storage structure which is not removed at the end of the time for which it may lawfully remain in place, or immediately upon the direction of a Town Building Inspector or law enforcement officer for removal of such temporary structure for safety reasons, the Town may obtain a court order for the removal of such temporary structure, and all of the Town's costs and expenses associated with obtaining the removal of the structure, may be assessed as a special charge against the property on which the temporary structure was located and may be filed as a lien against such property by the Town Clerk.



- (3) Placement of portable on-demand storage structures shall only be placed on the property owner's driveway or a parking area or, if access exists at the side or rear of the site, the side or rear yard. Such storage structure shall be located no closer than 10 feet to the property line unless placed on an existing impervious driveway. The required parking space(s) shall at all times be maintained if temporary portable-on-demand storage structures are placed in parking areas.
- (4) The owner, as well as the Supplier, shall be responsible for ensuring that the portable-on-demand storage structures is maintained in good condition, free from evidence of deterioration, weathering, discoloration, graffiti, rust, ripping, tearing or other holes or breaks, at all times.
- (5) No portable-on-demand storage structures shall be used to store solid waste, construction debris, demolition debris, recyclable materials, business inventory, commercial goods, goods for property other than at the residential property where the portable-on-demand storage structures is located (i.e., used for retail sales) or any other illegal or hazardous material. Upon reasonable notice to the owner of the property the Town may inspect the contents of any portable-on-demand storage structures at any reasonable time to ensure that it is not being used to store said materials. At no time shall temporary portable-on-demand storage structures be used for any of these purposes.

(I) **Hobby Kennels**

- (1) Number of dogs limited. The keeping of dogs by right, and the keeping of dogs by hobby kennel use permit, is limited to the number of dogs described as follows:
  - (a) No more than two dogs required to be licensed by statute shall be kept on a parcel, unless a hobby kennel permit has been issued by the Town Plan Commission.
  - (b) No more than five (5) dogs required to be licensed by statute shall be kept on a parcel with a hobby kennel permit.
  - (c) Where there are six (6) dogs or more required to be licensed by statute on a single parcel of land, the property owner shall be required to obtain a commercial kennel license as required per Section 40 (B)(4).
- (2) Hobby kennel use permits procedures. All hobby kennel use permits are subject to the following application procedures and requirements:
  - (a) A hobby kennel must be accessory to an otherwise permitted use

- (b) A hobby kennel must have the specific approval of the Town Plan Commission.
- (c) Prior to approval of a hobby kennel use permit, the Town Plan Commission must hold a public hearing.
- (d) The application fee for a hobby kennel use permit shall be set by separate resolution of the Town Board.
- (e) Written notice of the public hearing shall be sent by regular mail to the last known address of all landowners within 300 feet of the subject property.
- (f) The issuance of the hobby kennel use permit is subject to the Town Plan Commission finding that such hobby kennel will not adversely affect the use of adjacent lands and is compatible with surrounding and nearby land uses.
- (g) The Town Plan Commission may require such measures or provisions by the applicant as may be deemed necessary to provide adequate protection of surrounding property.
- (h) The Town Plan Commission may deny the request for a hobby kennel use permit on the basis of a finding that such use would be incompatible with surrounding and nearby land uses, a possible nuisance, and/or not in the public interest.
- (i) Any person aggrieved by a decision of the Town Plan Commission relative to a hobby kennel use permit may appeal such decision to the Board of Appeals within 30 days of the decision.

(3) One hobby kennel use permit per parcel. There shall be no more than one hobby kennel use permit allowed on any one parcel in the Town.

(4) Nuisances. In all cases, regardless of the number of dogs on a parcel, if the keeping of any number of dogs accessory to the principal use becomes a nuisance to the neighborhood as may be determined by the Town Plan Commission or Town Board, such use shall be terminated or the nuisance abated. The keeping of more dogs than are permitted by right on a property without a hobby kennel use permit, is declared to be a public nuisance. Where necessary, the Town Plan Commission or Town Board may take appropriate steps to abate such nuisance.

(J) **Home Occupations** Home occupations and professional offices as defined in this Code, when incident to the residential use and when situated in the same dwelling, subject to the following conditions:

- (1) No nameplate exceeding three (3) square feet in area shall be permitted.

- (2) Such home occupation or professional office shall not occupy more than twenty (20) percent of the floor area of the dwelling.
- (3) Such home occupation shall not employ more than one (1) person not a resident on such lot.
- (4) Adequate off-street parking facilities are provided adjacent to the building housing such occupation or office.
- (5) Such permitted uses shall not include the conduct of any retail or wholesale business on the premises, or the removal of sand, gravel or stone for commercial purposes.
- (6) Such use shall not include the use of any machinery, tools or appliances which can reasonably be construed as creating a nuisance to surrounding property owners.
- (7) Such use conducted in an attached garage or accessory building requires a conditional use to be granted in accordance with Section 40(B) (24) of this Code.

**Section-20. Utility cabinets.**

- (A) **Definitions.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section 4 of this Code, except where the context clearly indicates a different meaning:
- (B) **Small utility cabinets.** Small utility cabinets shall be considered a permitted use by right regardless of whether they are in fact accessory to other uses on the property or whether there are principal structures on the lots where they will be located; and will not require a building permit; and will not have to meet the setback and offset requirements of this Code; provided that the small utility cabinet shall either
  - (1) Be placed within a Town road right-of-way in compliance with all applicable Town ordinances and regulations, including any amendments that may be made thereto in the future; or
  - (2) Be placed within a public road right-of-way under the jurisdiction of the county or the state, in compliance with all applicable laws and subject to obtaining all necessary approvals as required by the governing bodies having jurisdiction; or
  - (3) Be placed within a private road right-of-way with the proper easements; or
  - (4) Be placed on private property with proper lease or easements.

- (C) **Large utility cabinets.** Large utility cabinets shall be considered a conditional use, will require a conditional use permit as described in this section 40(B)(37).
- (D) Cabinets associated with cell towers shall be permitted as permitted in Wis. Stats. 66.0404.

**Section-21. Off-street parking.**

In all districts and in connection with every use, there shall be provided at the time any use is converted, relocated, enlarged or moved from one location to another or a building is erected, converted, relocated, enlarged, structurally altered or moved from one location to another, off street parking stalls for all vehicles in accordance with the following:

(A) **Parking Requirements:**

- (1) All business, industrial, or multi-family residential parking area plans shall obtain approval of the Town Plan Commission.
- (2) **Adequate Access:** A driveway access to a public street, road or highway shall be provided for each lot and every driveway access shall be at least 10 feet wide for one- and two-family dwellings and a minimum of 22 feet wide for all other land, buildings and structures.
- (3) **Location:** Parking shall be located on the same lot as the principal use unless the Town Plan Commission specifically approves the parking being located on an adjoining parcel with the recording of appropriate access and parking easements and any necessary maintenance agreements and also providing that all parcels involved meet the requirements of this Section.
- (4) **Dimensional Requirement:** parking spaces, driveways and aisles for access to parking spaces shall have the following minimum dimensions unless specifically varied by the Town Plan Commission.

Stall width:	9 feet
Stall depth:	20 feet
Parking aisle width:	
Two-Way Traffic (90 degrees)	24 feet
One-Way Traffic (60 degrees)	18 feet

- (5) **Parking Spaces for use by the Physically Disabled Persons:** Parking spaces for use by physically disabled persons shall be in accordance with State and Federal requirements.
- (6) **Surfacing:** All off-street parking areas, and driveways, except parking areas accessory to single-family and two-family dwellings, shall be surfaced in a dust-free condition. All

paved parking areas shall be kept free of dust, loose stones, and gravel. Parking areas shall be so arranged and marked to provide for orderly and safe parking and storage of vehicles and must be completed within one (1) year of issuance of the building and zoning permit.

(7) **Flexibility in Application:**

(a) The Town recognizes that, due to the particulars of any given development, the inflexible application of the parking standards set forth in this Section may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations on adjacent street as well as unauthorized parking in nearby lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, the Town Plan Commission may allow deviations from the requirements of this Section whenever it finds that the deviation will not adversely impact traffic circulation or public safety.

(b) The site plan must, subject to Town Plan Commission approval, be designed to provide sufficient open space on the subject site to accommodate the additional parking spaces otherwise required by this Section. Such open space shall be in addition to required yards, setbacks, driveways, private streets, loading and service areas requirements. Sufficient open space shall be provided which, if converted to parking spaces, would provide off-street parking to meet the full requirements of this Section at the time of application for a deviation from the requirements of this Section.

(c) The Town Plan Commission may at any time, and at its sole discretion, require that all off street parking as required by this Section be constructed.

(8) **Changes in occupancy or intensity of use:** When parking needs of a building, structure or site is increased due to additional employees, gross floor area, seating capacity or due a change of occupancy, additional parking spaces shall be constructed in the amount necessary to conform to this Section, as determined by the Town Plan Commission.

(9) **Required number of stalls:**

(a) **Number of Parking spaces:**

(i) Unless waived or modified by the Town Plan Commission parking spaces shall be provided on the same lot in sufficient number to accommodate the motor vehicles of all occupants, employees, suppliers, customers, and

persons normally visiting the premises at any one time or as specified in the table below.

- (ii) The Town Plan Commission shall determine the required number of parking spaces for all uses not included in the table based on those criteria.
- (iii) Where two or more different principal or accessory uses are located on the same premises the parking requirements for the different uses shall be computed separately and cumulatively.
- (iv) When computation of required parking spaces results in a fraction of a car space the required number of the spaces shall be increased to next whole number of spaces.
- (v) No area shall be credited as a parking space that is in any part credited or used as a loading space or travel way.
- (vi) No required parking space shall be used for the sale, storage, or display of goods.

**PARKING REGULATIONS TABLE:**

<b>USE</b>	<b>MINIMUM PARKING REQUIRED</b>
Automobile Repair garages	1 space per 200 ft. of gross floor area used and service garages (see for repair work, plus 1 per employee Fuel stations)
Bowling Alleys	4 spaces for each alley, plus any required for other uses such as restaurant or bar.
Churches, theaters auditoriums, community centers and other places of public assembly.	1 space per 4 seats
Colleges, secondary schools, Elementary schools, vocational and night schools	1 space for each employee plus one (1) space for each 5 students 16 yrs. of age or older.
Daycare facilities	1 space per 10 children and 1 space per Employee
Financial Institutions, business, Government and professional office	1 space per 200 ft. of gross floor area
Funeral Homes	25 spaces for each viewing room
Fuel Stations	1 space per 300 sq. ft. of gross floor area plus any required for other uses such as Repair garages or restaurants.
Golf courses	4 spaces per golf hole and an additional 6 spaces for every 9 holes, plus any additional spaces required for

	other uses which is part of the facility such as restaurants, bars or banquet facilities.
Health Clubs	1 space per 150 sq. ft. of gross floor area
Hospitals, sanitariums, Institutions, rest and nursing homes	1 space for each 3 beds plus 1 space for each day shift employee
Lodges, clubs and banquet facilities	1 space for every 3 persons allowed within the maximum occupancy load
Manufacturing and processing plants (including meat and food processing plants, laboratories, and warehouses)	1 space per each employee or 1 space per 200 sq. ft. of gross area.
Medical or dental clinics	6 spaces for each doctor or professional service provider
Motels, hotels, rooming houses, and boarding houses, fraternities, and sorority houses, dormitories, and rectories	1 space for each guest room, and 1 space for every 3 employees, plus any required spaces for other uses such as restaurant, bars or banquet facility
Motor vehicle sales (new/used)	1 space for each 600 sq. ft. of gross floor area plus 1 space per 500 sq. ft. of outdoor display area for each motor vehicle to be displayed, plus any required spaces for other uses such as service garages
Repair shops and retail and Service Stores	1 space per 150 sq. ft. of gross floor area
Restaurants, bars and clubs	7 spaces per 1,000 sq. ft. of primary floor area devoted to the principal use of the property.
Retirement homes, orphanages, Convents and monasteries	1 space per 1,000 sq. ft. of gross floor area
Shopping Centers	1 space per 175 sq. ft. of gross floor area

(10) **Reduction of parking facilities:**

- (a) **Temporary change in use reduction:** The Town Plan Commission may waive the requirement for the installation of additional spaces when a temporary change in the use of the premises results in a parking deficit of less than the number of required spaces.
- (b) **Temporary Installation Reduction:** The Town Plan Commission may waive the immediate installation of the required parking spaces where sufficient evidence has been presented, in the judgment of the Town Plan Commission, to show that the reduced parking facilities will adequately serve the proposed use. Before approval of a waiver by the Town Plan Commission, the applicant shall show upon the Site Development Plan the complete layout for the full parking requirements. The owner shall file that plan in the Office of the Town Clerk, stipulating that the owner, or the successor and assigns of the owner will install as many of the waived parking spaces as the Town Plan Commission deems

necessary within six months of the Town Plan Commission's request, when, in the opinion of the Town Plan Commission, such installation is needed.

- (c) **Permanent Shared Use Reduction:** The Town Plan Commission may allow a reduction of the required parking spaces due to shared use of parking facilities when the parking needs of the joint users occur at different hours of the day.
  - (d) **Permanent Compact Space Reduction:** In parking lots in excess of 50 spaces in the Industrial Zoning Districts, the Town Plan Commission may allow the installation of compact spaces, not to exceed 25% of the total number of spaces installed, at 8 feet by 16 feet. These spaces shall be clearly designated as compact car parking. This reduction may only be considered for single-tenant buildings where there is reasonable assurance of private control.
- (11) **Residential parking.** Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests. Vans, motor homes, recreational vehicles, or pick-up trucks used for private and recreational use, or one similar vehicle used in a business for transportation to and from a place of employment, may be parked on a residential property as long as such use does not become a nuisance to the neighborhood.
- (12) **Parking of trucks and equipment.** No other vehicular equipment of a commercial or industrial nature, as excepted in subsection (12)(b) of this Section, shall be parked or stored for more than three (3) consecutive hours and six (6) cumulative hours during any 24-hour period on any lot in any zoning district, except business or industrial districts, or as follows:
- (a) Agricultural equipment (such as farm tractors, plows, seeders, combines, cultivators, farm trucks, etc.) used in a farm operation and located within an agricultural or rural home district.
  - (b) One panel, van or pick-up truck used in the conduct of a conforming business activity being carried on in a residential or agricultural district. Such truck and any attached extraneous material shall not exceed 20 feet 6 inches in length, 8 feet in height or 7 feet in width. No limitation shall be placed on vans or pick-up trucks if they are used for private non-business or noncommercial recreational purposes.
  - (c) Consideration for issuance of a conditional use permit, pursuant to this Code, may be given to allow the parking of commercial or industrial type vehicles in any zoning district, except C-1 Conversancy and A-E exclusive agricultural and E-C Environmental Corridor District. This determination shall be made by the Town Plan Commission after conducting a public hearing and notifying all property



owners within 300 feet of such a hearing. In business or industrial districts where such vehicles are accessory to an otherwise permitted business or commercial use, a conditional use permit will not be required and there are no limitations as to the number of such vehicles which may be parked on the property except as may be established under the provisions of the applicable zoning district.

- (d) No bus, truck (other than light duty pick-up trucks), or other equipment shall be parked regularly on a Town road right of way.
  - (e) Recreational equipment parked or stored shall not have fixed connections to electricity, water gas, or sanitary sewer facilities and at no time shall this equipment be used for living or housekeeping purposes
  - (f) If camping or recreational equipment is parked or stored outside a garage, it shall be parked or stored subject to the following: There shall be a minimum setback of 50 feet when parked or stored adjacent to a public street or highway. It shall be parked or stored in the rear yard of the lot and it shall be parked or stored not closer than 20 feet from a side or rear lot line. Notwithstanding the above, camping or recreational equipment may be parked anywhere on the premises for loading or unloading purposes for a period of not more than 48 hours.
  - (g) There shall be no parking or storage anywhere in a residential zoned district of any equipment which is no longer capable of the use intended or requiring repair over and above ordinary maintenance. All recreational equipment shall be kept in good condition. The ground area under and immediately surrounding where such recreational equipment is stored shall be maintained free of noxious weeds, debris or undergrowth.
- 13) **Screening.** Any off-street parking area, other than that provided for a residence, which abuts or faces a residence district shall provide a planting screen, landscaped fence, or wall at least four feet in height along the side abutting or fronting on a residence district.
- (14) **Offset.** In any off-street parking area, other than that provided for a residence, which abuts a residence district, no vehicle shall be allowed to park closer than ten feet to the abutting residential lot line.
- (15) **Setback.** No vehicle shall be parked closer than ten feet to the base setback line.
- (16) **Lighting.** Lights provided in any parking area shall be hooded, shielded or beamed so as not to create undesirable glare or illumination of adjacent residential property.
- (17) **Storage Prohibited:** The unenclosed parking or storage of unlicensed, registered, inoperable or junk vehicles is expressly prohibited within the Town except in an authorized salvage yard.

**Section-22. Off-street loading and unloading.**

- (A) **Required.** In any business or industrial district an off-street loading space shall be provided, in addition to the defined off-street parking area, for every 10,000 square feet or fraction thereof in excess of 3,000 square feet of building area, exclusive of storage areas, used for commercial purposes. The number of such spaces provided shall be based upon the operating characteristics of the individual use and shall be subject to approval by the Town Plan Commission upon the submittal of the building site and operational plan.
  - (1) **Areas.** An individual loading space shall be at least ten (10) feet wide by thirty (30) feet long and have a minimum height clearance of fourteen (14) feet.
  - (2) No building for commercial or industrial purposes shall be hereinafter erected on the lot in a manner which requires servicing directly from the abutting public street.
  - (3) The use of a public street for the maneuvering of trucks to service industrial or commercial buildings is expressly prohibited, except in the Existing Business Redevelopment Overlay District when it is determined by the Town Plan Commission that there is no maneuvering area available on site. Sufficient onsite space shall be provided for such maneuvering in all other zoning districts.

**Section-23. Airport safety zone.**

- (A) **Maximum height.** No buildings or objects of natural growth located within two miles of the boundaries of any existing airport landing field or landing and take-off strip, and within a band 500 feet on each side of the centerline extended of any runway, shall be erected, altered, or permitted to grow after the effective date of the Code from which this Section is derived to a height above the elevation of the nearest point of such runway greater than one-fifteenth of the distance from such point.
- (B) **Control of use.** No building or land located within two miles of the boundary of any airport, landing field or landing and take-off strip shall be so used that by reason of the emission of smoke, gas or other emanation it shall produce a hazard to the operation of aircraft.
- (C) **Exceptions.** The regulation in this Section shall not apply to growing field crops which are harvested at least once a year, or to fences not over five feet high.

**Section-24. Mobile homes and recreational vehicles.**

- (A) **Human habitation prohibited.** Except within an approved mobile home park or camp, no mobile home or recreational vehicle shall be used for the purpose of human habitation (human habitation being defined as entering a mobile home or recreational vehicle for any purpose other than maintenance).

- (B) **Human habitation allowed.** A permit for one continuous six-month period allowing the human habitation of a mobile home or a recreational vehicle on lands other than an approved mobile home park may be granted by the Town Board provided:
  - (1) The habitation is an accessory to the current construction of a principal structure owned by the same person who is the applicant for the permit; and
  - (2) The waste disposal facilities and water supply facilities for the property upon which the mobile home or recreational vehicle is to be located have been approved by the county health department.
- (C) **Storage prohibited.** No mobile home or recreational vehicle in excess of thirty-five (35) feet in length shall be located or stored on property except in an approved mobile home park, unless completely enclosed in a structure.

**Section - 25 Personal Storage Facilities**

- (A) **Minimum lot size.** The lot on which a personal storage facility is located shall be at least one acre in size.
- (B) **Access.** The access to a cubicle shall not open directly onto a public road right of way
- (C) **Surfacing of travel ways. Driveways, interior aisles, and walkways** shall be concrete or asphalt. The Town Plan Commission may allow gravel (dust-free) surfaces as a special exception, provided the location and size of the proposed use and nature and intensity of use in relation to the size of the lot will be in harmony with the orderly development of the area, the design elements of the proposed development are attractive and suitable in relation to the site characteristics and style of other buildings in the immediate area, and that the proposed use will not alter the essential characteristics of the area or adversely affect property value in the neighborhood. The proposed use shall be consistent with the definition of a Special Exception and meet the standards and criteria of the zoning district. Additional buffer yard and landscaping requirements deemed necessary to provide adequate screening between this use and adjoining properties may also be required.
- (D) **Storage of prohibited substances.** No cubicle shall be used to store explosives, toxic substances, hazardous materials, or radioactive materials.
- (E) **Uses.** Only uses that are accessory to storage shall occur. No portion of the site shall be used for fabrication, repair, or any similar use or for human habitation.
- (F) **Design.** The personal storage facility shall be designed so as to minimize adverse visual impacts on nearby properties. The color, exterior materials, and orientation of proposed buildings and structures shall complement existing and anticipated development in the surrounding area.

- (G) Fencing of outdoor storage area. An area used for outdoor storage of operational vehicles, watercraft, and the like shall be enclosed by a security fence and gate.
- (H) Setback of outdoor storage area. Outdoor storage areas shall comply with the building setback standards for the zoning district in which it is located.

**Section - 26 Outdoor Food and Beverage Service Areas**

- (A) Maximum size of service area. The size of the outdoor service area shall be determined by the Town Plan Commission on a case-by-case basis.
- (B) Location of service area. The outdoor service area shall be located on the same parcel of land as the restaurant or tavern. The outdoor service area shall not be located in a public right-of-way, a required landscape area, or a buffer yard. Outdoor Service areas may be allowed within the Road Setback and Offset areas provided the proposed use does not have a detrimental impact on neighboring properties, the public road (ingress/egress and site distance) and are specifically approved by the Town plan Commission and Town Board as part of the liquor license process.
- (C) **Special restrictions when adjacent to a residentially-zoned parcel.** If the outdoor service area is within 100 feet of a property in a residential zoning district, the following restrictions shall apply:
  - (1) Hours of use. No person shall occupy the outdoor service area after 10:00 p.m.
- (D) **Consistency with state liquor license.** No alcoholic beverages shall be served or consumed within the outdoor service area unless the liquor, beer, or wine license, whichever is applicable, as issued by the Town, explicitly states that consumption is permitted within the outdoor service area.
- (E) **The entrance to service area if alcoholic beverages are served.** If alcoholic beverages are served, the entrance or entrances to the outdoor service area shall be exclusively through the restaurant or tavern, and a barrier such as a rope or fence shall be erected to prevent entry to the outdoor service area by any other means, unless waived by the Town Plan Commission and Town Board. All Alcohol consumption must be limited to the restaurant service area.
- (F) Restroom requirements. The restroom facilities in the restaurant or tavern shall be of sufficient capacity to serve both the indoor and outdoor patrons. Temporary toilet facilities are not permitted except in an approved site plan and plan of operation.

**Section - 27 Legal non-conforming uses, structures and lots.**

- (A) **Continuance of Use, Generally,**
  - (1) Any lawfully established construction of a building or structure at the time of the

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enactment of this Code or any amendment applicable thereto that does not conform to the dimensional regulations for the District in which it is located shall be deemed a legal nonconforming structure and may be continued, except as otherwise provided herein.

- (2) Any lawfully established use of a building, structure or land at the time of the enactment of this Code or any amendment applicable thereto that does not conform to the use regulations for the District in which it is located shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.
- (3) Any lawfully established lot or parcel of land at the time of enactment of this Code or any amendment thereto which does not meet the requirements for the District in which it is located shall be deemed to be a legal nonconforming lot and may be used in accordance with this Code and as provided herein.

(B) **Regulation.** For the purposes of administration, legal nonconforming structures, uses and lots shall be classified and regulated as follows:

- (1) **Existing Non-conforming Structures.** A lawful structure which existed at the time of the adoption or amendment of this Code may be continued as a legal non-conforming structure, although the structure size or location does not conform to all the requirements of this Code, however:
  - (a) A legal non-conforming structure containing conforming uses may be totally rebuilt if, and only if, such reconstruction is identical in respect to the size, height, location, footprint, use of the original structure. If said structure is located within the Shoreland Regulations of Waukesha County, then all requirements of NR 115.05 (1) (g) 6.
  - (b) A legal non-conforming structure containing conforming uses, subject to approval of a special exception by the Board of Appeals, may be reduced in size, may have its shape modified, may have its height lowered, and may have its style modified, as long as the proposed structure is identical in all respects to the location, footprint and use of the original structure.
  - (c) A legal non-conforming structure containing conforming uses, subject to the grant of a variance per Section 100 (C)(1) from the Board of Appeals, may be increased in size, may be increased in shape, may be increased in height, and the location and footprint may be modified, provided setbacks and offsets are complied with.
  - (d) Regardless of the foregoing provisions in this subsection, the footprint of a legal non-conforming primary residence with conforming uses, subject to Plan Commission review and approval, may be expanded into areas of the lot where

the expansion fully complies with all offset and setback requirements of the district in which it is located, provided that the expansion is otherwise in compliance with all other applicable laws. In passing upon such matter, the Plan Commission shall consider all the following factors: the size of the lot; the size and location of the existing legal non-conforming structure; the size and location of any other structure on the lot; the size and location of the proposed expansion; the impact, if any, that the expansion may have upon neighboring properties; whether the proposed expansion would violate the intent of this Code and such other matters as the Plan Commission finds to be relevant in the interest of the public health, safety, welfare, and be compatible with other properties in the area of the Town.

(2) **Nonconforming Use of Structures and Lands.** A lawful use which existed at the time of the adoption or amendment of this Code may be continued as a legal non-conforming use, although the use of the structure and land does not conform with the provisions of this Code, however:

- (a) No such use shall be expanded or enlarged.
- (b) Upon petition to and approval of the Town Plan Commission, such use may be changed to another use provided the Town Plan Commission determines that the new use would not result in a greater degree of non-conformity than the current use.
- (c) When any such use is discontinued for a period of twelve (12) consecutive months or eighteen (18) cumulative months during a three-year period, any future use of the land or structure shall conform to the use regulations of the applicable district. Seasonable uses shall be excluded from this provision.
- (d) When a structure which houses such non-conforming use is damaged beyond 50 percent of its present equalized assessed value, it may be restored for any use in conformity with the applicable district regulations.
- (e) Total structural repairs or alterations to a structure housing a non-conforming use shall not exceed, on an accumulative percentage basis, 50 percent of the present equalized assessed value of the structure.

(3) **Nonconforming lots.** The size and shape of such lots shall not be altered in any way which would increase the degree of such non-conformity to the applicable district regulations.

(C) **Conditional use status.** Subject to the provisions of Section 40, Conditional Use Status may be granted to existing legal non-conforming uses, structures or lots upon petition of the owner and where such use, structure or lot is determined by the Town Plan Commission to be: not adverse

to the public health, safety, or welfare; not in conflict with the spirit or intent of the Code; and not otherwise detrimental to the community and particularly the surrounding neighborhood. Such conditional use status shall be granted only with the approval of the Town Plan Commission following a public hearing in the manner provided in Section 102.

- (D) **State Law:** Any applicable restriction in this Code which prohibits restoration of a damaged or destroyed non-conforming structure shall not apply to the extent that Sec. 62.23(7)(hc), Wis. Stats. applies to such restoration, including such amendments and renumbering of the applicable statutes referred to therein as may be made from time to time.

**Section-28. Prior permit.**

- (A) **Construction permitted.** Nothing contained in this Code shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of the Code from which this Section is derived where the construction of which shall have been substantially started within six (6) months from the date of such permit.
- (B) **Subsequently nonconforming.** Any such use which does not conform to the use regulations of the district in which it is located shall, however, subsequently be considered a legal nonconforming use.

## ARTICLE III: LAND DEVELOPMENT REGULATIONS

### Section-30: Land altering activities.

- (A) **Purpose.** This Section is adopted in order to protect property owners from possible damage due to change in the existing grade or runoff from adjoining lands and to aid in preserving and protecting the natural resources, natural beauty and the character of the landscape.
- (B) **Compliance.** All land altering or land development activity shall comply with this Section, any zoning use permit or other zoning requirements in this Code, and any applicable permit requirements under applicable Waukesha County ordinances.
- (C) **General requirements.** Any land altering or land development activity regulated under this Code shall comply with the following minimum requirements and the technical standards:
- (1) **Site drainage.** Minimize adverse impacts from site drainage, including other property, the general public or natural resources, in accordance with Section 32 of this Code.
  - (2) **Construction site erosion control.** Control soil erosion and off-site sedimentation during construction activities until, final grading is complete and vegetation is established.
  - (3) **Site stabilization.** All disturbed areas shall be stabilized within seven (7) days of final grading. Any disturbed area that remains inactive for greater than, seven (7) days shall be stabilized with temporary soil stabilization measures.
  - (4) **Environmental corridors.** Environmental corridors shall not be disturbed unless a building envelope is designated and unless otherwise permitted by this Code or other official actions by the Town of Genesee and Waukesha County. Disturbance of slopes twelve (12) percent or greater within an environmental corridor shall be prohibited unless no practicable alternative exists as determined by the Town Plan Commission.
  - (5) **Slopes.** Proposed activity shall fit the natural terrain of the site, minimizing grade changes, steep slopes and impact on the surrounding landscape to the extent practicable. Slopes steeper than two (2) horizontal to one (1) vertical must be approved in accordance with Subsection (E)(2) below and may require additional soil reinforcement or other slope stabilization measures than required under applicable technical standards.
  - (6) **Pond design:**
    - (a) The water surface of any pond shall be twenty-five (25) feet or greater from any floodplain and no land altering activity is allowed within the floodplain, The



finished grade around the entire pond shall be at least two (2) feet above the 100-year flood elevation.

- (b) The water surface of any pond shall be twenty-five (25) feet or greater from any wetland, unless otherwise approved by Wisconsin Department of Natural Resources (WDNR) as a wetland enhancement.
  - (c) All ponds shall comply with applicable technical design standards published by the WDNR and the USDA-Natural Resources Conservation Service, including but not limited to soil investigations, safety shelf, berm design, compaction specifications, inlet/outlet design and erosion control.
  - (d) Groundwater pumping is a prohibited water source for any pond, unless a public benefit is determined by the Town Plan Commission.
- (7) **Earthen berm design.** Any earthen berm constructed for non-storm water management purposes shall have variable top elevations, if practicable, and include a diversity of landscape plantings to improve aesthetics.
- (8) **Retaining walls.** All retaining walls shall be installed according to manufacturer's recommendations and shall include provisions for adequate soil drainage behind the wall, such as stone aggregate bacilli, weep holes and tile drains. Any plan designs for a retaining wall proposed to be four (4) feet in height or greater from the finished grade must be designed and stamped by an architect, landscape architect, or professional engineer licensed by the State of Wisconsin and shall be approved by the Town Building Inspector.
- (9) **Master grading plan.** A master grading plan may be required under Subsection (E) below, or may have been previously approved by the Town of Genesee or Waukesha County. A new master grading plan shall be approved by the Town Planner, Waukesha County, and Town Engineer and shall contain components that depict site drainage patterns, storm water management and erosion control measures; elevations for roads and lots; building floor elevations that are subject to grade restrictions; drainage and utility easements, setbacks, location of natural areas, including environmental corridors, wetlands, and floodplains, and other information deemed appropriate by the approving authorities. Where an approved master grading plan exists, all grading, erosion control, storm water management and site drainage activity shall comply with the plan, the Town of Genesee or Waukesha County, or applicable agency, may require at the applicant's expense, as-built surveys and verification of compliance with approved master grading plans as a condition of other approvals.

(10) **Applicable laws.** No land development or land altering activity shall occur that would violate requirements of applicable federal, State of Wisconsin, Waukesha County or local municipal codes, statutes, ordinances, regulations, rules and lawful orders.

(D) **Prohibited activities.** The following land altering or land development activities are prohibited.

(1) Those that may have significant adverse impacts on the owner, adjoining properties, the general public or natural resources, as determined by the Town Planner.

(2) Construction or replacement of any retaining wall greater than six (6) feet in height at any point above finished grade, unless approved by the Town Engineer.

(3) Construction or replacement of any retaining wall greater than four (4) feet in height at any point above finished grade within fifty (50) feet of a floodplain or wetland boundary at any point. Averaging of the fifty (50) foot setback in this paragraph is prohibited.

(4) Increasing or decreasing existing ground surface elevation greater than four (4) feet at any point within fifty (50) feet of a floodplain or wetland boundary at any point;

(E) **Applicability for zoning approvals.** Any proposed land altering or land development activity that meets one of the following criteria shall obtain a Land Altering Permit from the Town of Genesee Plan Commission in accordance with the procedures and requirements in Subsection (F) through (H) below. This zoning approval is in addition to a stormwater permit, zoning permit and other requirements that may apply.

(1) **Retaining wall.** Construction of a retaining wall greater than four (4) feet in height at any point above finished grade; or a series of retaining walls greater than six (6) feet in total height at any point above finished grade with less than four (4) feet between each, wall; or any retaining wall proposed to be located ten (10) feet or less from a property boundary. If the Town Planner determines that a proposed retaining wall is replacing an existing retaining wall less than four (4) feet in height and of otherwise equal dimensions, location and setback, the activity shall be exempt from this subsection.

(2) **Grade changes.**

(a) Increasing or decreasing existing ground surface elevation greater than four (4) feet at any point where the top or bottom of the proposed slope is within ten (10) feet of any existing property boundary or within fifty (50) feet of an environmental corridor; or

(b) Increasing or decreasing existing ground surface elevation steeper than two (2) horizontal to one (1) vertical or a total elevation change of six (6) feet or greater at any point; or

- (c) Bringing in fill or removing excavated material from a *site* in quantities greater than one thousand (1,000) cubic yards, as determined by the Town Planner, unless otherwise approved through a master grading plan.
- (3) **Ponds.** Construction of any pond with a proposed water surface within fifty (50) feet of a property boundary, environmental corridor, wetland or floodplain, at any point. Any pond with a proposed water surface area of 20,000 square feet or greater shall obtain a conditional use permit.
- (4) **Exempt from this section.** The following shall be exempt from this section, but shall require a stormwater permit:
  - (a) Any wetland enhancement or restoration project approved by the DNR in which the top or bottom of a proposed slope is fifteen (15) feet or greater from the nearest existing property boundary at any point; and
  - (b) Any stormwater management practice permitted under the Waukesha County's Stormwater Ordinance if the top or bottom of the proposed slope is located fifteen (15) feet or greater from the nearest existing property boundary or environmental corridor at any point. However, if a proposed berm for a storm water management practice is greater than four (4) feet in height at any point, the applicant may be required to complete an additional engineering review or meet more restrictive berm design requirements, depending on the Waukesha County's determination of risk for downstream damages.
- (F) **Application.** All applications and associated fees submitted for approval under Subsection (E) above shall include a grading plan prepared and stamped by an architect, landscape architect, or professional engineer licensed by the State of Wisconsin. The grading plan shall be of adequate scale, accuracy and clarity, as determined by the Town Planner (survey preferred), and shall include all applicable items listed below:
  - (1) Plan view and cross-sections of existing and proposed grades on the subject property, including top and bottom elevations of proposed retaining walls;
  - (2) Existing grade of any adjacent property that is, at any point, closer than twenty (20) feet to any portion of the proposed land altering activity, showing how the proposed grades will tie into the existing adjacent property grades;
  - (3) Proposed cut and fill slopes, total depths and slope ratios (horizontal and vertical);
  - (4) Proposed volume of excavation and fill material involved in cubic yards, including the source and content of any proposed fill;

- (5) Proposed boundaries of the land disturbance, planned pond water surface area, and the square footage of each arc;
- (6) Location of natural areas, such as environmental corridors, floodplains, or wetlands;
- (7) Proposed soil stockpile locations, length of time they will exist and methods of stabilization or sediment control;
- (8) Proposed temporary erosion and sediment control practices, such as silt fence, mulch, soil treatment and temporary seeding;
- (9) Proposed permanent vegetation plan, including topsoil application depth, seed mixes, amounts, application methods, timing, and stabilization methods such as mulch, soil treatment, and matting; and
- (10) Any other site drainage, stormwater management, erosion control or other items that may be required under a stormwater permit or by the Town Zoning Administrator to complete the review process under Subsection (G) and (H) below, or to otherwise ensure compliance with this Code.

(G) **Procedures for approval:**

- (1) Upon submission of a complete application to the Town of Genesee Plan Commission, the Town of Genesee Plan Commission shall consider the request at a regular scheduled meeting.
- (2) The Town of Genesee shall provide written notice of the Town Plan Commission meeting to owners of land within one hundred (100) feet of the subject property, by regular mail that is mailed at least ten (10) days prior to the Town Plan Commission meeting.
- (3) All property owners notified under Sections (G)(1) – (2) above shall have the opportunity to comment on the proposed request during the scheduled Town of Genesee Plan Commission meeting.

(H) **Zoning review criteria.** When determining whether to authorize any land altering or land development activity under Subsection (E) above, the Town of Genesee and Waukesha County (if applicable) shall consider all of the items listed below, and ensure compliance with the general requirements under Subsection (C) above. The Town of Genesee may make a referral to the Waukesha County for a determination regarding the necessity for a stormwater permit.

- (1) The aesthetic impact;

- (2) The potential for adverse drainage;
- (3) The potential impact upon neighboring properties;
- (4) The potential impact upon environmentally sensitive areas;
- (5) The potential impact upon existing lakes and streams;
- (6) The potential impact on roadways and other infrastructure;
- (7) Public safety;
- (8) The length, height, design and location of any retaining walls or earthen, berms;
- (9) If a retaining wall is needed to stabilize the grade or control soil erosion based on existing topography;
- (10) How the proposed activity fits with the master grading plan, if applicable;
- (11) Proposed landscaping and screening;
- (12) The materials used and source for fill, landscaping and, retaining walls;
- (13) The total area of land disturbance; and
- (14) Proposed pond size, use, location, design, landscaping, and water source.

**Section-31. Sedimentation control.**

Any plans for site alterations which disturb the natural cover vegetation must include provision for adequate protection to adjacent properties from sedimentation. Disturbed areas must be seeded or vegetated within one year of commencement of construction.

**Section-32. Drainage regulations.**

- (A) Adequate drainage required: In no case may a principal building be located in an area zoned conservancy or in an area considered to be one of the eight (8) types of wetlands (type 1-8) as described in Circular 39 of the Fish and Wildlife Service, U. S. Department of Interior published in 1956, and which are on record on the 1975 aerial maps of the Southeastern Wisconsin Regional Planning Commission. No principal building shall be erected, or relocated, and no below grade structures shall be expanded on newly created or existing lots that are not in compliance with the site drainage standards contained in the Waukesha County Storm Water Management and Erosion Control Ordinance, including all county technical procedures and forms used to enforce these standards (Chapter 14-342(c)). The lowest floor, including any basement floor, shall not be less

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than one (1) foot above the highest seasonal ground water level. For the purposes of this Section, the highest seasonal ground water level is defined as the upper limit of the zone of soil saturation caused by underlying ground water at its highest level. Where groundwater limitations exist, subdivision plats and certified survey maps shall state the lowest allowed floor elevation for any proposed principal structure as needed to ensure compliance with the above noted site drainage standards. All basement elevations must comply with the subdivision plat or certified survey map master grading plan or with the master grading plan referenced on the subdivision plat or certified survey map. The zoning administrator and/or building inspector may request at the owner's expense the advice and assistance of a licensed professional engineer specializing in soils engineering or other qualified person in fulfilling their duties pursuant to this provision. Building, drainage, grading or other similar plans may be required to determine compliance with this Section. The town and the county accept no liability for construction activities involving groundwater limitations.

- (1) The zoning permit and building permit issued for the erection, structural alteration or relocation of a principal building shall state specific design, engineering and construction requirements, as a condition of the permit, notwithstanding applicable construction codes, which must be incorporated within the improvement to be done on and in soil which has such conditions necessitating additional protection of the building, basement, foundation, occupants and personal property. Such provisions which may be required may include but shall not be limited to the techniques enumerated below: auxiliary power supplies; gravity drainage of foundation footings together with the installation of sump pumps which will be operative in the event of blockage of the gravity drains, gravel backfill, extra drains, and waterproof poured concrete basements.
  - (2) Subdivision plats and certified survey maps shall state, on their face, whether protection measures, pursuant to the above, are likely to be required as a condition of a zoning and building permit. The Town Plan Commission or Town Board may cause such notice to be affixed to the face of the document.
  - (3) In the event a dispute arises as to the necessity for or the adequacy of the protection measures set forth above, the matter shall be reviewed by the Town Board of Appeals, upon recommendation of the Town Engineer pursuant to the appeal provisions of this Code.
- (B) **Obstruction to drainage prohibited.** The damming, filling or relocating of any surface water drainage swale, channel or natural watercourse shall not be permitted except with approval of the Town Board and the State Department of Natural Resources, the U.S. Army Corps of Engineers and Waukesha County Department of Parks and Land Use, when applicable.
- (C) **Building restricted adjacent to drainage channels or watercourses.** No building other than a bridge, dam, boathouse, seawall or revetment, subject to approval, shall be erected, structurally

altered, or relocated within 75 feet of the 100-year flood level or Conversancy line.

**Section-33. Sanitation and water supply.**

- (A) **Safe sewage disposal possible.** No principal building shall be erected, structurally altered or relocated unless it has been certified by the building inspector or plumbing inspector that it conforms to all Town ordinances and other governmental laws or regulations then applicable to sewage disposal systems, and that satisfactory evidence has been submitted to show that suitable provisions for disposal of sewage is possible. A County septic system permit shall be required for all new private systems. Certification from Waukesha County verifying the soil's suitability to meet standards shall be furnished when a specific system is being proposed. (Explanatory note: While every attempt has been made, through control of minimum lot size, building location and plumbing standards to ensure that proper disposal of sewage will be provided on any lot, it is recognized that no such standard will completely ensure adequate disposal in every situation. This Section has been written for the purpose of giving the Town the authority to require whatever additional provisions are necessary to limit the potential for sanitary problem from developing in a situation where the normal requirement will not ensure proper sewage disposal.)
  
- (B) **Outhouses prohibited.** No outhouse or privy shall be hereafter erected provided, however, that the Plan Commission may permit the use of temporary outhouse(s) at construction site and other special events for a limited period of time established by the Plan Commission.
  
- (C) **Water supply required.** No occupancy permit shall be issued for any building designed or used for human occupancy purposes unless provision is made for a safe and adequate supply of water in such building.
  
- (D) **Reduction in lot size, lot width, road setback, offset and increase in floor area ratio and increase in density in a Planned Unit Development:** In the case of any lot proposed to be served by a municipal or municipally approved communal sewerage system or water system, and where such service would be provided prior to any occupancy of such lot, the lot size, lot width, offset and increase the floor area ratio requirements applicable to such lot may be modified, subject to the following limitations:
  - 1. The maximum amount of reduction in the lot size, lot width, offset and road setback requirements or increase in the floor area of individual lots and the maximum increase in the density of planned unit developments shall not exceed 30%; and
  - 2. In no event shall the lot area requirements for the individual lots be reduced to less than twelve thousand (12,000) square feet except as provided and for multi-family type units.

## ARTICLE IV: CONDITIONAL USE REGULATIONS

### Section-40: Conditional Uses

#### (A) Approval required.

Certain uses, which are of such a special nature, or are so dependent on the actual contemporary circumstances as to make impractical the predetermination of permissibility of such uses or to detail in this Code of the specific standards, regulations, or conditions which would permit such uses in each individual situation. Such uses may, however, be permitted as conditional uses subject to the terms of this Section. The applicant for a conditional use shall demonstrate that the application and all requirements and conditions established by the Town of Genesee Plan Commission and Town Board (if applicable) relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The decision to approve or deny any such conditional use permit will be based upon **substantial evidence**. Only those uses specifically listed herein can be granted a conditional use. Any other uses not specifically listed shall require an amendment to this code to be considered by the Plan Commission.

#### (1) Application

(a) Application for Conditional Use Permits may be made by an individual property owner or group of owners or by a municipality, lake management district, sanitary district or similar agency on behalf of a larger property area where said proposal may benefit a larger group or entire community. Applications for conditional use shall be made to the Town Clerk on forms furnished by the Town and shall include:

1. Two (2) copies of a map, preferably a topographic map, drawn to a scale of not less than two hundred (200) feet to one (1) inch, showing: the land in question; its legal description and location; location and use of all existing buildings, sanitary systems and private water supplies on such land; the high water elevation of any navigable waters within one hundred (100) feet of the boundaries of the land in question; the 100-year floodplain or any wetlands or environmental corridors; the proposed location and use of any buildings; sanitary systems and water supplies on such land and within one hundred (100) feet of the land in question.
2. Additional information as may be required by the Town Planner, Town Engineer, Town Building Inspector or the Town Plan Commission.
3. An accurate and complete description of the current use and the use for which the conditional grant is being requested including all pertinent and operational characteristics (Plan of Operation).



4. Plans and other drawings showing the proposed development of the site and buildings, including landscape plans, parking and service areas, driveways, exterior lighting, building materials, storm water facilities, outdoor storage, etc.
- (b) A fee, as may be established by the Town Board and periodically modified, shall accompany each application. Such fees shall be paid to the Town of Genesee to defray the cost of official notification and posting of the public hearing. Cost incurred by the Town in obtaining legal, planning, engineering, publication, and notice requirements, and other technical and professional advice in connection with review of the Conditional Use applications and preparation of conditions to be imposed on such uses shall be charged to the applicant, and if required by the Town, a pre-payment deposit covering the costs shall accompany the application.
- (c) Where necessary, to comply with certain regulations established by applicable laws, applications shall be required to be submitted to the other governmental bodies having jurisdiction which may include the State Department of Natural Resources, the U.S. Army Corps of Engineers and/or Waukesha County.

(2) **Public hearing**

- (a) Upon receipt of the application together with the foregoing data and fees, the Town Planner shall establish a date for a public hearing by the Town Plan Commission and shall publish notice of said hearing once each week for two (2) consecutive weeks in a newspaper of general circulation in the area of the proposed Conditional Use. Notice of the public hearing shall be given by first class mail to the owners of all lands within three hundred (300) feet of any part of the land included in such Conditional Use at least ten (10) days before such public hearing.
- (b) A copy of the notice of public hearing along with pertinent information relative to the specific nature of the matter (copy of application and map) shall be transmitted without delay to any other governmental agencies having jurisdiction by regular mail not less than then ten (10) days prior to the date of the hearing.
- (c) At the public hearing the Town Plan Commission will hear from the applicant, Town Planner, Town Engineer (if applicable), and the public concerning the application. The Purpose of the hearing is to gather the record, for the petitioner to demonstrate with substantial evidence that it meets the standards of the code, to hear comments and concerns from Town Staff and the public and to render a decision if appropriate or to determine what remains to be discussed at ensuing meeting. Only substantial evidence may be considered by the Plan Commission.

At the summation of the initial public hearing date the Plan Commission may give the following direction to the petitioner and to the public:

- (1) The remaining questions/standards that need to be proved/responded to.
  - (2) Additional conditions to include in the CU order that the Plan Commission deems appropriate. The Petitioner will need to prove they can meet those at the adjourned public hearing date.
  - (3) Direction to staff to prepare the Conditional Use Order or a finding the Petitioner does not meet the standards for approval for consideration at the next meeting. The Plan Commission may also delay either of these directions to hear more evidence at the next meeting. Although such delay will result in another adjourned public hearing date for due process purposes.
  - (4) Adjourn the public hearing to a date certain.
- (d) If the public hearing is adjourned to a date certain, at the adjourned public hearing, the Plan Commission will hear from the applicant, Town Plan Commission and the public on evidence in support or in opposition to the Conditional Use Order itself. The purpose of the hearing is to gather the record on any additional standards imposed by the Plan Commission from the first public hearing and to gather evidence on the proposed Conditional Use itself. Only substantial evidence will be considered by the Plan Commission. At the summation of the public hearing the Plan Commission will give direction requesting additional evidence and adjourn the public hearing to a date certain or close the public hearing.

(3) **Final review and approval**

- (a) After the closing of the public hearing the Town Plan Commission shall discuss the plans and the Conditional Use Order or Findings for Denial and act on the agenda item(s) during its regular meeting or at a subsequent meeting where the agenda item is duly noticed. The decision shall be based upon the record from the public hearings. The burden of proof is on the applicant to prove they have met the standards of the Ordinance and those set forth by the Plan Commission during the process. The Plan Commission shall render its written determination and the reasons for the same without unreasonable delay and, in any event, within ninety-five (95) days after completion and adjournment of the public hearing, unless an extension is consented to in writing by the applicant. The Clerk shall mail a copy of the determination to the applicant.
- (b) The Applicant shall comply with all applicable conditions established by the Town Plan Commission and with all other provisions of this ordinance, such as lot width and area, height, parking, loading, traffic and highway access shall be required of all conditional uses unless otherwise specifically authorized to be modified by this

code. Variances shall only be granted as provided in Section 100 of this Code. Any failure to comply with any condition(s) set forth in the conditional use permit shall constitute a violation of the terms of the conditional use permit and a violation of this Code and will be subject to prosecution and penalties under the terms of this Code To include terminating the Conditional Use Permit.

- (c) Changes in use subsequent to the initial issuance of a conditional use or any request by any holder of a conditional use permit to extend or alter the terms of such permit shall result in the need for the permit holder to apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Sections 40(A)(1) and shall require the filing of an application and a hearing as provided above. The Conditional Use Order as issued, however, may describe changes that can be made without requiring a new permit.
- (d) No use is authorized by this Section unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in a Conditional Use Order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order or rule of either the Town Board, County of Waukesha, State of Wisconsin, or the United States of America, or other duly constituted authority. A Conditional Use Order does not constitute a building permit, nor shall a Conditional Use Order constitute any other license or permit required by Town Ordinance or law.
- (e) Continuation of Existing Conditional Use Permits. Any conditional use permit granted pursuant to conditional use authority that was in effect as of the date of the grant shall be allowed to continue as a conditional use subject to all conditions stated in the Conditional Use Order even though the authority to grant such a use was subsequently repealed. Any such conditional use permit that requires compliance with a section of the Town of Genesee Zoning Code that has since been repealed and was not subsequently recreated shall continue to require compliance with the referenced Code section as it existed immediately prior to such repeal and the repeal of such provision is stayed solely for such existing Conditional Use Permit(s). These continuation provisions are intended to preserve the status quo for all rights and responsibilities incurred or accrued prior to the adoption of any ordinance that changes a conditional use to a prohibited use. Nothing herein shall be interpreted to prevent existing Conditional Use Permit holders from applying to amend their conditional use pursuant to all laws in effect at the time of the application, or as set forth in the Conditional Use Permit including those amendments requiring a public hearing.

(4) **Termination of conditional use status**

In addition to termination pursuant to the terms set forth within the Conditional Use Order itself, a Conditional Use may be terminated as follows:

- (a) The Conditional Use Permit may be terminated upon request when the applicant or holder of the Conditional Use and the property owner make a request in writing to the Town Plan Commission that the Conditional Use be terminated and the Town Plan Commission agrees to terminate said Conditional Use Permit. The Town shall notify the applicant or holder of the Conditional Use Permit and the Property Owner in writing of the Termination; or
- (b) The Conditional Use Permit may be terminated after public hearing and a class 2 notice is published, and notice is provided to the applicant or holder of the Conditional Use Permit and the owner of the subject property, upon the Town Plan Commission determining any of the following:
  - (i) The permit holder has failed to comply with the conditions of the permit of the conditional use has not continued in conformity with the conditions of the permit.
  - (ii) The Use or the characteristics of the use have changed without amending the permit and obtaining approval of the Plan Commission as provided in Section 40 (A)(3)(c).
  - (iii) The Conditional Use has been discontinued for a period of twelve (12) consecutive or eighteen (18) cumulative months during a three-year period, unless extended by the Town Plan Commission. Said extension shall not exceed six (6) months. A business of seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e., summer camps, ski hills, quarries, marinas, etc.).

(c) In the event of termination of a conditional use the owner of the premises shall be required to bring all such lands and buildings into conformity with the regulations of the district in which the property is located, and all other provisions of this chapter within ninety (90) days from such determination.

- (B) **Conditional uses permitted.** Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted Conditional uses in the districts specified, provided that a public hearing per Section 102, shall be held by the Town Plan Commission before approval for any such conditional use is granted. All references in this Section to residential districts shall include the rural residential density, rural home and suburban estate districts, unless otherwise noted.

- (1) **Adult-oriented establishments.** In the Q-1 district, subject to the following:
  - (a) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission and Town Board.
  - (b) A license to operate an adult-oriented establishment has been issued for the subject property.
  - (c) Adult-oriented establishments shall be located in accordance with the requirements of Section 52 B. of this Code and not within 1,000 feet of any public or private school, church, religious institution, daycare center or Public Park. No adult-oriented establishment shall be located within 1000 feet of any residential district or any other adult-oriented establishment. The distances noted in this subsection shall be measured in a straight line without regard to intervening structures or objects from the closest point of the structure or portion of the structure occupied or proposed for occupancy by the adult-oriented establishment to the nearest point of the parcel of property or land use district boundary from which the proposed land use is to be separated.
  
- (2) **Agricultural businesses including fur farms, pig farms, commercial or custom grain drying operations, pea vineries, creameries, food mills, egg production facilities, commercial greenhouses and condenseries.** In A-B Agricultural Business District, commercial or custom grain drying, poultry and/or egg production are considered permitted uses by right. In A-B, A-1, A-5, B-1, B-2, B-3, B-4, B-P, M-1 and M-2 districts, such uses are considered conditional uses, subject to the following:
  - (a) The building plans, site plan and plan of operation and a waste management plan shall be submitted to and approved by the Town Plan Commission.
  - (b) No such use shall be permitted on a lot less than five (5) acres in area, except that pig farms and egg production facilities shall not be permitted on a lot less than twenty (20) acres in area.
  - (d) No building other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
  
- (3) **Airports, landing field, and take-off strips.** In, A-B, A-1 and A-5 districts, provided the location, building Plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission and Town Board.
  - (a) No such use shall be permitted on a lot less than twenty (20) acres in area.
  - (b) All FFA regulations and requirements shall be complied with.

- (4) **Animal hospitals, veterinarian clinics, and commercial kennels.** In A-B Agricultural Business District, animal hospitals and veterinarian clinics are considered permitted uses by right. In A-B, A-5, A-1, B-2, B-3, B-4, B-P, M-1 and M-2 districts, such uses are considered conditional uses, subject to the following:
- (a) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission.
  - (b) Animal hospitals and clinics not involved in the operation of a commercial kennel may be permitted on lots of no less than one (1) acre and shall be in conformance with building location, height regulations and area regulations of the district in which such facilities are located. A commercial kennel operation shall not be permitted on parcels of less than three (3) acres and three hundred (300) feet of minimum average width.
  - (c) No building other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in an Agricultural or Residential Zoning District. Where the buildings are to be used to board or house dogs in a commercial kennel, such structures shall not be closer than fifty (50) feet to an adjoining lot line. Outdoor kennel runs shall not be closer than one hundred (100) feet to an adjoining lot line.
  - (d) The facility shall be adequately sound proofed.
  - (e) The facility shall be maintained in a sanitary condition. Plans shall be submitted and approved for waste removal.
  - (f) Animals shall be adequately restrained to avoid escape from the property. Dogs taken outside the kennel shall be on a leash at all times and shall remain on the subject property.
  - (g) Drop off and pick up times shall be established by the Town Plan Commission.
  - (h) If there are complaints about unusual noise inconsistent with the normal operations of a commercial Kennel, the Town Plan Commission may recommend that a public hearing shall be held upon due notice and shall make reasonable rules and regulations in regards to rectifying the conflicts with adjacent land uses or terminate the use
- (5) **Automobile service stations, gasoline sales, and convenience stores associated with gasoline sales:** In B-2, B-3, B-4, B-P, M-1 and M-2 districts, subject to the following:

- (a) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission.
  - (b) No gasoline pump or other accessory equipment shall be closer than fifteen (15) feet to the base setback line and fifty (50) feet to the side and rear lot lines. Underground and above ground storage tanks shall conform to state standards.
  - (c) No lighting installation shall be permitted which creates a hazard to traffic or a nuisance to surrounding property and shall be shielded, baffled or shaded to effectuate and avoid hazard or nuisance.
  - (d) No overnight outside storage of unlicensed, junked or wrecked vehicles shall be permitted.
  - (e) No fueling station (gasoline or electric) shall be permitted closer than 50 feet to the base setback line.
  - (f) No such use shall be permitted on a lot less than one (1) acre in size.
  - (g) All lifts and apparatus used in the repair or servicing of vehicles shall be located within a building.
  - (h) All water used for washing of vehicles shall be discharged in conformance with all State, County and Local rules and regulations.
- (6) **Bed and breakfast:** The intent is to provide travelers with temporary accommodations and breakfast for a fee on a daily or weekly basis, as an accessory use in any existing structure designed for and occupied as a single-family residence in the, A-1, A-2, A-3, A-5, R-1, B-1, B-2 districts, subject to the following:
- (a) The building plans, site plan and plans of operation shall be submitted to and approved by the Town Plan Commission.
  - (b) Minimal exterior modifications to the structure or grounds may be permitted where such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located. For buildings with significant architectural or historic value, the architectural integrity and arrangement of existing interior spaces must be maintained and the number of guest rooms shall not be increased except as may be required to meet health, safety and sanitation requirements.
  - (c) Off-street parking shall be provided at the rate of one (1) parking space for each room rented. The front yard shall not be for off-street parking for temporary

guests unless the parking area is screened from view with natural plant material, and found to be compatible with the neighborhood.

- (d) The number of rooms shall be limited to five (5) sleep-in rooms or less, excluding those used by the permanent occupants of the facility, and no room may contain more than two (2) beds. There must be at least five hundred (500) square feet of gross interior floor area for each sleeping room. Those facilities providing service to a greater number of guests are not considered “license exempt” under state law and must comply with state hotel/motel/restaurant licensing procedures administered by Waukesha County and the State Department of Health. The issuance of such licenses shall not be considered as conferring non-conforming commercial status to the use which would either allow alteration of the facility or otherwise compel rezoning of the property for commercial use beyond the scope of this Section.
- (e) One (1) on-premise sign may be allowed provided that such sign is compatible with the residential use of the site and its surrounding areas and is not more than fifteen (15) square feet in size with the letter sizes not more than five (5) inches in height.
- (f) All necessary State and County permits, certifications or requirements shall be obtained as a condition of approval of a bed and breakfast service.
- (d) Room rentals to families or individuals shall not exceed fourteen (14) consecutive days.
- (e) The bed and breakfast facility must be accessory to and contained within the single-family dwelling occupied by the owner (e.g., not a manager) of said premises.
- (f) The only meal to be provided to travelers/guests shall be breakfast and it shall only be served to guests taking lodging in the facility.
- (g) The Waukesha County Department of Parks and Land Uses, Division of Environmental Health, shall examine both the water system and the sewage disposal system, and shall conduct a general health and safety inspection of the proposed facility. Such Department may impose any conditions required to ensure that all necessary health and safety standards have been met. The applicant shall not initiate any construction activity or other improvements related to the bed and breakfast facility; or begin operation of the facility until receiving a determination, in writing, by the Department that the necessary inspections have been completed and any deficiencies have been corrected. The proprietor shall have a water quality evaluation conducted by a recognized water



testing laboratory on an annual basis following the certification of adequacy by the Department. The results of that test shall be submitted to the Department with a copy to the Town. All these requirements must be incorporated into the terms of the conditional use permit.

- (7) **Cemeteries and mausoleums for the burial of human remains only.** In A-1, A-2, A-3, A-5, R-1, R-2, R-3, P-I, B-1, and B-2 districts, subject to approval of the Town Board, following the recommendations of the Town Plan Commission.
  
- (8) **Churches, synagogues, and other buildings for religious assembly.** In A-1, A-2, A-3, A-5, R-1, R-2, R-3, P-I, B-1, and B-2 districts, subject to the following requirements:
  - (a) The building plans, site plan and plan of operation have been submitted to and approved by the Town Plan Commission.
  - (b) A floor area ratio of no more than 50 percent of the subject lot is allowed.
  - (c) Off-street parking is provided for one automobile for each four seats in the main assembly area of the building.
  - (d) Such use shall conform to the setback, height and double the offset requirements of the district in which it is located.
  - (e) The height limitation may be extended to a maximum of 50 feet provided the minimum required setback and offset shall be increased two feet for each additional foot of height in excess of the permitted maximum in the district. The height regulation shall not apply to the spire or belfry of a church except where airport safety zoned regulations specifically limit the maximum height.
  - (f) Access to the site shall meet all site distance requirements and all necessary improvements shall be completed as required.
  - (g) No such use shall be permitted on a parcel smaller than ten (10) acres in size.
  - (h) Any traffic concerns may require the completion of a traffic study as determined by the Town Plan Commission.
  
- (9) **Commercial fish, bait, ponds or hatcheries.** In any district other than an E-C districts, subject to the following:
  - (a) The building plans, site plan, and plan of operation shall be submitted to and approved by the Town Plan Commission.

- (b) No such use shall be permitted on a lot less than five (5) acres in area.
  - (c) No building other than one used only for residence purposes shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.
  - (d) A letter from the Wisconsin Department of Natural Resources certifying no objection to the proposed use on the proposed property.
  - (e) No pond shall be located closer than 100 feet to the property line.
- (10) **Commercial stables.** In, A-E, A-1, A-2, and A-5 districts, subject to the following:
- (a) The building plans, site plan, plan of operation, and a manure management plan (approved by Waukesha County Land Resources Division) shall be submitted to and approved by the Town Plan Commission.
  - (b) No buildings other than one used only for residential purposes shall be closer than fifty (50) feet to the lot line of any adjoining lot in a district permitting residential use.
  - (c) The Town Plan Commission shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.
  - (d) Not more than one horse or other head of livestock should be kept for each full open acre over two acres of open lot area, unless the Town Plan Commission makes a specific finding that the subject parcel can maintain a greater number of livestock based on the proposed building plans, site plans, plan of operation and manure management plan.
  - (e) The keeping of swine (hogs and/or pigs of any type), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
  - (f) No such use shall be permitted on a property less than ten (10) acres.
  - (g) A Declaration of Restrictions shall be recorded with the Waukesha County Register of Deeds Office indicating that a Conditional Use Permit exists on the property and the Conditions of said approval.
  - (h) A Fencing plan showing all paddocks, pastures, riding areas, etc. shall be approved by the Town Plan Commission.

- (i) The Owner or Employee shall reside on the property as a permanent primary residence. The owner or employee shall provide to the Town Clerk a 24-hour emergency contact number.
- (11) **Commercial truck parking.** In A-E,A-1, A-2, A-3, A-5, R-1, B-1 and B-2 business districts, subject to the following
- (a) The parking and storage of commercial type vehicles (dump trucks, school buses, construction vehicles, semi-trailers and tractors) may be allowed as long as the vehicle is owned or leased and operated by the owner or occupant of the premises. No such use shall be allowed on any parcel except as may front directly upon and have access to, an arterial or collector street, as defined in the Town of Genesee Comprehensive Land Use Plan – 2035 or the Waukesha County established street and highway width map.
  - (b) No more than one such vehicle shall be allowed to be parked or stored on the occupant's property and no more than two additional construction vehicles (backhoes, front end loaders, grading equipment, etc.) shall be allowed. Such vehicles shall be fully operative and in active use. Where considered appropriate, two trailers may be allowed but in no case may there be more than one semi-tractor or cab unit.
  - (c) No such vehicles shall be allowed to be parked or stored closer than 50 feet to any adjacent lot line and not closer than 100 feet from the base setback line. In the case of a refrigerator truck, the refrigeration unit may not be operated in the open if such truck is parked closer than 500 feet to the nearest neighboring residential property line.
  - (d) In determining whether or not the proposed Conditional Use Permit should be issued, a determination of compatibility with adjacent land uses shall be made by the Town Plan Commission in issuing this Conditional Use Permit. If it is determined that it would in any be incompatible and represents an adverse effect or nuisance to adjacent land uses, the Conditional Use Permit will not be issued.
  - (e) The conditional use permit shall be reviewed every two years by the Town Plan Commission in order to determine conformance with the terms of the permit and its compatibility with the adjacent land uses. If it is determined that the conditional use permit is no longer compatible, or that the provisions of the permit have not been complied with, the conditional use permit may be revoked or amended in accordance with the procedures outlined in this Code.

(12) **Conversions of Existing Barns and/or Farm Buildings.**

- (a) Where permitted, rentals of existing barns and farm buildings for the storage of machinery, equipment, vehicles, boats, furniture and similar items, under the circumstances described in the following sentence, may be permitted as a conditional use in the, A-5 and A-1 districts, where the parcel was the original farmstead and is not a lot in a recorded subdivision plat. This conditional use permit is required whenever items that are not owned by the lot owner or by a person lawfully residing on the lot, are stored in existing barns or farm buildings, and for which storage the owner of the items pays rent, provides goods or services, or provides other consideration.
- (b) Conditions under which the conversion will be permitted. Conditional use status will not be granted to any conversion for the use of an existing barn or farm building for the storage of machinery, equipment, vehicles, boats, furniture or similar items, unless all of the following conditions are met:
  - (i) The use, if it is allowed, will be allowed only in buildings as they exist on the premises on the effective date of the Code from which this Section is derived, except as otherwise described in this Code.
  - (ii) No additional buildings or additions may be made without the expressed approval of the Town Plan Commission in accordance with the terms of the applicable ordinances. No new buildings will be allowed for the purpose of rental storage.
  - (iii) An up-to-date Plat of Survey must be submitted with the application for the conditional use detailing the size, offsets and use of all existing structures on the subject parcel.
  - (iv) The parcel must have access to an arterial or collector street as established by the Town of Genesee or as defined by the Waukesha County Established Street and Highway Width Map.
  - (v) There shall be no outside storage allowed. Storage of machinery, vehicles, equipment, boats, furniture or other similar items outside overnight shall be considered a violation of the terms of any conditional use permit issued under this subsection and grounds for termination of such permit.
  - (vi) Water supply facilities and the necessary septic system shall be in accordance with the rules of the County Department of Parks and Land Use, Environmental Health Division and the State Department of

Commerce.

- (vii) There shall be no commercial signs associated with the proposed use.
- (viii) A detailed landscaping plan indicating the size, type, location and time table, for installation shall be submitted and approved by the Town Plan Commission prior to issuance of the conditional use permit.
- (ix) The buildings and grounds shall be maintained in a neat, attractive and orderly way.
- (x) The property shall comply with all rules and regulations of the Town, the appropriate state building code and the local fire department regulations, including submission to routine inspections by the Town and fire department.
- (xi) In determining whether or not the proposed conditional use permit shall be recommended, a "determination of compatibility" with adjacent land uses shall be made by the Town Plan Commission. In making this determination, the Town Plan Commission shall consider the Town of Genesee Comprehensive Development plan – 2035 to determine whether there will be any potential conflicts with future development, which may occur in accordance with the Town of Genesee Comprehensive Development Plan 2035.
- (xii) The building plans, site plan and plan-of-operation shall be submitted to and approved by the Town Plan Commission.
- (xiii) When the proposed use includes the storage of equipment and vehicles normally associated with an ongoing business, the use shall be explicitly for storage. There shall be no office permitted on such premises, nor shall the building be occupied for any reason other than periodic pickup and return of equipment on a seasonal basis.
- (xiv) If there are complaints about unusual noise inconsistent with the normal operations of such storage buildings, the Town Plan Commission may recommend that a public hearing shall be held upon due notice and shall make reasonable rules and regulations in regards to rectifying the conflicts with adjacent land uses or terminate the use.
- (xv) Any building used for such storage shall be at least 50 feet from all side and rear lot lines

- (xvi) If the Town of Genesee Plan Commission requests the Town Board to review the subject conversion, the Town Board may impose additional reasonable conditions upon the issuance of the conditional use permit. As a condition precedent to the issuance of the conditional use permit, the petitioner is required to accept the terms and conditions of the conditional use permit in its entirety, in writing.
- (13) **In-law units.** In A-5, E-C, A-1, A-2, A-3, R-1, R-2, R-3, B-1, B-2, and all planned unit developments subject to the following:
- (a) The building plans, site plan, and plan of operation shall be submitted to and approved by the Town Plan Commission.
  - (b) The county health department shall certify that the septic system will accommodate the proposed use.
  - (c) The maximum living area in an in-law unit shall not exceed 800 square feet for a one-bedroom unit and 900 square feet for a two-bedroom unit.
  - (d) There shall be an additional parking space for the in-law unit.
  - (e) The architecture of the residence shall be compatible with the adjacent residential neighborhood and should appear to be a single-family residence. All other appropriate zoning district requirements for the principle living unit shall apply. A common entrance to the residence and in-law unit shall be designed into the structure so that a separate front entrance, off of the common entrance, is available and the structure does not appear to be a duplex.
  - (f) The Town Plan Commission may determine that it is appropriate to have an interior door between the living units.
  - (g) A deed restriction shall be filed in the Waukesha County Register of Deeds' Office prior to issuance of the building permit indicating that this living unit is for family members of the principal dwelling unit only. This Deed Restriction shall state the in-law unit is to be occupied by persons related by blood or marriage to the family occupying the principal unit and that the Conditional Use is not transferable without formal approval of the Town Plan Commission without necessity of a public hearing and that the unit will be used as intended.

- (14) **Landscaping, and Lawn and Garden Businesses** In Q-1, M-1 and M-2 districts such uses shall be considered permitted by right. In A-1, A-5 and B-3 districts such uses shall be considered conditional uses subject to the following:
- (a) The minimum lot area shall be at least five (5) acres.
  - (b) All buildings used in the conduct of the business shall be located at least one hundred-fifty (150) feet from the lot line of an adjoining lot in residential district or at least fifty (50) feet from a lot line of an adjoining lot in any other district.
  - (c) No such use shall be allowed on any parcel, except as may front directly upon and have access to an arterial or major collector street, as defined in this Code or within an established industrial park, where the roads can accommodate the heavy equipment.
  - (d) A planting screen at least ten (10) feet high in initial height and fifteen (15) feet wide shall be provided between any abutting property line and the proposed use. The Town Plan Commission may increase or decrease the planting screen requirements as may be deemed appropriate. All Landscaping shall be installed within three (3) months from conditional approval of the Town Plan Commission.
  - (e) In determining whether or not the proposed conditional use should be approved, the Town Plan Commission shall make a determination that the proposed conditional use is compatible with adjacent land uses and the surrounding area as it relates to noise, traffic, dust, hours of operation etc. If it is determined that the proposed conditional use would in any way be incompatible with the adjacent land uses, conflict with future development of the area, or represent an adverse effect or nuisance to adjacent land uses, the proposed conditional use shall not be approved.
  - (f) A Site Plan and Plan of Operation shall be submitted to the Town Plan Commission for review and approval and must include the type and quantity of equipment and vehicles owned or leased by the property owner, the location and type of storage of materials, location of all greenhouses, shade houses and storage bins, parking areas for customers and employees, signs, toilet facilities, fuel storage facilities, landscaping and lighting plans, dumpsters, and hours of operation.
  - (g) The Town Plan Commission shall determine the percentage of the property that may be devoted to the landscaping, lawn and garden business and the more restrictive determination shall apply.
  - (h) The landscaping and lawn and garden business is restricted to a service-oriented

business and is prohibited from manufacturing or assembling products. The sale of products on the premises which are not produced on the subject property is prohibited unless expressly permitted or permitted subject to specific conditions in the conditional use permit (i.e., mulch, fertilizer, decorative stone).

- (i) The conditional use permit shall restrict the number and types of machinery and equipment the business operator may be allowed to bring onto the premises and whether the machinery and equipment must be stored inside a building and repaired or maintained on exterior of the premises.
- (j) The design and size of the structures used in the operation of the business shall be subject to conditions in the conditional use permit.
- (k) The conditional use permit shall automatically expire and terminate on the sale of the property. A deed restriction to that effect shall be filed in the Waukesha County Register of Deeds Office prior to conditional use permit being issued.
- (l) All offices, vehicle storage, greenhouses, shade houses, storage bins, maintenance or service facilities, hazardous chemical or salt storage facilities shall comply with all applicable commercial building codes and regulations of the Town, County, State of Wisconsin and federal governments and all Town Ordinances.

(15) **Legal nonconforming uses.** In any district as provided by Section 27 of this Code.

(16) **Limited Family Business:** The purpose and intent of this Section is to provide a listing of procedures and standards of operation for limited family businesses that may operate in an attached garage or detached accessory building under a conditional use permit in A-B, A-1, A-2, A-3, A-5, R-1, R-2 and R-3 districts subject to the following:

- (a) A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owners and any future development of the area. Any expansion of the limited family business will be subject to an amendment to the conditional use permit and, if said amendment is denied, the conditional use permit would either terminate or the expansion could not take place.
- (b) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission.
- (c) All employees, except one (1) full-time equivalent, shall be members of the family residing on the premises.



- (d) The Town Plan Commission shall determine the percentage of the property that may be devoted to the limited family business and the more restrictive determination shall apply.
  - (e) The limited family business is restricted to a professional office, service-oriented business or home occupation business with very limited or no onsite customers and is prohibited from manufacturing or assembling products. The sale of products on the premises not produced by the limited family business is prohibited. The sale of products available for sale as accessories to the business may be permitted or limited by specific conditions in the conditional use permit (i.e., hair care products such as shampoo and conditioners normally associated with a business that cuts or styles hair).
  - (f) The conditional use permit shall restrict the number and types of machinery and equipment the limited family business operator may be allowed to bring onto the premises and whether the machinery and equipment must be stored inside a building.
  - (g) The structures used in the limited family business shall be considered to be residential accessory buildings and shall meet all requirements for such buildings. The design and size of the structures are subject to conditions in the conditional use permit.
  - (h) The conditional use permit shall automatically expire and terminate on the sale of the property or its transfer to a non-occupant of the property. A deed restriction to that effect shall be filed in the Waukesha County Register of Deeds Office prior to conditional use permit being issued.
  - (i) The limited family business shall not operate on a parcel having less than the minimum parcel size for the district in which it is located. For certain uses which are determined by the Town Plan Commission to have a potential adverse effect on adjacent residential zoned properties, additional requirements regarding location and site standards (i.e., screening) may be required as conditions of the use.
- (17) **Motels and Hotels.** In B-2 and B-3 districts only, subject to the following:
- (a) The building plans, site plan, and plan of operation shall be submitted to and approved by the Town Plan Commission.
  - (b) No such use shall be permitted on a lot less than three (3) acres in area.

- (c) At least one off-street parking space shall be provided for each rental unit.
  - (d) No building shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.
- (18) **Multifamily units and condominiums.** In A-5, R-3, B-1, B-2, planned unit developments or conservation design subdivisions subject to the following:
- (a) The minimum lot area shall be determined by the number of units to be constructed. The number of units shall be based on a density of one (1) unit for each fifteen thousand (15,000) square feet of land area, exclusive of Wetlands or Lands Zoned C-1. Where the use will be served by municipal sewerage, the density requirements can be reduced to a minimum of nine thousand (9,000) per dwelling unit. The width of the Lot shall be increased as the size of the Lot increases in order to avoid excessively long and narrow lots and shall, however, be no less than one hundred and eighty (180) feet in width. The amount of green space, exclusive of parking areas, sidewalks driveways, roads and other paved areas or impervious surfaces shall be five thousand (5,000) square feet per unit.
  - (b) The manner in which the units are to be serviced with sewage disposal is subject to the approval of the State Department of Commerce and the Waukesha County Environmental Health Division, prior to approval by the Town Plan Commission.
  - (c) The minimum floor area per unit shall be nine hundred (900) square feet for one-bedroom units, one thousand (1,000) square feet for two-bedroom units, and one thousand one hundred (1,100) square feet for three-bedroom units.
  - (d) Architectural review of the project shall be required by the Town Plan Commission.
  - (e) There shall be two (2) off-street parking spaces for each dwelling unit. The location and arrangement of these spaces is subject to approval of the Plan Commission.
  - (f) The offset, setback and landscape requirements are subject to modification by the Town Plan Commission. However, the offset requirements shall not be reduced to less than twenty (20) feet from the lot line of an adjoining residential district. The setback shall be a minimum of fifty (50) feet. The maximum height shall not exceed thirty-five (35) feet. Additional height may be permitted if the offset and setback requirements are increased by one (1) foot for each additional one (1) foot in height above thirty-five (35) feet.
  - (g) Only a duplex (2-family residential use) may be allowed in an A-5 Mini Farm

District and only if the duplex is proposed to be made by conversion of a farm dwelling that existed at the time of the adoption of the original basic Zoning Code by Waukesha County in February 26, 1959.

- (h) The location and building plans, and a Site Plan and Plan of Operation shall be submitted to and approved by the Town Plan Commission.
- (19) **Other uses.** Other uses or situations not specifically provided for in this conditional use Section and which may be determined to be acceptable under the provisions of this Code. Such determination shall be made by the Town Plan Commission to meet the intent of the conditional use provisions as set forth in this Section.
- (20) **Planned unit development:** Due to increased urbanization and the associated Greater demands for open space and the need to create a more desired and creative Living environment than would result through the strict application of the standard zoning requirements, it is herein provided that there be flexibility in the regulations governing the development of land. This provision is intended to encourage planned unit development in directions which will recognize both the changes in design and technology in the building industry and the new demands in the housing market. It is intended that these provisions create imaginative and interesting communities with substantial open area owned in common or dedicated to the public and for the enjoyment of the residents, and will encourage a more efficient and desirable use of the land and open space areas thereby resulting in more variety of the physical development of the Town. An overall development plan showing how the above objectives are to be achieved must be submitted to the Town Plan Commission for review and approval. This use is permitted in any district except A-B, A-E, and AD-10 and RRD-5 Districts except that no portions of any building lots or structures shall be allowed in the C-1 or A-E Districts, subject to the following:
  - (a) **Intent and purpose.** Such uses may be permitted any size parcel when appropriately located and where the unified and planned development of such tract would allow a more desirable utilization of the site and produce a more aesthetically and economic development than would result from the application of conventional district regulation.
  - (b) **Application and regulations.**
    - (i) The unified and planned development of a site, in single, corporate ownership, or common ownership under the Condominium Ownership Act (Wis. Stats. § 703.01 et seq.) at the time of development, may be permitted in a planned development without the customary division into individual lots and without requiring strict compliance to the specific district regulations, subject to the requirements of this subsection. Lot

size, offset, setback, height, building location, and floor area requirements may be modified according to the following conditions:

- 1 All sanitary and water provisions are in conformance with the requirements of the State Department of Commerce, the Waukesha County Division of Health Department and the local sanitary district.
  - 2 The proposed development is in conformity with the Town of Genesee Comprehensive Land Use Plan - 2035, is not contrary to the general welfare or economic balance of the community and that the benefits and amenities of the resultant development justify the variation from the normal requirements of the district in which it is located.
  - 3 All other requirements of the planned development are met as set forth in this Section.
- (ii) Required standards as established by the Town relative to road design, drainage or other engineering parameters may be modified subject to the conditions of approval as long as such modifications are consistent with good engineering practice and the approval of the Town Board.
- (iii) **Residential Planned Unit Development:**
- 1 The following table may be utilized to compute the maximum dwelling unit density requirements of the P.U.D., except those areas which are Upland or Secondary Environmental Corridors are also subject to (2) below.

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

\*Calculation for Environmental Corridor shall occur as established in (2) below.

- 2 If all of the Upland, Primary and Secondary Environmental Corridor or Environmental Corridor zoned lands are preserved to the greatest extent possible in their entirety within the public open space or common open space and preserved in its natural state, the density of one unit per five (5) acres may be added to the maximum number of dwelling units derived from utilizing the table above.
- 3 Lands currently zoned C-1 or A-E may not be used in formulating the density of the project.
- 4 Public open space or common open space shall be of a size and shape to provide an integrated system of open spaces to the greatest extent possible and to provide protection of environmentally significant lands: they shall not consist of long, narrow bands or corridors, but shall be larger blocks or wide corridors of land, usually not less than one (1) acre in area. Corridors linking large blocks of public open space or common open space shall be not less than fifty (50) feet in width to provide adequate buffers from adjacent residential lots. The size, shape and location of said public open space or common open space shall be subject to review and approval of the Town Plan Commission in order to qualify the project for consideration as a P.U.D. Public open space or common open space shall be a minimum of forty (40) percent of the entire development, while no more than ten (10) percent of the entire acreage of the development included in the required forty (40) percent open space can be Conservancy or A-E zoned land. In any development, no more than five (5) percent of the public open space may be used for public buildings, such as schools, fire stations, municipal buildings, etc.
- 5 In public open space or common open space containing environmentally significant areas, a maximum of 2% of the environmentally significant areas may be used for limited construction of recreational related structures and recreational/trails.
- 6 Public open space or common open space shall contain at least 90% green space. Such public open space or common open space shall not be part of individual residential building lots and all but 5% of the open space shall be free of structures and impervious surface. The Town Plan Commission may increase as a

special exception the maximum requirement in conformance with the overall intent of these provisions while also protecting the public's interest.

- 7 Adequate guarantees shall be provided for permanent retention of the open space resulting from these regulations, either by private reservation for use of the residents within the development or others as may be specifically provided for, i.e.: farmers use of open space, dedication to a public entity or development of a private recreational facility open to the general public in perpetuity for a fee, subject to Town Plan Commission approval. There shall not be any clear cutting or clearing of vegetation other than dead, diseased or dying vegetation or removal of invasive species on any lands being so preserved in public open space or common open space which are considered Primary or Secondary Environmental Corridor or Isolated Natural Areas, as depicted on the Town of Genesee Comprehensive Land Use Plan -2035, except as provided in (5) for limited trail or recreational related development.
  - 8 Perpetual care and maintenance of public open space or common open space shall be provided for by an agreement recorded with the Waukesha County Register of Deeds. Said agreement shall include an operation plan, which shall preserve the natural qualities of the environmentally significant lands. The agreement shall be submitted to and approved by the Town Plan Commission, and may be subject to review by the Waukesha County Naturalist if required by the Town Plan Commission and this condition is not satisfied unless all such appropriate approvals are granted.
  - 9 Ownership and tax liability of the open space areas shall be established in a manner acceptable to the Town Plan Commission and shall be made part of the conditions of approval.
- (iv) **Commercial P.U.D.:** The use of a Commercial P.U.D. may be authorized only where the underlying zoning is mapped in one or more of the business districts (except the Downtown Business District) on the parcel or a portion thereof. If only a portion is zoned for business, the commercial P.U.D. may only be used for the same percentage of the site that would result from the normal application of the Business district requirements. The location of the proposed business uses can however, be flexed on the site so long as no more area is devoted to such use than

is permitted in the underlying district. The attendant parking areas and service facilities for the commercial areas shall be included in the areas allocated to such non-residential uses.

- 1 The proposed P.U.D. shall be served by adequate off-street parking, loading and service facilities.
- 2 The P.U.D. shall not create an adverse effect upon the general traffic pattern or adjoining property values.
- 3 Architecture, landscaping, lighting and general site development shall be compatible with the surrounding neighborhood.
- 4 The aforementioned requirements shall be certified by the Town as having been fully met.

(v) **Mixed P.U.D.:** A mixed P.U.D. shall consider allowing a mixture of business, residential or other uses as the underlying zoning would allow. The percentage of area in the project shall be the same as would result from the application or the strict adherence of the normal district regulations. The location of the uses can; however, be flexed on the site so long as no more area is devoted to the various uses than would be permitted in the underlying zoning district. The attendant parking and service facilities for the non-residential part of the project shall be included in the area allocated to such non-residential uses.

- 1 The proposed mixture of commercial, industrial, residential, and other uses shall produce a unified development, which is compatible both within itself and with the surrounding neighborhood.
- 2 The mixed uses shall conform to the general requirements applicable to each of them as here-in-before set forth.
- 3 The maximum allowable dwelling unit density shall be computed using only the residential area portion of the total P.U.D. area. If residential use and non-residential use occur in the same proposed building, that percentage of the commercial use of the building shall be deducted from said building lot, and only the remaining area shall be used in the density computation for the remaining residential units.

- (vi) After all conditions of a planned unit development project are certified by the Town as being completed, the conditional use status of such completed development shall be changed to a permitted use in the district in which it is located.
- (vii) **Example - Computing Maximum Dwelling Unit Density in a Planned Unit Development:** A developer wishes to divide one hundred (100) acres of land into a planned unit development. Ten (10) of these acres are zoned C-1 Conservancy. The rest is zoned R-1 Residential. The preliminary plan shows an additional ten (10) acres proposed for commercial uses but not zoned for business.

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

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

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

(c) **Specific project regulations.**

- (i) The Town Plan Commission shall have the right to require additional open space around the outer boundaries of the proposed PUD or selected lots to be substantially larger than the minimum in order to provide natural buffers for existing developments and for the purposes of blending the proposed development with surrounding subdivisions and other developments.
- (ii) Agreement with the Town. The developer shall enter into a developer's



agreement with the Town to guarantee the implementation of the development according to the terms of the conditions established as part of the development plan approval.

(d) **Basis for approval.** The Town Plan Commission in making its determination, as to the approval or denial of the conditional use permit for the planned development, shall give consideration to the purposes set forth in this subsection, and be satisfied as to the following:

- (i) That the proposed development is consistent with the spirit and intent of this subsection, is in conformity with the general character of the Town and would not be contrary to the general welfare of the Town or of the immediate neighborhood.
- (ii) The benefits from the anticipated improved design of the resultant development shall justify the variation from the normal requirements of this subsection through the application of this subsection.
- (iii) That the size, quality and architectural design of all buildings in the project will not have an adverse effect upon the general character of the Town and surrounding neighborhood.
- (iv) That the provisions and facilities of the open space areas being provided are of such quality, size and aesthetic value to justify the approval of the project.
- (v) That the setbacks shall be maintained along any boundary street of the project area, as required by the existing underlying basic district.
- (vi) That no building shall be permitted closer to a side or rear boundary lot line of the project area than required by the applicable side or rear yard requirements of the adjoining underlying basic district.
- (vii) The approval of a petition for conditional use shall be based on and include as conditions thereto the basic architectural design, the site plan, the operational plans for the development as approved, as well as all other commitments offered as required in regard to project value, character or other factors pertinent to an assurance that the proposed development will be carried out basically as presented for the project.

(e) **Application procedures.**

- (i) **Filing procedure to initiate projects and pre-application conference.** The

following information shall be submitted prior to any requests for approval of any type of a planned unit development. The applicants are required to submit a site analysis map at the time they submit an application for a pre-application conference. The purpose of the site analysis map is to ensure that the important site features have been adequately surveyed and identified and this information has been or will be incorporated into the site design. This will give the Town Plan Commission, Town Planner and the Town Engineer the necessary information to understand the physical features of the site in their review of the sketch plan and make recommendations for changes before the applicant has invested in the final site design. The site analysis map shall show:

- 1 Property boundaries;
- 2 All streams, rivers, lakes, wetlands and other hydrological features;
- 3 Topographic contours with intervals of two feet or less;
- 4 Each primary environmental corridor, secondary environmental corridor and isolated natural resource area labeled by type;
- 5 General vegetation characteristics;
- 6 General soils types by group;
- 7 The planned boundaries of protected open space;
- 8 Existing roads and streets;
- 9 Open space and trails traversing, or adjacent to the site, whether existing or planned. Any other information reasonably necessary for the Town Plan Commission to make a determination;
- 10 All class I and II soils for agricultural uses;
- 11 Aerial photographs with a scale of one-inch equals 100 feet; and
- 12 Any groundwater recharge areas designated by the Southeastern Wisconsin Regional Plan Commission or the State Department of Natural Resources.

(iii) **Sketch plans.**

- 1 The applicant shall also submit the following sketch plans:
  - a. A sketch plan of a planned unit development complying with all the open space regulations, densities and lot size requirements of this Code and with the Town land division and development control ordinance.
- 2 The individual sketch plan shall be prepared by using a four-step process, which includes the following:
  - a. A detailed site analysis of all the physical features and resources of the subject property;
  - b. Submit a map showing the number and location of the individual house sites as allowed by the density of the applicable zoning district;
  - c. Locate the proposed roads to accommodate all proposed home sites while preserving the physical features of the site and complying with the road standards in the Town of Genesee Land Division and Development Control Ordinance; and
  - d. Designate lot lines for the house sites in accordance with the minimum lot size requirements of this Ordinance.

(iv) **Application.** Following the pre-application conference, an official submittal shall be made to the Town clerk and shall include 15 copies each of the conventional layout and the proposed planned unit development map, preferably on a topographic map, drawn at a scale of 100:1, showing the following:

- 1 The size, arrangement, and location of all lots, blocks, and all proposed buildings or building groups located within the common area;
- 2 The pattern of public streets, existing and proposed utility easements, and other public improvements;
- 3 The location of recreational open space and areas reserved or dedicated for use by the residences;

- 4 The general landscape treatment with particular attention given to the treatment and creation of buffer zones between the proposed planned unit development and any adjacent development whether residential or otherwise;
- 5 Existing topography and storm water drainage, and proposed storm water drainage systems, showing basic topographic changes and proposed grading elevations;
- 6 All physical features of the site, such as wetlands, primary and secondary environmental corridors, isolated natural areas, and historic features;
- 7 All types and locations of trees greater than eight-inch caliper in the buildable area. This requirement may be waived by the Town Plan Commission if it is determined during a site visit that no public or private improvements will occur on area on the site containing trees;
- 8 A completed Town land division review checklist;
- 9 Statistical data on the total size of the project area, area of the open space, density computations, proposed number and types of residential units, an economic and market analysis, impact on municipal services, wetlands, groundwater and other environmentally sensitive areas and any other pertinent data required by the Town Plan Commission;
- 10 Anticipated amounts of impervious surface including all proposed public and private improvements;
- 11 A general summary of financial factors such as estimated improvement costs, amounts proposed for landscaping and special features, and total anticipated development cost of project;
- 12 General outline of intended organizational structure related to property owner's association, architectural review committee, deed restrictions, and provision of utility and other services;
- 13 A project staging plan which outlines a timetable for project

development including, but not limited to, road cutting, utility hookups, building constructions, landscaping, and open space/recreational areas provision; and

14 An environmental impact assessment of loss of plant species and animal habitat, farmland, wetlands, soil erosion, surface and groundwater hydrology, water quality, aquatic species and air resources may be required if deemed reasonably necessary by both the Town Plan Commission.

(v) **Fees.** A fee, as set by Town Board resolution from time to time, shall accompany each application. Such fee shall be paid by cash, check, or money order to the Town of Genesee to defray the costs of review. The costs incurred by the Town in obtaining legal, planning, engineering, and other technical and professional advice in connection with the review of the application and preparation of conditions for such uses shall be charged to the applicant and, if required by the Town, a fee covering such costs shall accompany the application.

(vi) **Procedure.**

1 **Referral for action by the Town Plan Commission.** The Town Planner shall, within 30 days after receipt of the application, determine whether the application fulfills the requirements of this Section. If the staff determines that the application is complete and fulfills the requirements of this Section, the staff shall refer the same to the Town Plan Commission to schedule a public hearing, in accordance with this Code. If the staff determines that the application is not complete and does not fulfill the requirements of this Section, they shall return the application to the applicant. When the application meets the staff's approval, it shall be referred to the Town Plan Commission and the Town engineering consultants for their report and recommendation. Upon completion of the necessary study and investigation, the Town Plan Commission shall make its decision, as to the appropriateness and desirability of the proposed project with the density factor requested, the suitability of the proposed development, and any changes or additional conditions applicable to such plans, which they may feel are necessary and appropriate.

2 **Basis for approval.** The Town Plan Commission, in its recommendation shall give consideration to and be satisfied as to

the following:

- a The proposed development is consistent with the spirit and intent of this Code and will not be contrary to the general welfare and economic prosperity of the Town, but rather that the benefits derived by utilizing the planned unit development and, welfare and economic prosperity of the Town, but rather that the benefits derived by utilizing the planned unit development and, in keeping with the current economic and social consideration, justifies the application of the planned unit development technique;
- b Such development conforms to the adopted Town of Genesee Comprehensive Land Use Plan – 2035 and its components;
- c The size, quality, and architectural design of all buildings in the project shall not be of such as to have an adverse effect upon the general character of the Town or the surrounding neighborhood;
- d Functional utility and relationship of the lots or units to the common open space and facilities provided shall be of such quality, size, and aesthetic value as to meet the purpose and intent of this Section, and that all other required preserved areas are preserved or protected unless disturbed to accommodate a road as designated on the Town's official map;
- e The approval shall be based upon satisfaction of standards of this Code and shall include any conditions of approval applicable thereto, regarding the building design, site layout, and operational plans, as well as all other commitments offered and required in regard to project value, character, or other factors pertinent to an insurance that the proposed development will be carried out as approved;
- f The plan will result in preservation of open land in a manner, which will enhance the total environmental setting and desirability of the development and of the neighborhood and that adequate guarantee is provided

for permanent retention as common open space of the residential open land areas resulting from the application of these standards. These are by private reservation or by dedication to the public; and

- g Ownership and tax liability of the private open space preservation areas shall be established in a manner acceptable to the Town attorney and made a part of the conditions of this specific plan approval.

3 **Conditions for preparation of final plat.** After issuance of a conditional use permit, and approval or conditional approval of the preliminary plat, the final plat shall be prepared in accordance with the conditions specified and the following shall be submitted:

- a **Developers agreement:** A contractual agreement between the Town and the Owners of the development setting forth all of the obligations and commitments required by the Town.
- b **Rights-of-way, easements, exact net area:** The subdivision plat or certified survey map shall show all rights-of-way, easements, and the exact net area.
- c **Homeowners Association bylaws:** The Homeowners Association documents of incorporation and bylaws shall be submitted to and approved by the Town Attorney and Town Planner and placed on record with the Town Clerk and be recorded in the Waukesha County Register of Deeds Office. Proof of recordation shall be presented to the Town Clerk. Such documents must conform to all state and local requirements for the protection of the property owners and the Town.
- d **Utility and storm water facility easements:** Wherever required by the Town, utility companies or Waukesha County Land Resources Division and conforming to the form and specifications of the Town and county.
- e **Construction routes:** A map of the development showing the access points to be used by construction vehicles during the course of construction, and which shall become part of the contract between the Town and the

Developer, with such provisions for enforcement as provided in the contract.

- 4 **Consultant and legal fees:** If the Town incurs consultant or legal fees to prepare or review any aspect of the proposed development, the Town will notify the petitioner of what portion of fees shall be charged to petitioner, and all such charges shall be paid in full before execution of the final document by the Town, in the form of a final plat, certified survey map, or condominium plat.
  - 5 **Financial guarantee to complete construction of improvements in planned unit development:** A letter of credit or cash escrow in a state financial institution or other satisfactory financial guarantee in a form and amount approved by the Town Attorney or Town Board to cover the cost of all improvements and facilities agreed upon in the conditional use permit and final plat or certified survey map.
  - 6 **Recording:** The conditional use shall be recorded in the Waukesha County Office of the Register of Deeds to affect the real estate upon which the conditional use is granted. A copy of the recorded document shall be submitted to the Town Clerk
- (vii) **Subsequent changes or additions:** Any subsequent changes or additions to an approved plan shall first be submitted for approval to the Town Plan Commission and, if it is the commission's opinion such change or addition is not substantial, it may recommend approval to the Town Board. The following shall automatically be construed to be substantial:
- 1 An increase in the number of dwelling units from that shown in the approved project;
  - 2 A significant change in the size or type of structure from that contained in the approved conditional use.
  - 3 The addition of any principal uses not included in the approved conditional use; and
  - 4 Any change in the basic concept of the site development, which would significantly alter the relationship of uses or open space.

(21) **Private clubs and outdoor recreational facilities, such as gun clubs, hunting preserves,**



**outdoor shooting range, recreational camps and centers, indoor/outdoor recreational and athletic facilities, golf courses, bathing beaches, riding academies, resorts.** In A-1, B-1, B-2, B-3, B-4, B-P, M-1 and M-2 districts subject to the following:

- (a) The building plans, site plan, and plan of operation shall be submitted to and approved by the Town Plan Commission.
- (b) No such use shall be permitted on a lot less than five (5) acres in area, except in a restricted business or less restrictive district.
- (c) No building, other than one used only for residence purposes, shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
- (d) Off-street parking shall be provided as required by the Town Plan Commission adequate to meet the particular needs of the proposed use.
- (e) No such permitted use shall include the operation of a commercial facility such as a bar; arcade or restaurant, except as may be specifically authorized in the grant of permit.
- (f) No portion of the environmental corridor district may be disturbed or vegetation removed, as part of the development of the site for the proposed use, unless specifically approved by the Town Plan Commission. This includes the structures, parking, walkways, recreational uses, septic system location, etc.
- (g) All such uses shall comply with any applicable requirements of the Town of Genesee Code of Ordinances.
- (h) A detailed Landscaping Plan shall be provided to screen property and proposed use from any and all residential uses. Plants shall be a minimum of eight (8) feet in initial height.
- (i) All outdoor lighting fixtures shall be fully shielded, full cut-off and down casted to prevent fugitive lighting onto adjacent properties or the roads. Zero candle watts shall be maintained at all property lines.

- (22) **Public and semi-public structures and uses.** In P-I such uses shall be considered permitted by right. In In A-1, B-1, B-2, B-3, B-4, B-P, Q-1, M-1 and M-2 districts, subject to the following:

- (a) The building plan, site plan, and plan of operation shall be submitted to and approved by the Town Plan Commission;
- (b) Such use or structure shall conform to the setback, height, and double the offset requirements of the district in which it is located; and
- (c) The height limitation shall be extended to a maximum of 50 feet; provided, the minimum required setbacks and offsets shall be increased 2 feet for every additional foot in height in excess of the permitted maximum of the district.
- (d) A detailed Landscaping Plan shall be provided to screen property and proposed use from any and all residential uses. Plants shall be a minimum of eight (8) feet in initial height.
- (e) All outdoor lighting fixtures shall be fully shielded, full cut-off and down casted to prevent fugitive lighting onto adjacent properties or the roads. Zero candle watts shall be maintained at all property lines.
- (f) Schools shall maintain a minimum lot size of 15 acres for Elementary and Middle Schools and thirty (30) acres for High Schools.

(23) **Quarrying.** In A-1, A-5, Q-1 and M-2 districts, subject to the following:

(a) **Procedure for application.**

- (i) **Permit:** No quarrying operation shall take place in any district until a conditional use permit has been received and approved by the Town Plan Commission, and Town Board. Except in a quarrying or general industrial district, such permit shall be for an initial period as is deemed appropriate to the specific situation but not to exceed five (5) years, and may be renewed thereafter for periods not to exceed three (3) years provided application thereof shall be made at least sixty (60) and no more than one hundred twenty (120) days before expiration of the original permit. Application after such date shall be treated as an original application.
- (ii) **Application.** Application for a quarry permit shall be made on forms supplied by the clerk and shall be accompanied by:
  - 1 A fee in accordance with the established fee schedule to defray the cost of notification and holding of public hearings, review of application and referrals to affected public agency.

- 2 A description of all phases of the contemplated operation and the type of machinery or equipment that will be used to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made part of the description.
- 3 A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation.
- 4 A topographic map of the area at a minimum contour interval of five feet extending beyond the site to the nearest public street or highway or to a minimum distance of 300 feet on all sides.
- 5 A reclamation plan as required by Chapter 400 – Mining, Nonmetallic, of the Town of Genesee Code of Ordinances, and any applicable nonmetallic mining reclamation statute and any other ordinance adopted by the Town.
- 6 An environmental and economic impact assessment for the proposed facilities satisfying local and regional review agency requirements.

(b) **Procedures for action on applications.**

- (i) **Referral to Town Plan Commission.** The application and all data pertaining thereto shall be referred to the Town Plan Commission for review and consideration per standard conditional use procedures.
- (ii) **Public hearing.** Within 65 days after an application has been filed, a public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing as provided in this Code, notices shall be sent through the mail to all land owners within a half-mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed or delivered at least ten days prior to the date of hearing. Substantial compliance with the notice requirements of this Section shall be deemed sufficient.
- (iii) **Action by Town Board.** The Town Board shall within 45 days after receipt of the recommendation of the Town Plan Commission, take action to approve or disapprove the application for the proposed quarrying

operation. Such determination shall be guided by consideration of the public health, safety and welfare and shall give particular consideration to the following factors:

- 1 The effect of the proposed operation on existing roads, and traffic movements in terms of adequacy, safety and efficiency.
  - 2 The effect of the proposed operation on drainage and water supply.
  - 3 The possibility of soil erosion as a result of the proposed operation.
  - 4 The effect of dust and noise as a result of the proposed operation.
  - 5 The practical possibility of restoration of the site and its reuse.
  - 6 The effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area.
  - 7 The most suitable land use for the area with particular consideration for future residential value.
  - 8 Any other factors deemed necessary by the Town Board.
- (iv) **Additional conditions:** Any conditions accessory to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the Town.
- (v) **Renewals.** The procedure as designated in subsections (b)(i-iv) of this Section shall apply to applications for renewal of a permit. Determination in regard to renewal shall be based on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the Town.
- (c) **Requirements.**
- (i) **General requirements.** No part of the quarrying operation shall be permitted closer than one thousand (1,000) feet, nor shall any accessory access road, parking area, or office building be permitted closer than five hundred (500) feet to a district zoned A-2, A-3, R-1, R-1a, R-2, or R-3 at

the time of the grant of permit except with the written consent of the owners of all A-2, A-3, R-1, R-1a, R-2, or R-3 zoned properties within one thousand (1,000) feet, except in a quarrying or general industrial district, but in no case shall such operation be permitted closer than two hundred (200) feet to any residential district.

- (ii) No quarrying operation shall be permitted except in a quarrying or general industrial district, if thirty (30) or more families reside within a band one-half mile wide around the perimeter of the proposed operation.
  
- (d) **Setback Requirements;** No part of the quarrying operation other than access roads shall be located closer than two hundred (200) feet, nor shall any accessory parking area, stock pile, or office building be located closer than one hundred (100) feet to the base setback line along any street or highway.
  
- (e) **Offset requirements:** No part of the quarrying operation shall be permitted closer than two hundred (200) feet, nor shall any accessory access road, parking area, or office building be permitted closer than fifty (50) feet to any property line except with the written consent of the owner of the adjoining property, or except where said line is abutting a quarrying or general industrial district, or abutting an existing quarrying operation, but in no case shall such operation be closer than twenty (20) feet to any property line except by agreement between abutting quarrying operations, or be in conflict with the provisions of this Code relating to preservation of topography.
  
- (f) **Operational requirements:**
  - (i) Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where in the determination of the Town Board such facilities are necessary for the protection of the public and shall be of a type approved by the Town Board. No part of the quarrying operation or buildings shall be permitted closer than 50 feet to any property line except with the written consent of the owner of the adjoining property.
  
  - (ii) All machinery and equipment used in the operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in dust-free condition by surfacing or treatment as directed by the Town Engineer and approval of the Town Board.

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

(g) **Restorative requirements.**

- (i) In order to ensure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the Town Board a plan for such restoration in the form of the following: approval of the Waukesha County Department of Parks and Land Use, Land Resources Division, a plan for such reclamation in accordance with Chapter 400 – Mining, Nonmetallic, Town of Genesee Code of Ordinances or any applicable nonmetallic mining reclamation statute and any ordinance adopted by the Town; an agreement with the Town whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the Town; the physical restoration plan show g the proposed contours after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished; a cash escrow, certified check or other financial guarantee satisfactory to the Town attorney in an amount sufficient in the opinion of the Town Board to secure the performance of the restoration agreement. Such agreement and financial guarantee shall be in a form approved by the Town attorney.
- (ii) In the event of the applicant's failure to fulfill this agreement, such check or other financial guarantee shall be deemed forfeited for the purpose of enabling the Town to perform the restoration.
- (iii) Restoration shall proceed as soon as practicable, upon order and direction of the Town Board. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years.
- (iv) If minor changes are proposed to the adopted reclamation plan, a revised plan shall be submitted to the Town Engineer and the Town Planner, for review and approval prior to proceeding with reclamation. If major changes are proposed to the adopted reclamation plan, an informational public hearing, scheduled by the Town of Genesee, shall be held to solicit input on the proposed changes. If the changes are approved, a revised reclamation plan shall be submitted to the Town Engineer for review and approval prior to proceeding with reclamation. If the changes are not approved, reasons for the decision shall be provided, in writing, to the owner and operator.

- (v) Where there is any backfilling, the material or method used shall not create a health hazard nor be objectionable because of odor, combustibility or unsightliness. In any case the finished grade of the restored area except for rock faces, outcroppings, water bodies or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth and contain a minimum topsoil thickness of four inches.
  - (vi) Within one year after the cessation of the operation, all temporary structures, stock piles, rubbish heaps or other debris shall be removed or backfilled into the excavation to leave the premises in a neat and orderly condition.
  - (vii) In any restoration procedure which takes place in sand or gravel pits, no slope shall be left which is steeper than a ratio of two horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.
- (h) **Exceptions.**
- (i) The provisions of this subsection shall not apply to the removal of sod.
  - (ii) When the operation is limited to the removal of topsoil, the Town Plan Commission and Town Board may modify any or all of the provisions of this subsection, provided however, that in no case shall such operation be permitted closer than ten feet from any property line, be to a depth in excess of 18 inches or so as to adversely affect the drainage of the area.
  - (iii) The provisions of this subsection shall not apply to an operation which is accessory to the legitimate use of the premises; however, where such operation involves the commercial disposal of the material removed, the approval of the Town Board shall be required and such operation shall be limited to a maximum period of six months.
  - (iv) In a general industrial district, the Town Board may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation; and where the character of the terrain, of surrounding development, or other special conditions would justify such modification, may permit a reduction in the required setback or offset; provided, however, that in no case shall the setback be less than one hundred (100) feet, or the offset be less than one hundred (100) feet for quarrying operations or twenty (20) feet for any accessory access road,



parking area, or office building except as may be otherwise provided in this Section.

(i) **Application to existing operations.**

- (i) **Permits.** Within 60 days after the adoption of the Code from which this subsection is derived all existing quarrying operations shall be required to register with the clerk submitting pertinent data relative to the present operation, boundaries of the actual operation and of the ownership. A quarrying permit shall be granted to such existing operation subject to compliance with the operational requirements of this Code where they can be reasonably applied under existing circumstances.
- (ii) **Plan for restoration.** There shall be required within one year after adoption of the Code from which this Section is derived, the submission of a plan for restoration of the site of any existing quarrying operation. The plan for restoration in such case shall not impose requirements which are unreasonable from an economic and/or engineering standpoint with respect to conditions resulting from operations prior to enactment of the Code from which this Section is derived.
- (iii) **Renewal permits.** Within three (3) years after the date of this Code any such existing operation shall be required to make application for a renewal permit the same as for re-application in the case of a new operation under this Code, except in a quarrying or general industrial district.

(24) **Solid Waste Facilities** which shall include composting facilities, recycling facilities and solid waste transfer stations shall be allowed in P-I, Q-1, M-1 and M-2 zoning districts subject to the following:

- (a) All facilities shall comply with all local, county, state, and federal regulations.
- (b) All facilities shall not be located within 600 feet of a residential zoning district, a mixed-use zoning district, an educational facility, a worship facility, or any other place where the public congregates.
- (c) All buildings, structures, and activity areas shall be located at least 100 feet from the perimeter of the site.
- (d) When located in a B-3 or M-1 zoning district, all materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

- (e) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission and Town Board.
  - (f) No such use shall be located on a parcel less than ten (10) acres in size.
- (25) **Special Care Facilities** such as adult family homes, Group Homes, Community Living arrangements, Emergency Shelters, Foster and Treatment Homes, Group Day Care Centers, Nursing and Retirement Homes in A-1, A-2, A-3, A-5, R-1, P-I, B-1, B-2, B-3, B-4, B-P, M-1 and M-2, which are not otherwise exempted by the Wisconsin State Statutes and subject to the following;
- (a) The parcel on which said facility is located must be at least double the lot size and lot width requirements for the district in which they are located.
  - (b) The subject facility shall not be located within 2,500 feet of any other special care facility.
  - (c) The site plan and plan of operation must be submitted to and approved by the Town Plan Commission and Town Board.
  - (d) A minimum of 30% of the site must be in green space.
  - (e) An outdoor activity area associated with a care facility shall not be located within 20 feet of an adjoining property in a residential zoning district.
  - (f) When an off-street parking lot is located within 20 feet of a property in a residential zoning district landscaping, fencing, a berm, or any combination shall be used to effectively screen the parking area from the residential property.
  - (g) Principal buildings shall be located at least 35 feet from a property in a residential zoning district.
  - (h) The use and the conditional use on the property shall cease upon sale or transfer.
  - (i) Prior to issuance of the conditional use permit any state license required shall be issued and maintained for the life of the use or until the state no longer requires such license.
- (26) **Truck & Trailer Sales and Rental.** In the M-1 and M-2 Districts such uses shall be permitted by right subject to a Site Plan/Plan of Operation. In a B-3 district, subject to the following:
- (a) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission.

- (b) The minimum lot size shall be one (1) acre in size.
  - (c) The premise must abut and have access to a state or county highway.
  - (d) The number of vehicles/trailers stored outside on the premises shall be determined by the Town Plan Commission based on the following:
    - (i) Access to the site
    - (ii) Size of the parcel
    - (iii) Topography
  - (e) All vehicle/trailer storage shall be located a minimum of ten (10) feet from the Road right-of-way and the adjacent property lines, unless adjacent to a more restrictive district, whereby the offset of that district shall be required.
  - (f) The premise shall be adequately fenced or landscaped to hide, from neighbor's view, the storage of any vehicles/trailers.
- (28) **Large utility cabinets.** Large utility cabinets shall be considered a conditional use and will require a conditional use permit as described in this subsection, and building permit; and will be prohibited within any public or private right-of-way, except that the Town Plan Commission may grant specific approval in a conditional use permit on a case-by-case basis provided that the large utility cabinet shall either:
- (a) Be placed within a Town road right-of-way in compliance with Town ordinances and right-of-way regulations, including any amendments that may be made thereto in the future; or
  - (b) Be placed within a public road right-of-way under the jurisdiction of the county or the state in compliance with all applicable laws and subject to obtaining all necessary approvals as required by the governing bodies having jurisdiction; or
  - (c) Be placed within a private road right-of-way with the proper lease or easements. Large utility cabinets will not have to meet the offset and setback requirements of the zoning district in which any such large utility cabinet is proposed to be located, but shall be subject to vision corner easement requirements, and must not interfere with safe sight distances from public streets accesses. Large utility cabinets may be allowed by the Town Board in any district as described in this subsection and may require screening from existing, adjacent residential uses.
  - (d) **Permit required.** A separate conditional use permit shall be required for each property on which one or more large utility cabinet is proposed. Such permit shall be applicable solely to the cabinet, structure, use and property described in the

permit.

- (e) **Basis of approval.** The Town Plan Commission shall base their determination on general considerations as to the effect such grant may have on the health, general welfare, safety and economic prosperity of the Town and specifically on the immediate neighborhood where such use will be located. These considerations shall include the effect on the established character and quality of the areas, physical attractiveness, the demand for related services, the possible hazards, harmful, noxious, offensive or nuisance effect as a result of noise, glare, dust, smoke or odor and other factors as may be appropriate to carry out the intent of this Code.
- (f) Additional Information required:
  - (1) A Site Plan/Plan of Operation.
  - (2) Proof of an easement or lease agreement with the property owner.
  - (3) An erosion control permit issued from the county department of parks and land use land resource division, if necessary.
  - (4) Documentation from the Town Planner whether the facility requires state approved plans.
  - (5) An abandonment plan, which shall clearly state that within 90 days after discontinuance of the use of the facilities, the access roads, concrete paths and all other appurtenances will be removed and the site will be restored to its natural condition.
  - (6) A schematic of the cabinet that shows where on the utility cabinets there will be a permanent placard that identifies the carrier and provides an emergency telephone number where accidents or public concerns may be reported.
- (g) Large utility cabinet shall not have to conform to the building location, and open space, requirements of the zoning district in which it is located and be no more than six feet high. Any cabinet more than six feet high may be authorized under the provisions of the conditional use provisions of this Code.
- (h) **Termination.** When a conditional use permit has been issued for a large utility cabinet and its use does not continue in conformity with the conditions of the original approval, or of the use itself causes the original use permit to no longer be compatible with the surrounding areas or for similar cause, based upon consideration of the public welfare, a conditional use permit may be terminated or amended by action of the Town Plan Commission following a public hearing per Section 102.

(29) **Wireless Telecommunications Mobile Service Facilities.**

- (A) **Purpose.** This section is intended to regulate mobile service facilities to the full

extent allowed by Wisconsin Statutes Section 66.0404 and other applicable laws. Nothing herein is intended to regulate or to authorize the regulation of mobile service facilities in a manner that is preempted or prohibited by Wisconsin Statutes Section 66.0404 or other applicable laws.

- (B) **Definitions.** All terms used herein shall have the meaning described in Wisconsin Statutes Section 66.0404(1).
- (C) **New Towers and Facilities.** The siting and construction of a new mobile service support structure and facilities shall be subject to the following requirements:
1. **Application Process.** The applicant shall submit a written application which shall include all of the following information:
    - a. The name and business address of, and the contact individual for, the applicant.
    - b. The location of the proposed tower.
    - c. The location of the mobile service facility.
    - d. A construction plan which describes the tower, equipment, network components, antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
    - e. An explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.
  2. **Determination of Completeness within 10 Days of Submittal.** The Town Planner shall review the application and determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Town Planner shall notify the applicant in writing within ten days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their applications as often as necessary until it is complete.
  3. **Conditional Use Review Procedure.** The wireless telecommunications

mobile service facility shall be a conditional use and shall be reviewed pursuant to the following procedures:

- a. **Public Hearing.** Within a reasonable time after an application and all required information has been filed, a public hearing shall be held by the Plan Commission pursuant to this chapter. Notices shall be sent by regular mail to all land owners within a half-mile radius of the proposed tower location.
- b. **Fee.** Any petition shall be accompanied by a fee as set from time-to-time by the Town Board to defray the cost of notification and holding of public hearing. Costs incurred by the Town in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be improved shall be charged to the Petitioner. Such fee shall not exceed the limits established by Wisconsin Statutes Section 66.0404(4)(d).
- c. **Requirements.**
  - i. Conditional use status shall not be granted to communication towers unless the tower is located so that there is sufficient radius of clear land around the tower so that its collapse shall be completely contained on the property, subject to the following. If an applicant provides the Town with engineering certification showing that the tower is designed to collapse within a smaller area than the radius equal to the height of the tower, the smaller area shall be used unless the Town has and provides to the applicant substantial evidence that the engineering certification is flawed.
  - ii. All facilities shall meet all State and federal codes.
- d. **Determination.** The Plan Commission shall make a decision on the application within a reasonable time after the public hearing, provided further that final action shall be taken within 90 days of receipt of a complete application unless the time extended by the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Town records. If conditional use status is not granted, the reasons therefor will be included in such record.
- e. **Changes or Additions.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Plan Commission and, if in the opinion of the Plan Commission, such change or addition constitutes a substantial alteration, a public hearing before the Plan Commission shall be required and notice thereof be given

pursuant to this Chapter.

f. **Conditions.** Conditions such as landscaping, architectural design, type of construction, floodproofing, 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, among other issues as deemed appropriate may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose of the Conditional Use Permit.

4. **Limitations upon Authority.** The Town review and action in the matter shall be subject to the limitations imposed by Wisconsin Statutes Section 66.0404(4). In the event the applicant believes the Town has exceeded its authority in this regard, the applicant shall notify the Plan Commission in writing and the Plan Commission reserves the right to reconsider the matter, to ensure that applicable laws are followed.

D. **Modifications.** The construction of modifications to an existing mobile service support structure or mobile service facility shall be subject to the following requirements:

1. **Substantial Modification.**

a. **Application and Review Process.** The application and review process for a substantial modification is identical to the application and review process for a new tower, as described above, except that the required plans should describe the proposed modifications, rather than describe the new structure.

2. **Not Substantial Modifications.**

b. **Application Information.** The applicant shall submit a written application that describes the applicant's basis for concluding that the modification is not substantial, and all of the following information:

i. The name and business address of, and the contact individual for, the applicant.

ii. The location of the affected support structure.

iii. The location of the proposed facility, including a site plan depicting leased areas and improvements.

- iv. Structural engineering analysis approved by the Town Engineer or his/her designee.
  - v. Tower Mapping Report.
  - vi. Fencing/Screening/Lighting report.
  - vii. Letter of Owner's Authorization.
  - viii. An Abandonment Plan, which shall clearly state that within ninety (90) days after discontinuance of the use of the facilities, the access roads, concrete paths, fencing, and all other appurtenances will be removed and the site restored to its natural condition. The Town may require a Developer's Agreement and a Letter of Credit for the removal of the facilities and restoration of the site.
- b. **Completeness Determination within Five Days.** The Town Planner will determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Town Planner must notify the applicant in writing within five (5) days of receiving the application if it is found not to be complete, specifying in detail the required information that was incomplete. The applicant may resubmit as often as necessary until it is complete.
- c. **Fee.** Any petition shall be accompanied by a fee as set from time-to-time by the Town Board to defray the cost of review. Costs incurred by the Town in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be improved shall be charged to the Petitioner. Such fee shall not exceed the limits established by Wisconsin Statutes Section 66.0404(4)(d).
- d. **Determination.** The Plan Commission shall make a decision on the application within a reasonable time, provided further that final action shall be taken within 45 days of receipt of a complete application unless the time extended by the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Town records. If approval is not granted, the reasons therefor will be included in such record.



- e. **Limitations Upon Authority.** The Town review and action in the matter shall be subject to the limitations imposed by Wisconsin Statutes Section 66.0404(4), and such other laws as may apply which may include 47 USCA §1455. In the event the applicant believes the Town has exceeded its authority in this regard, the applicant shall notify the Plan Commission in writing and the Plan Commission reserves the right to reconsider the matter, to ensure that applicable laws are followed.

# ARTICLE V DISTRICTS

## Division - 1 Generally

### Section - 50 Establishment of Districts

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

C-1	Conservancy District.
A-E	Exclusive Agricultural Conservancy District.
A-B	Agricultural Business District.
A-5	Mini-farm District.
E-C	Environmental Corridor District.
A-1	Agricultural District.
A-2	Rural Home District.
A-3	Suburban Estate District.
R-1	Residential District.
R-2	Residential District.
R-3	Residential District.
P-I	Public and Institutional District.
DB	Downtown Business Overlay District
B-1	Restricted Business District.
B-2	Local Business District.
B-3	General Business District.
B-4	Community Business District.
BP	Mixed Use Business Park District.
Q-1	Quarrying District.
M-1	Limited Industrial District.
M-2	General Industrial District.

### Section - 51 Zoning Map

- (A) **Districts mapped:** The boundaries of said districts are shown upon zoning maps of the Town, which maps are made part of this Code, and all the notations, references and other information shown thereon shall be as much a part of this Code as if the matters and information set forth by said maps were all fully described herein. Said maps shall be kept on file in the offices of the Town clerk and the copies attached hereto are correct only as of the date of publication and are for general informational purposes only. For the purpose of local administration, a copy of the map shall also be kept on file in the office of the Town zoning administrator and Town Planner.
- (B) **Determination of boundaries:** District boundaries shall be determined by measurement from and as shown on the official zoning maps and in case of any questions as to the interpretation of such boundary lines, the Town Plan Commission shall interpret the map according to the reasonable

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intent of this Code.

- (1) Unless otherwise specifically indicated or dimensioned on the maps, the district boundaries are normally lot lines; Section, quarter Section or sixteenth Section lines; or the center lines of streets, highways, railways or alleys.
- (2) The boundaries of Conservancy, existing floodplain overlay and exclusive agricultural districts as drawn are intended to represent the edge of swamp, wetlands, marsh, and floodland or the high water line along a stream or watercourse, and shall be finally determined by the actual conditions in each specific situation.
- (3) The boundaries of the environmental corridor district are intended to include all non-wetland/floodplain primary or secondary environmental corridors and isolated natural resource areas, such as significant woodlands, upland wildlife habitat areas, scenic overlooks and slopes exceeding 12 percent. Where questions arise as to the exact location or boundary of an environmental corridor district, the extent and location of such corridor shall be finally determined by an infield investigation by the Southeastern Wisconsin Regional Planning Commission Staff Biologist or his designee.

#### **Section - 52 First amendment protected adult-oriented establishments**

(A) **Finding of fact.**

- (1) The Board finds that Adult-Oriented Establishments, as defined in this Code, require special zoning in order to protect and preserve the health, safety, and welfare of the Town.
- (2) Based on its review of studies conducted in Phoenix, AZ, Garden Grove, CA, Los Angeles, CA, Whittier, CA, Indianapolis, IN, Minneapolis, MN, St. Paul, MN, Cleveland, OH, Oklahoma City, OK, Amarillo, TX, Austin, TX, Beaumont, TX, Houston, TX, Seattle, WA and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Colman A. Young v. American Mini-Theaters, Inc., 427 U.S. 50 (1976), the Town Board finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
- (3) The Town Board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
- (4) It is not the intent of the Town Board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First

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Amendment protected activities.

- (5) In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the Town, it is the intent of the Town Board to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.
- (6) Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Town Board finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises are warranted.

**(B) Location of first amendment protected adult-oriented establishments.**

- (1) The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined by this Code, are entitled to certain protections, including the opportunity to locate in shorelands and floodlands governed by this Code. Therefore, an Adult-Oriented Establishment shall only be allowed as a conditional use in the Q-1 zoning districts and shall be a prohibited use in any other zoning district. The Adult-Oriented Establishment may locate in the specified districts only if an Adult-Oriented Establishment License has been granted by the Town under this Code, and all the requirements of this Section and the applicable zoning district's regulations, and all other applicable Town Ordinances are met.
- (2) **Adult-Oriented Establishments.**
  - (a) shall be located at least 1,000 feet from: any residential district line, playground lot line, or public park lot line;
  - (b) any structure used as a residence, place of religious worship, public or private school, or "Youth Facility" as defined in this Code;
  - (c) any other structure housing an Adult-Oriented Establishment;
  - (d) any structure housing an establishment for which an alcohol beverage license has been issued under Chapter 125 Wis. Stats.
- (3) Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the residential district boundary lines, to the lot line of any lot used for a park, playground, or any structure listed in (B) (2) (a-d) above.

- (4) The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
- (5) For Adult-Oriented Establishments located in conjunction with other buildings such as in a shopping center, and clearly separate from other establishments, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.
- (6) For any Adult-Oriented Establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the Adult-Oriented Establishment (excluding emergency exits).
- (7) A licensed Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the subsequent location of any of the establishments described in (2), above, within 1,000 feet of the licensed premises after the grant or renewal of its license. This provision applies only to renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

#### **Section 60. C-1 CONSERVANCY DISTRICT**

##### **(A) Permitted uses:**

- (1) Grazing.
- (2) The harvesting of any wild crops such as marsh hay, ferns, moss, berries, tree fruits, and tree seeds.
- (3) Hunting and fishing unless prohibited by other Ordinances or laws.
- (4) Sustained yield forestry. Where such sustained yield forestry practices will take place on areas larger than five (5) acres in size, a forest management plan prepared in cooperation with a state forester shall be submitted to and approved by the Waukesha County Department of Parks and Land Use, Land Resources Division and the Town clerk prior to its implementation. Where such sustained yield forestry practices will take place on areas smaller than five (5) acres in size, the requirements of Code shall be met.
- (5) Dams for hydro-electric power stations.
- (6) Telephone, telegraph and power transmission lines.

- (7) Non-residential buildings used solely in conjunction with the raising of waterfowl, minnows, and other similar animals or fish.
- (8) Telephone and electric distribution substations.
- (9) Beekeeping on parcels where all cultivation activities are at least five (5) feet from a property line and fifty (50) feet from any neighboring residence.

**(B) Specific Prohibited Uses:**

Filling or drainage of wetlands, removal of topsoil or peat, or damming or relocating of any watercourse shall not be permitted except with recommendation of the Town Plan Commission and approval of the Town Board and all other governmental bodies having jurisdiction.

**(C) Area Regulations:**

There are no specific minimum lot size requirements although conservancy/wetland zoned lands that lie within a larger parcel or tract of land, the remainder of which is zoned in any other district shall have a minimum area required in that non-Conservancy District.

**Section 61. A-E EXCLUSIVE AGRICULTURAL CONSERVANCY DISTRICT**

**(A) Purpose**

This district is intended to apply to those areas of the Town presently in agricultural use either by virtue of cultivation, pasture or in some other way and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and the presence of natural vegetation indicative of wet soils. The intent of the district is to preserve and maintain agricultural uses on lands suited for such purposes. They often include lands poorly suited for urban or suburban development while being particularly well suited for some types of agricultural use either with or without a higher level of soil management. In this district structures related to farm operations, including dwellings, are deemed consistent with the purpose of this Section where the location of buildings associated with the permitted agricultural operation is found to conform with health, sanitation and safety provisions of this and any other state regulation or local Ordinance. Determination of such suitability shall be evidenced by onsite examination and evaluation. The intent for mapping purposes is that lands within this district shall have exhibited those agricultural uses in the past. It is not the intent of this Section to promote or permit the conversion of wetlands.

**(B) Permitted uses**

- (1) Any use permitted in the C-1 Conservancy District.

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- (2) Ordinary farm uses, including dairying, livestock, poultry raising and truck farming.
- (3) Accessory uses within buildings normally associated with permitted agricultural operations, including single family dwellings and shelters for housing animals except that no structure shall be located in a floodplain or upon lands not suitable due to soil limitations.
- (4) Nurseries, greenhouses and hatcheries limiting the retail sales of such product to that which is produced by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the Town Plan Commission in accordance with this Code. Roadside stands do not require review and approval of a Site Plan and Plan of Operation.
- (5) Roadside stands and seasonal product sales when raised on the subject property.
- (6) Signs shall comply with the Town of Genesee Sign Ordinance.
- (7) Sod farming in conformance with the provisions of this Code.
- (8) Private stables subject to the following:
  - (a) Private stables on parcels of less than 20 acres subject to a written refuse disposal plan being submitted to and approved by the Town Planner if requested by the Town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of lot area and provided that the keeping of hogs, pigs (of any type), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
  - (b) Private stables on parcels 20 acres or greater in size subject to a written refuse disposal plan being submitted to and approved by the Town Planner if requested by the Town.

**(C) Conditional uses.**

Commercial stables.

**(D) Building location.**

Building location requirements for the A-E exclusive agricultural Conservancy District shall be as follows:

- (1) Setback: 50 feet minimum.
- (2) Offset: 50 feet minimum.

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**(E) Height regulations.**

Height regulations for the A-E exclusive agricultural Conservancy District shall be as follows:

- (1) Principal building: Thirty-five (35) feet maximum.
- (2) Accessory structures: Farm, sixty (60) feet; other, eighteen (18) feet, except that this height limit may be increased to allow structures up to one-hundred (100) feet where the setback and offset are equal to or exceed the height of the structure itself.

**(F) Area regulations.**

- (1) **Floor area:** Minimum required for single family dwelling where permitted:
  - (a) **Minimum required:**
    - (i) First floor, nine hundred (900) square feet
    - (i) Total one (1) family, one thousand (1,000) square feet
  - (b) **Maximum floor area ratio permitted:** Fifteen (15) percent.
- (2) **Lot size.** The lot size requirements in the A-E exclusive agricultural Conservancy District shall be as follows:
  - (a) Minimum parcel size: 35 acres, except as may be provided in Sections 62 (C) 4 or 5 of this Code.
  - (b) Minimum average width: 600 feet, except as provided in Sections 63(C) 4 or 5 of this Code.

**Section 62 A-B AGRICULTURAL BUSINESS DISTRICT**

**(A) Purpose**

The primary purpose of this district is to maintain, encourage and promote agriculturally related business endeavors on appropriate lands within the community. Such endeavors properly located and regulated serve to support and enhance the viability of agriculture as an economic activity.

For mapping purposes-It is the intent of this Code that suitable areas be described to provide for buffering from adjacent uses and that the minimum size of any proposed establishment of the A-B district

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be five (5) acres in extent. Existing uses which may come under the A-B agricultural business district shall be considered on a case-by-case basis and may be less than five (5) acres, with the Town Plan Commission making a determination as to compatibility with the existing site and the surrounding or adjacent uses.

**(B) Permitted uses**

All the following uses permitted by right in the A-B Agricultural Business District are subject to Site Plan and Plan of Operation approval of the Town Plan Commission.

- (1) Warehousing, transfer and transport services of agricultural commodities.
- (2) Horticultural services, including the retail sale of nursery landscape material and other agricultural crops and related commodities, subject to review and approval of a Site Plan and Plan of Operation by the Town Plan Commission. Roadside stands do not require review and approval of a Site Plan and Plan of Operation.
- (3) Feed milling operations.
- (4) Agricultural sales and services.
- (5) Cheese factories.
- (6) Bulk milk collection, storage and distribution facilities.
- (7) Veterinarian services.
- (8) Custom grain drying.
- (9) Poultry and/or egg production.
- (10) Residential use may be permitted only in connection with or accessory to otherwise permitted uses.
- (11) Any other use consistent with stated intent of this district subject to approval of the Town Plan Commission.-

**(C) Conditional uses**

Conditional uses as provided in Sections 40(B)(2), 40(B)(3), 40(B)(4), 40(B)(12).

**(D) Building locations**

- (1) **Setback:** Fifty (50) feet minimum

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- (2) **Offset:**
  - (a) Buildings used for commercial purposes which include the housing of livestock, fifty (50) feet minimum.
  - (b) Buildings used for commercial purposes not involving livestock housing or animal waste storage, twenty (20) feet minimum.
  - (c) The integrated site plan will relate buildings, parking areas and any loading dock facilities that may be necessary and accessory to the use and shall be governed by suitable contemporary design criteria.

**(E) Height regulations**

- (1) **Principal building:** Thirty-five (35) feet maximum.
- (2) **Accessory building:** Sixty (60) feet maximum, except that both principal and accessory buildings may be increased to more than one hundred (100) feet when the setback and offset equals or exceeds the height of the structure.

**(F) Area regulations**

- (1) **Floor area:** Minimum required.
  - (a) **Minimum required for residential purposes:** Nine hundred (900) square feet per dwelling unit.
  - (b) **Maximum floor area ratio:** Fifty (50) percent of the site.
- (1) **Lot size:**
  - (a) **Minimum area:** Five (5) acres, unless the Town Plan Commission determines that an existing use on a smaller parcel is appropriate and consistent with Section 101.
  - (b) **Minimum average width:** three hundred (300) feet.

**(G) Sign regulations**

- (1) **Signs:** All signs shall comply with the Town Sign Ordinance.

**Section 63 A-5 MINI-FARM DISTRICT**

**(A) Section - Intent and purpose**

This District is intended to provide for very low-density single-family residential development and the conversion of older farm dwellings to two-family units in predominantly rural areas in order to maintain, to some degree, the agricultural character of the property. These lands are best suited for small farm units, i.e., truck farms, horse farms, hobby farms, orchards and other similar agriculturally-related activities and usually contain a predominance of U.S.D.A. defined statewide significant category soils or prime category soils on parcels which do not qualify for agricultural preservation zoning or in areas which have an existing pattern of scattered or low-density residential development. Such a district is intended to be used to implement the Town of Genesee Comprehensive Development Plan - 2035 category entitled "Five (5) Acre".

**(B) Use regulations**

**(1) Permitted Uses:**

- (a) Any use permitted in the A-1 Agricultural District.
- (b) Two-family uses in converted farm dwellings existing on February 26, 1959 subject to issuance of a Conditional Use Permit contained in Section 40(B) (30).

**(2) Permitted Accessory Uses:**

Any of those accessory uses in the E-C Environmental Corridor District.

**(C) Building location**

**(1) Setback:** Fifty (50) feet minimum.

**(2) Offset:**

- (a) Thirty (30) feet minimum, except for accessory farm buildings subject to special Town Plan Commission approval.
- (b) Not less than fifty (50) feet from an adjacent property line for any building housing livestock, poultry or other animals. This does not include doghouses.

**(D) Height limitations**

**(1) Principal Building:** Thirty-five (35) feet maximum.

- (2) **Accessory Building:**
  - (a) **Farm:** Sixty (60) feet maximum.
  - (b) **Other:** Fifteen (15) feet maximum.

**(E) Area regulations**

- (1) **Floor Area:**
  - (a) **Minimum required:**
    - (i) **First floor:** Nine hundred (900) square feet.
    - (ii) **Total:** One thousand five hundred (1,500) square feet.
  - (b) **Maximum F.A.R. permitted:** Fifteen (15) percent.
- (2) **Lot Size:**
  - (a) **Minimum area:** Five (5) acres.
  - (b) **Minimum average width:** Three hundred (300) feet.

**Section 64 EC ENVIRONMENTAL CORRIDOR DISTRICT**

**(A) Purpose and intent**

The Environmental Corridor District, as mapped or intended to be mapped, includes non-wetland/floodplain primary, secondary environmental corridors and isolated natural resource areas as defined in this Ordinance, and is intended to be used to preserve, protect, enhance, and restore significant woodlands, upland wildlife habitat areas, scenic overlooks, slopes exceeding twelve (12) percent, and upland wooded areas, while also affording an opportunity to use the site for the limited residential purposes, in concert with the goal and intent of the Town of Genesee Comprehensive Development Plan - 2035, which suggests that residential densities in such areas not exceed one unit per five acres for all parcels which lie entirely within the Environmental Corridor. Where questions arise as to the exact location or boundary of an environmental corridor, the extent and location of such corridors shall be finally determined by infield investigation by the Zoning Administrator or his/her designee, and a notation shall be made on the map indicating that such a determination has been made for future reference and map amendment purposes.

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**(B) Permitted Uses:**

- (1) Any uses permitted in C-1 Conservancy District.
- (2) Single family dwellings.
- (3) Keeping of poultry or livestock shall not be permitted on any lot less than three (3) acres. There shall be no more than two (2) head of livestock or twenty (20) poultry for the first three (3) acres of land. There may be one additional head of livestock or twenty (20) additional poultry for each additional one (1) acre of land, except as otherwise provided herein. All lands to be utilized for the keeping of livestock or poultry must be under the same ownership or additional leased lands may be used to increase the maximum permitted livestock or poultry if contiguous to the owners' property. Where such use lawfully existed prior to the date of this Code, such use may be continued subject to the limitations regulating non-conforming uses as regulated in Section 34 of this Code. The grazing of livestock and the keeping of poultry shall be prohibited in environmental corridors areas on parcels of land which contain areas outside of the corridor. The keeping of pigs (of any type), hogs, male goats or fur-bearing animals shall not be permitted.
- (4) The following accessory buildings and uses, subject to the conditions specified:
  - (a) Private garages, when located on the same lot, and not involving the conduct of a business; provided, however, that no private garage shall be erected or commenced unless the principal building on such lot has been erected or is to be erected simultaneously with said garage.
  - (b) Quarters for household or farm employees; provided, however, that such quarters shall be occupied only by individuals employed full-time on the premises and their families.
  - (c) Stables, barns, or poultry houses, which house livestock or poultry, shall not be less than fifty (50) feet from an adjacent property line.
- (5) Signs shall comply with the Town of Genesee Sign Ordinance.
- (6) Hobby kennel in accordance with Section 19 (J) of this Code.
- (7) The establishment and enhancement of public parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and wildlife habitat areas, provided that any tree and vegetation removal and subsequent restoration done in the EC Environmental Corridor District and any improvements and/or

construction shall be approved by the Town Administrator before beginning any development activities. Vegetative restoration may be allowed within the corridor for the purpose of improving wildlife habitat or to otherwise enhance wildlife values provided all necessary permits are obtained and said activities shall only be approved after review and approval and issuance of all permits, as required. Roads and trails to service the recreational and wildlife areas, etc. may be permitted, but said roads and trails may not include vegetation removal or other construction activity within the corridor without obtaining all approvals, as required.

- (8) Community living arrangements and community based residential facilities which have a capacity of eight (8) or fewer persons, subject to the limitations set forth in Section 62.23 (7) (l) of the Wisconsin Statutes and amendments thereto.
- (9) Family daycare home or foster family home of eight (8) or fewer persons.
- (10) Keeping of chickens shall comply with the requirements of Section 65 (A)(13).

**(B) Prohibited Uses:**

- (1) Guesthouses.

**(C) Building location**

- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:** Thirty-five (35) feet minimum. In the case of existing legal non-conforming principal or accessory structures that are less than the required thirty-five (35) foot minimum, an extension or addition may be allowed closer than thirty-five (35) feet as long as said extension or addition does not extend or encroach closer to the side lot line than the existing structure to which it is attached, at its closest point as measured in this Ordinance, and in no case shall be less than twenty (20) feet unless a Special Exception is granted by the Board of Appeals to allow such extension or addition, and with the requirement that all of the disturbance regulations of Section 66 of this Ordinance be met as applicable.

**(D) Height regulations**

- (1) **Principal Building:** Thirty-five (35) feet maximum.
- (2) **Accessory Building:**
  - (a) **Farm:** Sixty (60) feet maximum.

(b) **Other:** Fifteen (15) feet maximum.

**(E) Area regulations**

(1) **Floor Area:**

(a) **Minimum required:**

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

(ii) **Total:** One thousand one hundred (1,100) square feet.

(2) **Floor Area Ratio:** The maximum floor area ratio permitted shall be fifteen (15) percent.

(3) **Lot size.** Lot size requirements in the EC environmental corridor district shall be as follows:

(a) Minimum area. The overall density of lots lying entirely within the environmental corridor district shall be not greater than one (1) dwelling unit per five acres of corridor, with no lot being less than two acres in size. For lots which lie partially within and partially outside of the environmental corridor district, if the lot size of the adjoining districts would permit a minimum lot size of less than five acres, the five-acre density requirement shall not apply and the lot can be the size permitted in the adjacent zoning district, as determined by the Zoning Administrator, as long as any land altering activity and/or building envelopes are located outside of the environmental corridor district and appropriately restricted as such on the face of the certified survey map, subdivision plat or other document approved by the Town Plan Commission or the zoning administrator and recorded in the office of the register of deeds. The overall goal of this requirement is to obtain a maximum density of building activity within the environmental corridor of not more than one dwelling unit for each five acres of environmental corridor land.

(5) **Preservation of open space.** Requirements for the preservation of open space in the EC environmental corridor district shall be as follows:

(a) For lots lying entirely within an environmental corridor zoning district, regardless of lot size, no open space regulations shall apply. However, the area of disturbance in the Environmental Corridor District for all land altering activities and vegetative removal, including building sites, septic areas and areas shall be no more than 15,000 square feet or fifteen (15) percent of a parcel's area (up to a maximum of 32,670 square feet, whichever is greater, and a deed restriction shall

be recorded in the office of the Register of Deeds describing the permitted area of disturbance.

- (b) For parcels which lie partially within and partially outside of the Environmental Corridor Zoning District, the area of disturbance as described in Section 5(a) above shall be limited to that area outside the Environmental Corridor District unless otherwise permitted by a building envelope on a certified survey map, subdivision plat, or other document, or unless the developable area of a parcel (that area that is not constrained by zoning district setback and offset requirements and that is located outside of the Environmental Corridor District) is less than 15,000 square feet or is less than the area that is equal to Fifteen (15) percent of the Environmental Corridor area of a parcel, up to a maximum of 32,670 square feet.

If the developable area on a lot is less than the above specified thresholds, an area of disturbance within the Environmental Corridor District, as described in Section 5(a) above, up to the amount of area needed to achieve a 15,000 square foot developable area or a developable area of up to fifteen (15) percent of the Environmental Corridor area of the parcel, up to a maximum of 32,670 square feet of disturbance area, as described in Section 5(a) above, may be permitted by the Zoning Administrator provided a deed restriction is recorded in the office of the Register of Deeds describing and authorizing the area of disturbance.

## **Section 65 A-1 AGRICULTURAL DISTRICT**

### **(A) Permitted uses**

- (1) Any use permitted in the A-E exclusive agricultural district.
- (2) One-family dwelling.
- (3) Agricultural or farm uses on not less than five (5) acres of land, including the keeping of poultry and livestock, except that the keeping of hogs, unneutered male goats or fur-bearing animals shall not be permitted on less than twenty (20) acres. Those practicing agricultural uses under this Section must comply with standard manure disposal practices.
- (4) Horticulture, including greenhouses and nurseries.
- (5) The following accessory buildings, subject to the conditions specified:



- (a) Private garages when located on the same lot, and not involving the conduct of a business; no private garage shall be erected unless the principal building to which such garage is an accessory use has been erected or is to be erected simultaneously with said garage.
  - (b) Quarters for household or farm employees, provided, however, those quarters shall be occupied only by those individuals employed full time on the premises and their families.
  - (c) Stables, barns, or poultry houses, which house livestock or poultry, shall not be less than fifty (50) feet from an adjacent property line.
- (6) Home occupations and professional offices as regulated in Section 19 (J) of this Code.
  - (7) Signs shall comply with the Town of Genesee Sign Ordinance.
  - (8) Hobby kennel as regulated in Section 19 (I) of this Code.
  - (9) Private stables subject to a written refuse disposal plan being submitted to and approved by the Town Plan Commission if requested by the Town Planner, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of open lot area and provided that the keeping of hogs, pigs of any kind (except potbellied pigs as defined in this Code for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
  - (10) Yard sales which shall be limited to 3 consecutive days. There shall be at least thirty (30) days between the last day of a yard sale and the first day of a subsequent yard sale.
  - (11) Community living arrangements and community based residential facilities which have a capacity of eight (8) or fewer persons, subject to the limitations set forth in Section 62.23 (7) (I) of the Wisconsin Statutes and amendments thereto.
  - (12) Family daycare home or foster family home of eight (8) or fewer persons.
  - (13) Keeping of chickens shall be regulated as follows:
    - (a) No more than six (6) chickens shall be allowed on a lot less than three (3) acres in size. Lots greater than three (3) acres in size shall contain no more than twenty (20) chickens for the first three (3) acres of land. There may be twenty (20) additional chickens for each additional one (1) acre of land. All lands to be utilized for the keeping of chickens must be under the same ownership or additional leased lands may be used to increase the maximum permitted chickens, if contiguous to the owners' property.

- (b) The keeping of roosters is prohibited on less than three (3) acres of land.
- (c) Chickens shall be kept in a covered enclosure or coop that is predator proof, thoroughly ventilated, of sufficient size to allow free movement of the chickens and designed to be easily accessed, cleaned and maintained by the owners. Chickens shall be kept in an enclosure or fenced in area at all times.
- (d) A covered enclosure or coop is considered a structure and is subject to all applicable zoning and building restrictions and codes. However, a small enclosure or coop less than 100 square feet shall not count toward the number of accessory buildings allowed on a lot. Only one (1) covered enclosure or coop is allowed per lot.
- (e) The covered enclosure or coop housing the chickens and chicken runs shall be located at least 25 feet off the property line and 50 feet from all existing dwellings on adjoining properties. The covered enclosure or coop and chicken run shall not be located in the front yard.
- (f) The keeping of chickens shall not cause any nuisance or unhealthy conditions or otherwise interfere with the normal use of any property.
- (g) On Lots less than three (3) acres, no commercial activities shall be permitted by the homeowner, such as the sale of eggs, sale of live or dressed chickens, sale of live chicks, feathers, etc.
- (h) Feed for chickens shall be stored indoors or in a sealed container if stored outside.
- (i) All enclosures or coops and chicken runs shall be removed from the property no later than six (6) months after the keeping of the chickens is no longer a use on the property.
- (j) All applicable Federal, State, County and Local laws, codes, licenses and requirements must be complied with and followed.

**(B) Conditional uses.**

Commercial stables.

**(C) Building location.**

- (1) **Setback:** Fifty (50) feet minimum.

(2) **Offset:** Twenty (20) feet minimum.

**(D) Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

**(E) Area regulations**

(1) **Floor area:**

(a) **Minimum required:**

(1) **First floor:** Nine hundred (900) square feet.

(2) **Total, one (1) family:** One thousand one hundred (1,100) square feet.

(b) **Maximum F. A. R. permitted:** Fifteen (15) percent.

(2) **Lot size:**

(a) **Minimum area:** Three (3) acres.

(b) **Minimum average width:** Two hundred (200) feet.

#### **Section 66 A-2. RURAL HOME DISTRICT**

**(A) Permitted uses:**

(1) Any use permitted in the A-1 Agricultural District, except that the keeping of poultry or livestock shall not be permitted on any lot less than three (3) acres, and the keeping of hogs, male goats or fur-bearing animals shall not be permitted. There shall be no more than two (2) head of livestock or twenty (20) poultry for the first three (3) acres of land. There may be one additional head of livestock or twenty (20) additional poultry for each additional one (1) acre of land, except as otherwise provided herein. All lands to be utilized for the keeping of livestock or poultry must be under the same ownership or additional leased lands may be used to increase the maximum permitted livestock or poultry if contiguous to the owners’ property. Where such use lawfully existed prior to the date of this Code, such use may be continued subject to the limitations regulating non-conforming uses as regulated in Section 27 of this Code.

(2) Keeping of chickens shall comply with the requirements of Section 65 (A)(13).

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

**(B) Building location**

- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:**
  - (a) Those buildings used to house any animals other than the usual household pets shall have a 50-foot minimum offset.
  - (b) Those buildings authorized to house commercial kennels shall have a 50-foot offset.
  - (c) All other buildings and structures shall have a 30-foot minimum offset.

**(C) Height regulations, See Section 17 “Height regulations” for regulations and exceptions.**

**(D) Area regulations**

- (1) **Floor area:**
  - (a) **Minimum required:**
    - (i) **First floor:** Nine hundred (900) square feet.
    - (i) **Total:** One thousand five hundred (1,500) square feet.
  - (b) **Maximum F. A. R. permitted:** Fifteen (15) percent.
- (2) **Lot size:**
  - (a) **Minimum area:** Three (3) acres.
  - (b) **Minimum average width:** Two hundred (200) feet.

**Section 67 A-3 SUBURBAN ESTATE DISTRICT**

**(A) Permitted Uses**

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

**(B) Building location**

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- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:** Twenty (20) feet minimum.

**(C) Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

**(D) Area regulations**

**(1) Floor area:**

**(a) Minimum required:**

- (i) **First floor:** Nine hundred (900) square feet.
- (ii) **Total:** One thousand five hundred (1,500) square feet.

**(b) Maximum F. A. R. permitted:** Fifteen (15) percent.

**(2) Lot size:**

**(a) Minimum area:** Two (2) acres.

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

**Section 68 R-1 RESIDENTIAL DISTRICT**

**(A) Permitted uses:**

- (1) Any use as permitted in the A-2 Rural Home District.
- (2) The keeping of usual household pets and hobby kennels but not including the operation of a commercial kennel unless a conditional use permit is obtained.

**(B) Building location**

- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:** Twenty (20) feet minimum.

**(C) Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

**(D) Area regulations**

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- (1) **Floor area:**
  - (a) **Minimum required:**
    - (i) **First floor:** Nine hundred (900) square feet.
    - (ii) **Total:** One thousand three hundred (1,300) square feet.
  - (b) **Maximum F. A. R. permitted:** Fifteen (15) percent.
- (2) **Lot size:**
  - (a) **Minimum area:** One (1) acre.
  - (b) **Minimum average width:** One hundred fifty (150) feet.

**Section 69 R-2 RESIDENTIAL DISTRICT**

**(A) Permitted uses:**

- (1) Any use as permitted in the R-1 residential district.

**(B) Building location.**

- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:** Twenty (20) feet minimum.

**(C) Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

**(D) Area regulations**

- (1) **Floor area:**
  - (a) **Minimum required:**
    - (i) **First floor:** One thousand (900) square feet.
    - (ii) **Total:** One thousand five hundred (1,200) square feet.
  - (b) **Maximum F. A. R. permitted:** Fifteen (15) percent.
- (2) **Lot size:**

- (a) **Minimum area:** Thirty thousand (30,000) square feet.
- (b) **Minimum average width:** One hundred twenty (120) feet.

**Section 70 R-3 RESIDENTIAL DISTRICT**

**(A) Permitted uses**

- (1) Any use as permitted in the R-2 residential district.

**(B) Building location**

- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:** Twenty (20) feet minimum.

**(C) Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

**(D) Area regulations**

- (1) **Floor area:**
  - (a) **Minimum required:**
    - (i) **First floor:** Eight hundred fifty (850) square feet.
    - (ii) **Total:** One thousand one hundred (1,100) square feet.
  - (b) **Maximum F. A. R. permitted:** Fifteen (15) percent.
- (2) **Lot size:**
  - (a) **Minimum area:** Twenty thousand (20,000) square feet.
  - (b) **Minimum average width:** One hundred twenty (120) feet.

**Section 71 P-I PUBLIC AND INSTITUTIONAL DISTRICT**

**(A) Intent of district**

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This district is intended to provide for those uses which serve a public need and/are principally of an institutional, educational, medical, or governmental nature (whether public or privately owned and either "for profit" or "not for profit") and serving a public need, (but not including the operation of a bar, restaurant, or recreational facility as a commercial enterprise) unless authorized as a Conditional Use under Section 40 (B) (31). Group homes as regulated by Statute, shall not be included as they are either allowed in other districts, or regulated pursuant to Section 40 of this Code.

**(B) Permitted uses**

The following uses are permitted by right subject to review and approval of the Site Plan and Plan of Operation by the Town Plan Commission.

- (1) Hospitals and clinics or rehabilitation facilities or centers.
- (2) Nursing home.
- (3) Schools.
- (4) Mental health or substance abuse treatment, training, or counseling or rehabilitation facilities.
- (5) Residential treatment, training or education facilities.
- (6) Municipal buildings
- (7) Museums.
- (8) Police and Fire stations.
- (9) Libraries.
- (10) Penal reform institutions.
- (11) Military installations.
- (12) Public service yards.
- (13) Publicly owned and operated parks, recreational uses, golf courses, and open space uses.
- (14) Other similar uses as determined by the Town Plan Commission.

**(C) Permitted accessory uses**

- (1) Garages and buildings for storage of vehicles and/or equipment, which are used in conjunction with the operation of a permitted use.
- (2) Residential quarters used for other than a permitted use shall be occupied only by individuals employed full-time on the premises and their families.
- (3) Stables, barns, or poultry houses provided that no building which houses said livestock or poultry is closer than fifty (50) feet to any lot line.
- (4) Horticulture, including greenhouses and nurseries, and roadside stands to the extent associated with an otherwise permitted use. Horticulture, including greenhouses and nurseries, are subject to review and approval of a Site Plan and Plan of Operation by the



Town Plan Commission in accordance with Section 7 (G) of this Code. Roadside stands do not require review and approval of a Site Plan and Plan of Operation.

- (5) Parking in accordance with Section 21.
- (6) Satellite dishes or other communication equipment apparatus.
- (7) **Temporary Uses:** Lands and buildings within the district may be used on a temporary basis for private and commercial uses usually not more than 1 week in duration. Such uses might consist of carnivals, rental of said buildings for private gatherings, use of buildings for temporary commercial displays or trade fairs and similar functions for the purpose of fundraising or other special and unique events in conjunction with the permitted use. Approval must be granted by the Town Board for such temporary use and subject to any condition that may be imposed.

**(D) Building location**

- (1) **Setback** - Fifty (50) feet minimum.
- (2) **Conservancy District Setback** - Seventy-five (75) feet minimum.
- (3) **Offset**
  - (a) Principal Building -Fifty (50) feet minimum.
  - (b) Accessory Building - Thirty (30) feet minimum.

**(E) Height regulations**

- (1) **Principal Buildings** - Thirty-five (35) foot maximum, unless fire and emergency apparatus adequate to service a taller building is available to service the building on the subject parcel and verification of such apparatus' availability from the community providing fire and emergency services to or for the subject parcel is filed with the Town Zoning administrator to issuance of a zoning permit, in which event the maximum height of a principal building in the subject parcel shall be the maximum height which such available apparatus can service (but such maximum height shall not be greater than sixty (60) feet).
- (2) **Farm Buildings** - Sixty (60) feet maximum.
- (3) **Other** – Twenty (20) feet maximum.

**(F) Area regulations**

No minimum required. The use will dictate the size of the parcel. However, no more than 60% of the subject parcel shall be of impervious surfaces, consisting of roof tops, paved or gravel surface parking or service areas, and 40% of the subject parcel shall be in vegetative cover or tillable soil.

**(G) Sign regulations**

- (1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

**Section 72 B-1 RESTRICTED BUSINESS DISTRICT**

**(A) Permitted uses:**

- (1) Any use as permitted in the R-3 residential district.
- (2) The following retail or customer service establishments of a restrictive nature provided the location, building and Site Plan and Plan of Operation have been submitted to, and approved by, the Town Plan Commission as being in keeping with the character of the surrounding residential area.
  - (a) Boarding or lodging houses.
  - (b) Delicatessen.
  - (c) Florist shop.
  - (d) Funeral home.
  - (e) Gift shop.
  - (f) Interior decorator.
  - (g) Professional office or studio.
  - (h) Tea room or restaurant provided no liquor is served.
  - (i) Tourist home.
  - (j) Classes associated with any other permitted use as long as the site plan and plan of operation approved by the Town Plan Commission address the hours of operation, number of events and maximum participants, parking, signage and the facility in which said classes are conducted meets all applicable building sanitation, health and fire codes for the type of classes conducted and the number of participants.
  - (k) Any similar use subject to the approval of the Town Plan Commission

**(B) Building location.**

- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:** Twenty (20) feet minimum.

(C) **Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

(D) **Area regulations.**

(1) **Floor area:**

(a) **Minimum required for residential purposes:**

(i) **First floor:** Nine hundred (900) square feet.

(ii) **Total, one (1) family:** One thousand (1,000) square feet.

(b) **Maximum F. A. R. permitted:** Twenty (20) percent.

(2) **Lot size:**

(a) **Minimum area:** Twenty thousand (20,000) square feet.

(b) **Minimum average width:** One hundred twenty (120) feet

(E) **Sign regulations**

(1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

### Section 73 B-2 LOCAL BUSINESS DISTRICT

(A) **Permitted uses:**

(1) Any use as permitted in the B-1 restricted business district.

(2) Any of the following retail or customer service establishments, provided the location, building and Site Plan and Plan of Operation are submitted to and approved by the Town Plan Commission.

(a) Art shop.

(b) Appliance store.

(c) Bakery (not over ten (10) employees).

(d) Barber shop.

(e) Beauty shop.

(f) Bank or savings and loan office.

(g) Clinic.

(h) Clothing or dry goods store.

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- (i) Confectionery store.
- (j) Drug store.
- (k) Furniture store.
- (l) Book or stationery store.
- (m) Fruit and vegetable market.
- (n) Grocery or other food products store.
- (o) Hardware store.
- (p) Ice cream store.
- (q) Jewelry store.
- (r) Meat and fish market.
- (s) Music and radio store.
- (t) News-stand.
- (u) Notion or variety shop.
- (v) Parking lot.
- (w) Pharmacy.
- (x) Radio and television sales and repair shop.
- (y) Personal Storage Facilities
- (z) Photographer.
  
- (aa) Restaurant.
- (bb) Shoe store.
- (cc) Soda fountain.
- (dd) Tailor or dressmaking shop.
- (ee) Telegraph and telephone office and telephone exchange.
- (ff) Temporary fireworks stands that sell Class "C" fireworks.
- (gg) Utility company office.
- (hh) Any similar use subject to the approval of the Town Plan Commission.

(3) Garages for storage of vehicles used in conjunction with the operation of the business.

**(B) Building location.**

(1) **Setback:** Fifty (50) feet minimum.

(2) **Offset:**

(a) **Buildings used solely for commercial purposes:** Ten (10) feet minimum.

(b) **Buildings used in whole or part for residence purposes:** Twenty (20) feet minimum.

**(C) Height regulations,** See Section 17 "Height regulations" for regulations and exceptions.

**(D) Area regulations.**

**(1) Floor area:**

**(a) Minimum required for residence purposes:**

**(i) Buildings used solely for residence purposes:**

**(1) First floor:** Eight hundred (800) square feet.

**(2) Total:** One (1) family: One thousand (1,000) square feet.

**(ii) Buildings used for both residence and business purposes:** Six hundred (600) square feet per family.

**(b) Maximum F. A. R. permitted:** Fifty (50) percent.

**(2) Lot size:**

**(a) Minimum area:** Twenty thousand (20,000) square feet.

**(b) Minimum average width:** One hundred twenty (120) feet.

**(E) Sign regulations**

**(1) Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

**Section 74 B-3 GENERAL BUSINESS DISTRICT**

**(A) Permitted uses:**

**(1)** Any use as permitted in the B-2 local business district, except that residential use shall be permitted only in conjunction with or accessory to an otherwise permitted use.

**(2)** The following business and trades of a more general nature, normally serving a larger trade area, providing the location, building and Site Plan and Plan of Operation are submitted to and approved by the Town Plan Commission.

**(a)** Wholesalers and distributors.

**(b)** Theaters, dance halls, arcades, video game parlors and other amusement places.

**(c)** Used car lots.

- (d) Dry cleaning and dyeing establishments.
- (e) New and used automobile sales rooms and lots, sale of snowmobiles, personal watercraft, boats and marina equipment along with repair and service shops for such equipment, storage yards and garages for said equipment, vehicles and supplies, but not including the storage and/or sale of junked or wrecked equipment or parts.
- (f) Printing and publishing houses.
- (g) Dairies and bottling plants.
- (h) Laundries.
- (i) Lockers and cold storage plants.
- (j) A building, or portion thereof, or a building designed with self-contained units, which is leased by the owner for storage.
- (k) Any similar use subject to the approval of the Town Plan Commission.

**(B) Building location.**

- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:**
  - (a) **Buildings used solely for commercial purposes:** Ten (10) feet minimum.
  - (b) **Buildings used in whole or part for residence purposes:** Twenty (20) feet minimum.

**(C) Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

**(D) Area regulations.**

- (1) **Floor area:**
  - (a) **Minimum required for residence purposes:** Six hundred (600) square feet per family.
  - (b) **Maximum F. A. R. permitted:** Fifty (50) percent.
- (2) **Lot size:**
  - (a) **Minimum area:** Twenty thousand (20,000) square feet.
  - (b) **Minimum average width:** One hundred twenty (120) feet.

**(E) Sign regulations**

- (1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

**Section 75 B-4 COMMUNITY BUSINESS DISTRICT**

**(A) Statement of intent.**

This district is intended to provide for individual or large groups of retail and customer service retail in a “shopping center setting.” The intent is to designate those uses on a predetermined land use plan. This District must be located within one (1) mile of a major highway interchange or at or near the intersection of two (2) major highways. The District is designed for convenience or one-stop shopping and is intended to serve the entire community.

**(B) Review process.**

The Town Plan Commission must review and approve building plans and a Site Plan and Plan of Operation for each building proposal or change in use in order to achieve a satisfactory relationship between the permitted use, its operating characteristics, the arterial highway system, and adjacent uses.

**(C) Permitted uses.**

- (1) **Permitted Principal Uses:** The following retail establishments, selling of and storing of only new merchandise.
- (a) Art, dance, music teaching studios or other similar uses.
  - (b) Architects, engineers or other professional offices.
  - (c) Bakery goods stores.
  - (d) Banks, savings and loan association and other financial institutions.
  - (e) Barber and beauty shops.
  - (f) Candy, confectionery stores.
  
  - (g) Clothing stores.
  - (h) Delicatessens.
  - (i) Dentist, physician or other similar professional health offices.
  - (j) Drugstores.
  - (k) Dry cleaning pick-up and delivery establishments.
  - (l) Retail florists.
  - (m) Fruit stores.
  - (n) General public bookstores.
  - (o) Gift stores.

- (p) Grocery stores.
- (q) Hardware stores, paint or decorating stores.
- (r) Hobby shops.
- (s) Meat, fish, or poultry markets.
- (t) Optical stores.
- (u) Packaged beverage stores.
- (v) Photo and film pick-up stores.
- (w) Shoe repair shops.
- (x) Shoe stores.
- (y) Soda and ice cream stores.
- (z) Sporting goods stores.
- (aa) Tobacco stores.
- (bb) Variety stores.
- (cc) Vegetable stores.
- (dd) Video stores.
- (ee) Department stores.
- (ff) Cafes or restaurants.

(2) **Permitted Accessory Uses:**

- (a) Garages for storage of licensed vehicles used in conjunction with the operation of a business.
- (b) Off-street parking and loading areas.
- (c) Classes associated with any other permitted use as long as the site plan and plan of operation approved by the Town Plan Commission address the hours of operation, number of events and maximum participants, parking, signage and the facility in which said classes are conducted meets all applicable building sanitation, health and fire codes for the type of classes conducted and the number of participants.

- (3) **Off-street Parking and Loading Areas:** Provided detailed site plans, including landscaping and buffering, are submitted to and approved by the Town Plan Commission. Front, rear and side yard paved setbacks shall not be less than ten (10) feet. Shared drives and shared parking areas may be allowed among adjacent properties where appropriate and practical through the use of cross-easements or other internal linkages between the properties with approval of the Town Plan Commission and all owners of the properties.

**(D) Permitted conditional uses.**



Any use similar in character to the permitted uses listed above conducted as a retail business on the premises, catering to the general public and compatible to the character of adjacent areas. Additionally, only the following uses are permitted conditional uses:

- (1) Fast food establishments.
- (2) Service stations.
- (3) Home improvements stores.
- (4) Communications facilities, including antenna masts and satellite dish antennas located in the rear yard and roof-mounted satellite dish antennas and roof-mounted solar collectors on the roof of the principal structure, provided a registered engineer shall certify that the structure is adequate to support the load. All such facilities shall be screened from view with the facility and screening approved by the Town Plan Commission and Town Board.
- (5) Entertainment facilities.
- (6) Hospitals and health care facilities.
- (7) All uses operated greater than 16 hours per day.
- (8) Limited outside storage or display.

**(E) Prohibited uses.**

- (1) Any new residential dwellings.
- (2) Car, truck and trailer sales lots - new and used.
- (3) Outside bulk sales, bulk storage or bulk display of materials or products.
- (4) Drive-in theaters.

**(F) Height regulations, See Section 17 "Height regulations" for regulations and exceptions.**

**(G) Lot Area, Frontage, and Yard Regulations.**

**(1) Lot Size – Un-sewered:**

- (a) Total site may not be less than ten (10) acres without lots being created by a PUD.
- (b) When an un-sewered lot is created, the Town Plan Commission may require the principal structure on the lot to be arranged and dimensioned so as to allow further division of the parcel at such time as sewer becomes available.

**(2) Lot Size - Sewered:**

- (a) Free-standing building sites shall have a minimum lot size of 20,000 square feet.

- (3) **Lot Width (out lots):** Free-standing building sites shall have a minimum average width of 120 feet (sewered) and 240 feet (un-sewered).
- (4) **Front Yard Setback:** All buildings shall be located not less than fifty (50) feet from any street or highway right-of-way.
- (5) **Side Yard Setback:** Shall have a minimum offset of ten (10) feet; however, the Town Plan Commission may require a greater offset to accommodate future expansion of the building or future paved driveway access to the rear of the building.
- (6) **Rear Yard Setback:** Shall have a minimum offset of twenty-five (25) feet.
- (7) **Floor Area:** Initial construction proposed on each lot shall be a minimum of 5,000 square feet.
- (8) **Floor Area Ratio:**
  - (a) Maximum of thirty percent (30%), un-sewered.
  - (b) Maximum of fifty percent (50%), sewered.
  - (c) Not more than sixty-five percent (65%), un-sewered or seventy percent (70%), sewered of any lot shall be covered with buildings, surfaced pavement, parking, loading areas, or other covering materials which are impervious to surface absorption.

**(H) Sign regulations.**

- (1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

**Section 76 BP-MIXED USE BUSINESS PARK DISTRICT.**

**(A) Statement of intent.**

- (1) This district is to be used as an implementation tool for the Town's adopted Land Use Plan where it designates specific types of limited office, professional services, retail, business uses, and light industrial uses free of outside storage or display, serving the adjacent industrial and business uses in larger communities. These uses may occur on individual sites or as part of a planned larger development. This District can only be located within one mile of a freeway interchange or at an intersection of two state trunk highways and be used only where specific types of uses are designated on a Town adopted Land Use Plan.

- (2) The Town Plan Commission shall review and consider for approval a building plan and a Site Plan and Plan of Operation for each building or use proposal to determine if the proposed development complies with the Town Land use Plan. The review shall be required to achieve a satisfactory relationship between the permitted use, its operating characteristics, the arterial highway system and adjacent uses such as retail, residential, customer service, business park and light industrial.

**(B) Permitted uses.**

- (1) **Permitted Principal Uses:** The following principal uses are permitted provided the building plan and a Site Plan and Plan of Operation have been submitted to and approved by the Town Plan Commission. Development prior to sewers being installed in the area is contingent upon the ability of each use to obtain the necessary sanitary septic system approvals from the proper authorities.
  - (a) Community and customer service establishments including eating and drinking establishments, overnight lodging, and indoor commercial recreational facilities such as bowling alleys, physical fitness salons and theaters. Such establishments may not be located adjacent to or opposite a residential district (as designated on the Land Use Plan) and must be within 1,000 feet of a state trunk highway except as identified by Section 412 of this Code.
  - (b) Offices for the professions, business and utilities, studios, health care facilities and clinics (not providing for overnight stay).
  - (c) Automobile drive-thru facilities such as financial services, fast food establishments, provided the service rendered or product sold is provided to each customer while they remain in or near their cars and provided to one or a few vehicles at a time (as contrasted with an outdoor theater where all cars are serviced at once). Such facilities must be located within 1,000 feet of a state trunk highway.
  - (d) Laboratory, research and servicing operations. Servicing operations shall not be for general retail or public consumption but limited to the servicing of the specific product manufactured or assembled at that site.
  - (e) Trades or light industrial operations of limited intensity, including manufacturing, assembly, fabrication, and processing operations, warehousing (on parcels greater than 3 acres), wholesaling, and distribution operations, except as otherwise prohibited.

- (2) **Permitted Accessory Uses:** The following accessory uses are permitted provided the building or structure plan and a Site Plan and Plan of Operation have been submitted to and approved by the Town Plan Commission.
- (a) Garages attached to the principal structure for storage of vehicles used in conjunction with operation of the business.
  - (b) Off-street parking and loading areas provided detailed site plans, including landscaping and buffering, are submitted to and approved by the Town Plan Commission. Front, rear and side yard paved setbacks shall be not less than ten (10) feet. Shared drives and shared parking areas among adjacent properties where appropriate and practical are desirable through the use of cross-easements or other internal linkages between properties.
  - (c) Communications facilities, including antenna masts and satellite dish antennas located in the rear yard and roof-mounted solar collectors on the roof of the principal structure, provided a registered engineer shall certify that the structure is adequate to support the load. All such facilities shall be screened from view with the facility and screening approved by the Town Plan Commission. Screening shall be required for any satellite dish exceeding 24 inches in size and where more than one exists per property.
  - (d) Bus or taxi shelters or waiting areas.
  - (e) Classes associated with any other permitted use as long as the site plan and plan of operation approved by the Town Plan Commission address the hours of operation, number of events and maximum participants, parking, signage and the facility in which said classes are conducted meets all applicable building sanitation, health and fire codes for the type of classes conducted and the number of participants

**(C) Permitted conditional uses.**

Only the following conditional uses may be permitted provided the building plan and a Site Plan and Plan of Operation have been submitted to and approved by the Town Plan Commission and Town Board:

- (1) Child care facilities not accessory to a principal office use.
- (2) Cooling towers, silos or other similar uses accessory to the permitted principal uses.
- (3) Automobile service and fuel stations.
- (4) Restaurants to be located within 1,000 feet of any residential area designated on the Land Use Plan.

- (5) Fuel or vehicle repair stations serving trucks other than company motor vehicles. Such facilities shall not be located within 1,000 feet of a residential area designated on the Land Use Plan unless having direct access to a state trunk highway.
- (6) Any outdoor recreation involving night operation with limitations on hours of operation.
- (7) Retail stores and shops located beyond 1,000 feet of a state trunk highway.
- (8) Retail uses operated more than 16 hours per day.
- (9) Health care facilities providing for overnight stays.
- (10) Commercial vehicle terminals with roadway access to a state trunk highway.

**(D) Prohibited uses.**

- (1) **Offensive Uses.** No uses shall be permitted or maintained which, when conducted under adequate conditions and safeguards in compliance with the provisions of this Section and any additional conditions or requirements prescribed by the Town Plan Commission, are or may become hazardous, noxious or offensive due to emission or odor, dust, smoke, cinders, gas, fumes noise, vibrations, beat frequency, refuse matter, water-carried waste or fugitive lighting.

- (2) **Specific Prohibited Uses.** The following uses are specifically prohibited:

- (a) Truck or trailer sales.
- (b) New and used car lots.
- (c) Car wash facilities.
- (d) Bulk sales, storage or display of lumber.
- (e) Outdoor displays or storage of materials.
- (f) Drive-in theaters.
- (g) Mobile home sales, service or campgrounds.
- (h) Recreational vehicle, all-terrain vehicle or outdoor recreational vehicle sales and service.
- (i) Junkyards or wrecking yards.
- (j) Refining of petroleum or its products.
- (k) Petroleum storage yards, not including petroleum storage accessory to a permitted conditional use.
- (l) Animal reduction facilities.
- (m) Forges.
- (n) Foundries.
- (o) Garbage or medical incinerators.
- (p) Rubbish storage or transfer station.
- (q) Slaughterhouses.
- (r) Stockyards.
- (s) Tanneries.

- (t) Bulk storage of salt, fertilizer, or similar materials; explosives, gasoline or other petroleum products in excess of 50,000 gallons, and grease.
- (u) Storage of radioactive materials.
- (v) Manufacturing or processing of ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives, fertilizer, glue, gypsum, insecticides, poison, pulp, pyroxylin, radium and radioactive materials.
- (w) Outside product or equipment testing.
- (x) Mini-warehouses or multi-tenant storage.

(3) **Dwellings:** No new dwellings or residences of any kind.

**(E) Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

**(F) Lot Area, Frontage, and Yard Regulations.**

(1) **Lot Size – Un-sewered:**

- (a) Building site shall have a minimum lot size of 40,000 square feet.
- (b) When an un-sewered lot is created, the Town Plan Commission may require the principal structure on the lot to be arranged and dimensioned so as to allow further division of the parcel at such time as sewer becomes available.

(2) **Lot Size - Sewered:** Building sites shall have a minimum lot size of 20,000 square feet.

(3) **Lot Width:** Building sites shall have a minimum average width of 120 feet (sewered) and 240 feet (un-sewered).

(4) **Front Yard Setback:** All buildings shall be located not less than fifty (50) feet from any street or highway right-of-way.

(5) **Side Yard Setback:** Shall have a minimum offset of ten (10) feet; however, the Town Plan Commission may require a greater offset to accommodate future expansion of the building or future paved driveway access to the rear of the building.

(6) **Rear yard Setback:** Shall have a minimum offset of twenty-five (25) feet.

(7) **Floor Area:** Initial construction proposed on each lot shall be a minimum of 5,000 square feet.

(8) **Floor Area Ratio:** Maximum of thirty percent (30%). In addition, no more than sixty-five percent (65%) of any lot shall be covered with buildings, surface pavement, parking, loading areas, or other covering materials which are impervious to surface absorption

prior to the installation of sanitary sewers. Upon installation of sanitary sewers, the total impervious coverage shall not exceed 75% and the floor area ratio shall not exceed 50%.

**(G) Sign regulations.**

- (1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

**Section 77 Q-1 QUARRYING DISTRICT.**

**(A) Permitted uses.**

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

**(B) Conditional Uses.**

- (1) Quarrying may be authorized as a conditional use under the provisions of this Code. The issuance of a conditional use permit to authorize the quarrying of the site shall be conditional upon compliance with the standards and regulations as set forth in this Code.
- (2) The following operations shall be authorized as a conditional use under the provisions of this Code but only where accessory to an approved quarrying operation, and subject to the regulations of conditional use provisions of this Code.
  - (a) The manufacture of concrete building blocks or other similar blocks.
  - (b) Production of ready-mixed concrete.

**(C) Building location.**

- (1) **Setback:**
  - (a) **Quarrying operations:** As required by Section 21 (B) (38).
  - (b) **Other permitted uses:** Fifty (50) feet minimum.
- (2) **Offset:**
  - (a) **Quarrying operations:** As required by Section 21 (B) (38).
  - (b) **Other permitted uses:** Twenty (20) feet minimum.

**(D) Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

**(E) Area regulations.**

(1) **Floor area:**

(a) **Minimum required for residence purposes:**

(i) **First floor:** Nine hundred (900) square feet.

(ii) **Total, one (1) family:** One thousand (1,000) square feet.

(b) **Maximum F. A. R. permitted:** Ten (10) percent.

(2) **Lot size:**

(a) **Minimum area:** Three (3) acres.

(b) **Minimum average width:** Two hundred (200) feet.

**(F) Sign regulations.**

(1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

#### **Section 78 M-1 LIMITED INDUSTRIAL DISTRICT.**

**(A) Permitted uses:**

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

(2) Trades or industries of a restrictive character which are not detrimental to the district or to the adjoining residential areas by reason of appearance, noise, dust, smoke or odor, provided the location, building plan and a Site Plan and Plan of Operation have been submitted to and approved by the Town Plan Commission, but not including any use enumerated under Section 82(A)(3) or any of the following:

(a) Salvage yards, as regulated by Section 40(B)(38).

(b) Drop forges, foundries, refineries, tanneries or any similar use, the normal operation of which causes objectionable noise, odor, dust or smoke.



**(B) Building location.**

- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:** Ten (10) feet minimum. (Exception: where a lot abuts on a district boundary line of a more restrictive district permitting residence use, the following restrictions shall apply:
  - (a) Buildings or uses permitted in the more restrictive district shall comply with the offset requirements of the more restrictive district.
  - (b) Buildings or uses not permitted in the more restrictive district shall provide a fifty (50) feet minimum offset and shall be screened from the more restrictive district by a planting screen at least six (6) feet high and fifteen (15) feet in width.

**(C) Height regulations.**

- (1) **Principal building:** Sixty (60) feet maximum.
- (2) **Accessory buildings:** Sixty (60) feet maximum.

**(D) Area regulations.**

- (1) **Floor area:**
  - (a) **Minimum required for residence purposes:** Nine hundred (900) square feet per family.
  - (b) **Maximum F. A. R. permitted:** Seventy (70) percent.
- (2) **Lot size:**
  - (a) **Minimum area:** One (1) acre.
  - (b) **Minimum average width:** One hundred fifty (150) feet.

**(E) Sign regulations.**

- (1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

**Section 79 M-2 GENERAL INDUSTRIAL DISTRICT.**

**(A) Permitted uses.**

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- (1) Any use as permitted in the M-1 limited industrial district.
- (2) Quarrying, subject to the regulations of Section 40(B) (34).
- (3) Any other commercial or industrial use not otherwise prohibited by law, provided their location, building plan and a Site Plan and Plan of Operation have been submitted to and approved by the Town Plan Commission, except the following:
  - (a) Cement, lime, gypsum, or plaster of paris manufacture.
  - (b) Acid manufacture.
  - (c) Manufacture of explosives, but not including the making of small arms ammunition.
  - (d) Storage of explosives, except as incidental to a permitted use.
  - (e) Fertilizer manufacture.
  - (f) Offal or dead animal reduction.
  - (g) Glue manufacture, fat rendering or distillation of bones.
  - (h) Stockyards or commercial slaughter of animals.

**(B) Building location.**

- (1) **Setback:** Fifty (50) feet minimum except that where the opposite frontage is in a residential or agricultural district, a one hundred (100) foot minimum setback shall be required.
- (2) **Offset:** Ten (10) feet minimum, except that where a lot abuts on a district boundary line of a more restrictive district permitting residence use, the following regulations shall apply:
  - (a) Buildings or uses permitted in the more restrictive district shall comply with the offset requirements of the more restrictive district.
  - (b) Buildings or uses not permitted in the more restrictive district shall provide a one hundred (100) foot minimum offset from a restricted or local business district and a two hundred (200) foot minimum offset from a residential or agricultural district and shall be screened from the more restrictive district by a planting screen at least six (6) feet high and fifteen (15) feet in width.

**(C) Height regulations.**

- (1) **Principal building:** Sixty (60) feet maximum.
- (2) **Accessory buildings:** Sixty (60) feet maximum.

**(D) Area regulations.**

(1) **Floor area:**

(a) **Minimum required for residence purposes:** Nine hundred (900) square feet per family.

(b) **Maximum F.A.R. permitted:** Seventy (70) percent.

(2) **Lot size:**

(a) **Minimum area:** One (1) acre.

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

**(E) Sign regulations.**

(1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

## ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

### Section-100. Board of Appeals—Establishment.

There shall be a Board of Appeals consisting of three (3) members and two (2) alternates who shall be appointed by the Town Board, but not more than one supervisor shall be a member of the Board of Appeals. Board of Appeals members shall be appointed for terms of one, two, and three years respectively, dating from the first day of the month next following the appointment. Successors shall be appointed in like manner at the expiration of each term, and their terms of office shall be three years in all cases and until their successors are appointed. The members of the Board of Appeals shall all reside within the Town. The Board of Appeals shall choose its own chair. The Town Board may compensate the members of the Board of Appeals. Vacancies shall be filled for the unexpired term of any board member or alternate whose term becomes vacant.

(A) **Meetings.** The Town Board shall adopt rules for the conduct of the business of the Board of Appeals, in accordance with the provisions of this Code and Section 62.23(7)(e), Wis. Stats.. The Board of Appeals may adopt further rules as necessary to carry into effect the regulations of the Town Board. Meetings of the Board of Appeals shall be held at the call of the chair and at such other times as the Board of Appeals may determine. Such chair, or in his absence the acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.

(B) **Appeals.**

(1) **How filed.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officers, department, board or bureau of the Town affected by any decision of the administrative officer. Such appeal shall be taken within 65 days as provided by the rules of the Board of Appeals, by filing with the administrative officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with the proper fee as established by the Town Board. The administrative officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken.

(2) **Stay.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on

application, on notice to the officer from whom the appeal is taken and on due cause shown.

- (3) **Hearing.** Each appeal shall be heard within a reasonable time and not to exceed 65 days from the time the appeal was filed with the Board of Appeals. Notice of hearing shall be given by publishing in a paper of general circulation in the vicinity of the appeal, at least once each week for two consecutive weeks and not less than seven days from the date of the hearing. In addition, written notice shall be given to the administrative officer appealed from, and by regular mail to the petitioner, the owners of each parcel of land within 300 feet of the land in question, and any other specifically interested parties. At the hearing, any party may appear in person or by agent or by attorney.
- (4) **Decisions.** Decision on any appeals shall be made in writing within 35 days after completion of the hearing thereon.

**(C) Powers.**

- (1) **Defined.** The Board of Appeals shall have the following powers as defined by statute: To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by an administrative official in the enforcement of this Code. To authorize upon appeal in specific cases variances from the terms of the ordinance that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
- (2) **Additional requirements.** In making its determination, the Board of Appeals shall consider whether the proposed exception, variance or use allowed by law would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to any which may be stipulated in this Code, as the Board of Appeals may deem necessary for the protection of adjacent properties and the public interest and welfare.
- (3) **Performance standards.** In order to reach a fair and objective decision, the Board of Appeals may utilize and give recognition to appropriate performance standards which are available in model codes or ordinances, or which have been developed by planning, manufacturing, health, architectural and engineering research organizations.
- (4) **Enforcement of decision.** In exercising the powers set out in the Code, the Board of Appeals may, in conformity with the provisions of this Code, reverse or affirm, wholly or partly, or may modify the order, requirements, decisions or determination appealed

from, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken; and may issue or direct the issuance of a permit provided that no such action shall have the effect of permitting in any district a use prohibited in that district; or rezoning; or of permitting, without the approval of the Town Board, any building within the base setback area as established by Section 22(A) or of granting exceptions to the Wis. Administrative Code chapters NR 115 or 116, the county sanitary ordinance and any other state, federal or local requirements.

- (5) **Required vote.** If a quorum is present, the Board of Appeals may take action under this section by a majority vote of the members present. The grounds of every such determination shall be stated.
- (6) **Further appeal.** Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the Town, may appeal from a decision of the Board of Appeals within 30 days after the filing of the decision in the office of the Board of Appeals in the manner provided in Wis. Stats. § 62.23(7)(e)(10).
- (7) **Exercise of County Board of Adjustment Powers.**  
Board of Appeals under town zoning ordinances shall have the powers and duties provided for boards of adjustment under Section 59.694 Wisconsin Statutes and shall carry out their duties in the manner provided for Boards of Adjustment by Section 59.694 Wisconsin Statutes.
- (8) The owner or applicant must exercise any variance or special exception that does not involve a permit within three (3) years of the date of the Board of Appeals granting the variance or special exception, or the approval shall expire and become null and void, and no refund of any fees shall be made. If the special exception or variance does not require a permit, the permit must be obtained within three (3) years of the date of granting of the variance or special exception or approval shall expire and become null and void, and no refund of any fees shall be made. If the permit is not exercised or obtained within the time allowed, the permit or approval shall expire and become null and void, and no refund of any fees shall be made. However, the Board of Appeals, upon a written request, may grant an extension of the permit or approval without additional fee for good cause as determine by the Board of Appeals.

#### **Section-101. Zoning Changes and Amendments--Authority.**

Subject to the provisions of Wis. Stats. § 60.61(4)(c)(1), the Town Board may from time to time after first

Town of Genesee Zoning Code

June 13, 2022

submitting the proposal to the Town Plan Commission for report, and after notice and public hearing as provided in this Code, amend, supplement or change the boundaries of districts or the regulations as established in this Code or which may be subsequently established. Such proposal may be initiated by the Board of Appeals on its own motion, by recommendation of the Town Plan Commission or by petition of one or more property owners.

**(A) Procedure.**

- (1) **Filing of petition.** All petitions for any change in the text or map submitted by any person or agency other than the Town Board or the Town Plan Commission shall be prepared on printed forms provided for that purpose by the Town clerk. Such petition shall be filed with the clerk and shall be accompanied by a fee as regulated in Section 487(D) and payable to the Town to defray the costs of advertising, investigation, and possible changes in the text or map of this Code.
- (2) **Data required.** In addition to all of the information required on the petition form, the petitioner shall supply the following:
  - (a) Fifteen (15) copies of a plot map drawn to a scale of not less than 100 feet to the inch showing the land in question, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land and the principal use of all properties within 300 feet of such land.
  - (c) In the case of a request for a map amendment, the applicant shall submit documentation or a letter of compliance from the Town Planner and the Waukesha County Department of Parks and Land Use that the proposed request complies with the Town of Genesee Comprehensive Land Use Plan - 2035 and the Waukesha County Development Plan.
  - (d) Any further information which may be required by the Town Plan Commission to facilitate the making of a comprehensive report to the Town Board, including a detailed description of the intended new use.
- (3) **Referral.**
  - (a) The clerk shall transmit without delay one copy of such petition to the Town Plan Commission and one copy to the county park and planning commission.
  - (b) The Town Plan Commission shall conduct the necessary investigation, schedule a public hearing, and report its recommendation to the Town Board within a reasonable time after the hearing.
- (4) **Hearing.** Upon the recommendation of the Town Planner and proper notice per Section

102(A), the Town Plan Commission shall hold a public hearing thereon.

- (5) **Decision.** The Town Plan Commission shall make a recommendation to the Town Board within 60 days after the Public Hearing. The Town Board shall make a decision within sixty (60) days after receipt of the Town Plan Commission recommendation.
- (6) **Three-fourths vote in case of protest.** In case of protest against such change duly signed and acknowledged by the owners of at least fifty (50) percent or more either of the areas of land included in such proposed amendments, supplement or change, or by the owners of fifty (50) percent of the total perimeter of the area proposed to be altered that is included within 300 feet of the parcel or Parcels to be rezoned per Wis. Stats.
- (7) **Effective upon county approval.**
  - (a) Three signed copies of any change or amendment adopted by the Town Board shall be sent to the county clerk and Waukesha County Department of Parks and Land Use for approval of the county board.
  - (b) Any such change or amendment shall become effective in the Town upon the approval of the county board.

**Section-102. Public Hearing--Purpose.**

In order that the owners of property involved and other legitimately interested parties may have fair opportunity to be heard, adequate notice shall be given of any public hearing required by this Code.

**(A) Procedure.**

- (1) **Posting and publishing.**
  - (a) Except as may be otherwise specifically provided in this Code, notice of public hearing shall be given by publication for two consecutive weeks in the official newspaper of the Town or in the newspaper of general circulation in the area of the proposed change, conditional use, variance or sewer reduction at least seven days before such public hearing. The failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate any amending ordinance, variance or granting of conditional use.
  - (b) When the hearing involves a proposed change in the zoning district classification of any property, the granting of a conditional use, or are appealed to the Board of Appeals, the notices shall be posted of such proposed change, conditional use or



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

- (c) Notice of public hearing shall be sent to the county board supervisor representing the subject area, the State Department of Natural Resources, and Federal Insurance Administrator (FEMA) if lying within the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance.
- (2) **Information.** Such notices shall state the time and place of such public hearing and the purpose for which the hearing is held.
- (3) **Filing.** Where such hearing is required by the provisions of this Code as a result of the request for other than a zoning change, such requests shall be presented to the clerk in writing and shall be accompanied by a map or description clearly identifying the property, along with a fee as set forth in Section 487(D) payable to the Town to defray the cost of notification and holding of the public hearing.
- (4) **Fee schedule.** The fees referred to in other Sections of this Code shall be established by the Town Board in a fee schedule and may, from time to time, be modified by resolution. Processing fees are related to costs involved in handling conditional use petitions, appeals to the Board of Appeals, zoning amendments and changes, special exceptions and sewer reductions.
- (5) **Special meeting.** If a petitioner requests a special meeting (other than a regular Town Plan Commission or Town Board meeting) all costs incurred will be the responsibility of the petitioner.

### **Section-103. Enforcement Officer.**

- (A) **Zoning Administrator designated.** The Town Administrator-Planner is designated as the "Zoning Administrator" for the administration and enforcement of the provisions of this Ordinance under the direction of the Town Board. The Zoning Administrator has the authority to designate other

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staff to perform delegated tasks and duties.

- (B) **Duties.** In the enforcement of this Code, the Zoning Administrator, in conjunction with the Town Building Inspector, shall perform the following duties:
- (1) Issue the necessary "building and zoning," and "use" permits, provided the provisions of this Code and the Town Building Code, relative to buildings and building regulations, have been complied with.
  - (2) Keep an accurate record of all permits, numbered in the order of issuance, in a record book provided by the Town for this purpose.
  - (3) Maintain accurate records and maps pertinent hereto and any amendments or changes thereto.
- (C) **Authority.** In the enforcement of this Code the Zoning Administrator and/or Town Building Inspector shall have the power and authority for the following:
- (1) At any reasonable time and for any proper purpose, to enter upon any public or private premises to make inspections thereof.
  - (2) Upon reasonable cause or question as to proper compliance, to revoke any building, zoning or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Code, such revocation to be in effect until reinstated by the Zoning Administrator or the Board of Appeals.
  - (3) In the name of the Town and with the authorization of the Town Board, to commence any legal proceedings necessary to enforce the provisions of this Code or the building code, including the collection of forfeitures provided for in this Code.

#### **Section-104. Violations.**

- (A) **Penalties.** Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of, any of the provisions of this Code, shall be subject to a forfeiture of not less than \$10.00 and not to exceed the sum of \$2,000.00 for each offense, together with the costs of the action, and in default of the payment thereof, shall be imprisoned in the county jail, for a period of not to exceed six months, or until such forfeiture and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such.
- (B) **Enforcement by injunction.** Compliance with the provisions of this Code may also be enforced by injunctive order at the suit of the Town or one or more owners of real estate situated within the area affected by the regulations of this Code. It shall not be necessary to prosecute for fine or

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imprisonment before resorting to injunctive procedures.

- (C) **Declared nuisances.** Any building erected, structurally altered, or placed on a lot, or any use carried on in violation of the provisions of this Code, is declared to be a nuisance per se, and the Town may apply to any court of competent jurisdiction to restrain or abate such nuisance.

**Section-105 Validity.**

- (A) **Repeal of conflicting Ordinances.** All other ordinances or parts of ordinances in conflict with the provisions of this Code are hereby repealed.
- (B) **Declaration of severability.** The several Sections, subsection, and paragraphs of this Code are hereby declared to be severable. If any Section, subsection, paragraph, or subparagraph of this chapter shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of this Code, or of the Section of which the invalid portion or paragraph may be a part.
- (C) **Effective date.** This Code shall be in full force and effect upon passage and publication by the Town Board and upon approval of the county board of supervisors, said publication to consist of posting of three copies thereof in three public places in said Town.
- (D) **Adoption.** The Code was adopted by the Town Board the \_\_\_\_ day of \_\_\_\_\_, 2022.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication as a Code of Ordinances pursuant to Wisconsin Statutes Section 66.0103, immediately upon the approval of the Waukesha County Board of Supervisors pursuant to Wisconsin Statutes Section 60.62(3).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

TOWN OF GENESEE

Town of Genesee Zoning Code

June 13, 2022

\_\_\_\_\_  
Sharon L. Leair, Town Chairman

ATTEST:

\_\_\_\_\_  
Meri Majeskie, Town Clerk






Published and/or posted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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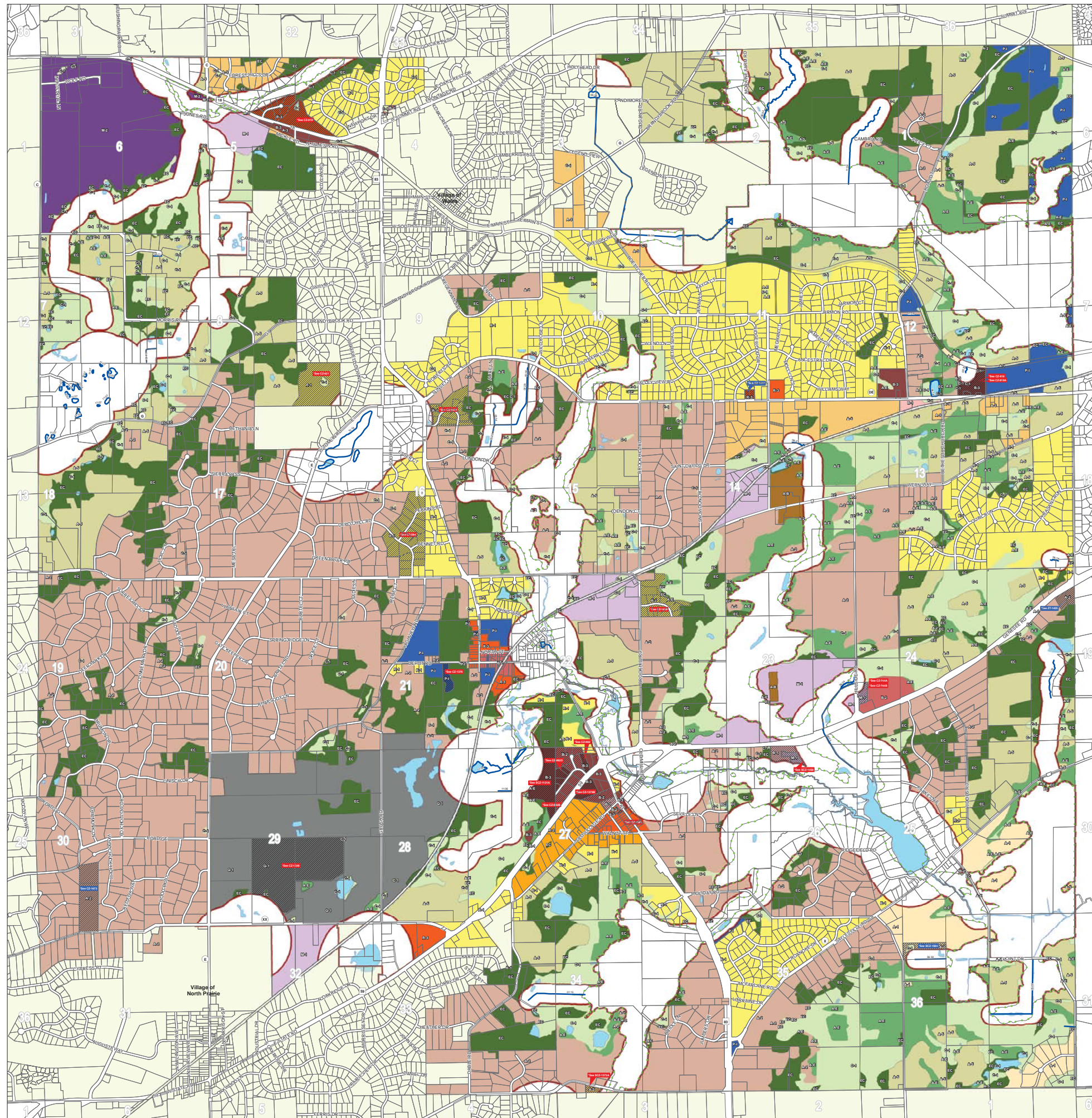
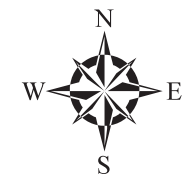
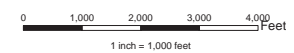
# TOWN OF GENESEE ZONING MAP

## Legend

-  A-1 Agricultural
  -  A-2 Rural Home
  -  A-3 Suburban Estate
  -  A-5 Mini-Farm District
  -  A-B Agricultural Business
  -  A-E Exclusive Agricultural Conservancy
  -  B-1 Restricted Business
  -  B-2 Local Business
  -  B-3 General Business
  -  C-1 Conservancy
  -  EC Environmental Corridor
  -  M-1 Limited Industrial
  -  M-2 General Industrial
  -  P-1 Public & Institutional
  -  Q-1 Quarry
  -  R-1 Residential
  -  R-2 Residential
  -  R-3 Residential
  -  Conditional Rezones
  -  100-Year Flood Zone
  -  Shoreland Zoning Jurisdictional Boundary
  -  DNR Determined Navigability
  -  Conditional Met
  -  Conditional Not Met
- Conditional zoning changes are noted with an asterisk and a note referring to the zoning change file number.

Cadastral data is from Waukesha County, current as of 10-14-2013

Environmental Corridor Data is from SEWRPC's 2010 EC.



*Town of Genesee, WI*  
*星期一, 七月 31, 2023*

## Chapter 1. General Provisions

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. General Penalty

[Adopted 2-9-2015 by Ord. No. 15-1]

#### § 1-1. Definitions.

For purposes of this article, the following terms are defined as follows:

##### **ADULT**

A person who constitutes an "adult" as defined in § 938.02(1), Wis. Stats.

##### **JUVENILE**

A person who constitutes a "juvenile" as defined in § 938.02(10m), Wis. Stats.

#### § 1-2. Interpretation.

All future amendments, revisions, renumbering or other modifications of the current or future state statutes referenced in this article are incorporated herein in order to secure uniform statewide regulation of peace and good order.

#### § 1-3. General adult penalty.

In addition to, and not to the exclusion or prejudice of, such other penalties and remedies as may apply, any adult person who shall violate any of the provisions of any Town ordinance shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

- A. First offense. Any adult person who shall violate any provision of any Town ordinance shall, upon conviction thereof, forfeit not less than \$5 nor more than \$1,000, together with all costs, surcharges, penalty assessments, and any other taxable item of cost as provided for by the laws of the State of Wisconsin as applicable to forfeiture actions that are in effect at the time of the offense, and any other taxable costs as imposed by any other provision of Town ordinances, and in default of payment of the same any adult person shall be subject to the provisions of § 800.095, Wis. Stats.
- B. Second and subsequent offenses. Any adult person who is found guilty of violating any ordinance or part of an ordinance who has previously been convicted of a violation of the same ordinance or part of an ordinance within three years from the date of the last offense to the date of the current offense shall, upon conviction thereof, forfeit not less than \$10 nor more than \$2,000 for each such offense, together with all costs, surcharges, penalty assessments, and any other taxable item of cost as provided for by the laws of the State of

Wisconsin as applicable to forfeiture actions that are in effect at the time of the offense, and any other taxable costs as imposed by any other provision of Town ordinances, and in default of payment of the same any adult person shall be subject to the provisions of § 800.095, Wis. Stats.

## § 1-4. Disposition of juveniles adjudged to have violated an ordinance.

- A. If the court finds that a juvenile violated a Town ordinance, other than the truancy, school dropout, alcohol or drug offenses described in § 938.17(2)(e), (g), or (i), Wis. Stats., it shall enter an order making one or any combination of the dispositional orders permitted under § 938.343, Wis. Stats.
- B. If the court finds that a juvenile violated an ordinance adopted in strict conformity with the truancy, school dropout, alcohol or drug offenses described in § 938.17(2)(e), (g), or (i), Wis. Stats., it shall order one or any combination of the penalties specified directly or by reference in such state statute.
- C. If the court finds that a juvenile violated a condition of his or her dispositional order, the court may impose any of the sanctions specified directly or by reference in § 938.17(2)(h), Wis. Stats.

## § 1-5. Continued violations.

Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

## § 1-6. Other remedies.

- A. The Town shall have any and all remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.
- B. Execution or assessment against defendant's property. Whenever any person fails to pay a forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the Town, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs to the extent allowed by law. In the alternative, upon authorization of the court imposing any such forfeiture and costs, such sum as remains unpaid shall be added to the Town's portion of the property tax liability.
- C. In addition to any forfeiture imposed under this article or any other penalty section of the Code of Ordinances of the Town of Genesee, the Town may institute an action or proceeding to enjoin any violation, and such violation or any nonpayment of any forfeiture and costs shall constitute the basis for revocation or denial of any and all licenses and permits wherein the Town is the issuing authority.

## Article II. Adoption of Code

[Adopted 2-9-2015 by Ord. No. 15-1]

## § 1-7. Adoption of Code.

Pursuant to § 66.0103, Wis. Stats., the ordinances of the Town of Genesee of a general and permanent nature adopted by the Town Board of the Town of Genesee, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 547, are hereby approved, adopted, ordained and enacted as the "Code of the Town of Genesee," hereinafter referred to as the "Code."

## § 1-8. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

## § 1-9. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

## § 1-10. Copy of Code on file.

A copy of the Code has been filed in the office of the Town Clerk and shall remain there for use and examination by the public for at least two weeks, in accordance with § 66.0103, Wis. Stats., and until final action is taken on this ordinance, and, if this ordinance shall be adopted, such copy shall be certified to by the Town Clerk, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

## § 1-11. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Town Board to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Town of Genesee" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be inserted in the Code as amendments and supplements thereto.

## § 1-12. Publication; filing.

The Clerk of the Town of Genesee, pursuant to law, shall cause to be published, in the manner required by law, a notice of the adoption of this ordinance. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The publication of notice of the enactment of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

## § 1-13. Code to be kept up-to-date.



It shall be the duty of the Town Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are included as supplements to said Code.

## § 1-14. Sale of Code.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

## § 1-15. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town of Genesee to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a penalty as provided in Chapter 1, Article I, of the Code.

## § 1-16. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof. If any provision of this Code or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provision to other persons or circumstances shall not be affected thereby.

## § 1-17. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

## § 1-18. Repealer.

All ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Town of Genesee which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect. In addition, the following ordinances are specifically repealed:

- A. "An Ordinance To Create an Architectural Control Review Board in the Town of Genesee" adopted July 11, 1977.
- B. "An Ordinance To Prohibit the Construction of Prefabricated Homes in the Town of Genesee, Waukesha County, Wisconsin" adopted September 12, 1977, and amended November 15, 1977.

- C. "An Ordinance Creating a Board of Appeals for the Town of Genesee, Waukesha County, WI" adopted September 14, 1981."
- D. "Ordinance Establishing Jurisdiction and Duties of Town Constable" adopted January 14, 1985.

## § 1-19. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-18 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to September 8, 2014.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Town's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any ordinances adopting or amending a zoning map or otherwise rezoning property.
- O. Any charter ordinances.
- P. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Town.

- Q. Any ordinance or portion of an ordinance establishing or amending a deposit or bond schedule.

## § 1-20. Changes in previously adopted ordinances; new ordinances.

- A. In compiling and preparing the ordinances for publication as the Code of the Town of Genesee, no changes in the meaning or intent of such ordinances have been made, except as provided for in Subsection **C** hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. The adoption of the Code includes the adoption of the following new ordinances: Chapter **1**, General Provisions, Article **I**, General Penalty; Chapter **162**, Records; Chapter **166**, Review, Board of; and Chapter **293**, Drug Paraphernalia.
- C. The amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)<sup>[1]</sup>

[1] *Editor's Note: In accordance with § 1-20C, the chapters, parts and sections that were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article II. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: [Amended (added, deleted) 2-9-2015 by Ord. No. 15-1]. Schedule A, which contains a complete description of all changes, is on file in the Town offices.*

## § 1-21. When effective.

This ordinance shall take effect upon passage and publication as required by law.

## Chapter 9. Administrative Review

[HISTORY: Adopted by the Town Board of the Town of Genesee 8-13-1979. Amendments noted where applicable.]

### § 9-1. Review of administrative determinations.

Any person aggrieved by an administrative determination of the Town of Genesee, or a board, commission, committee, agency, officer or employee of the Town or agent acting on its behalf, may have such determination reviewed as provided in this chapter. The remedies under this chapter shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.

### § 9-2. Determinations reviewable.

The following determinations are reviewable under this chapter:

- A. The grant or denial in whole or in part after application of an initial permit, license, right, privilege, or authority, except an alcohol beverage license.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. The suspension, revocation or nonrenewal of an existing permit, license, right, privilege, or authority, except as provided in § 9-3D.
- C. The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.
- D. The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.
- E. The suspension or removal of a Town officer or employee except as provided in § 9-3B and G.

## § 9-3. Determinations not subject to review.

The following determinations are not reviewable under this chapter:

- A. A legislative enactment. A legislative enactment is an ordinance, resolution or adopted motion of the Town Board.
- B. Any action subject to administrative or judicial review procedures under state statutes or other provisions of this Code.
- C. The denial of a tort or contract claim for money required to be filed with the Town under § 62.25, Wis. Stats.
- D. The grant, denial, suspension or revocation of an alcohol beverage license under § 125.12(1), Wis. Stats.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. Judgments and orders of a court.
- F. Determinations made during municipal labor negotiations.
- G. Determinations subject to grievance, arbitration, or other procedures provided in collective bargaining agreements.

## § 9-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

### **MUNICIPAL AUTHORITY**

Includes the Town Board and any board, commission, committee, agency, officer, employee, or agent of the Town making a determination under § 9-1 and every person, committee or agency of the Town appointed to make an independent review under § 9-8B.

[1]

### **PERSON AGGRIEVED**

Includes any individual, partnership, corporation, association, public or private organization, officer, department, board, commission or agency of the Town whose rights, duties or privileges are adversely affected by a determination of a municipal authority.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 9-5. Initiation of review.

A department, board, commission, agency, officer or employee of the Town who is aggrieved may not initiate review under this chapter of a determination of any other department, board, commission, agency, officer or employee of the Town but may respond or intervene in a review proceeding under this chapter initiated by another.

## § 9-6. Reducing determination to writing.

If a determination subject to this chapter is made orally or, if in writing, does not state the reasons therefor, the municipal authority making such determination shall, upon written request of any person aggrieved by such determination made within 10 days of notice of such determination, reduce the determination and the reasons therefor to writing and mail or deliver such determination and reasons to the person making the request. The determination shall be dated and shall advise such person of his right to have such determination reviewed, that such review may be obtained within 30 days, and the office or person to whom a request for review shall be addressed.

## § 9-7. Request for review of determination.

Any person aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within 30 days of notice to such person of such determination. The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. A request for review shall be made to the officer, employee, agent, agency, committee, board, commission or body which made the determination, but failure to make such request to the proper party shall not preclude the person aggrieved from review unless such failure has caused prejudice to the municipal authority.

## § 9-8. Review procedure.

- A. Initial determination. If a request for review is made under § 9-7, the determination to be reviewed shall be termed an initial determination.
- B. Who shall make review. A review under this section may be made by the officer, employee, agent, agency, committee, board, commission or body which made the initial determination. However, an independent review of such determination by another person, committee or agency of the Town, appointed by the Town Chairman without confirmation, shall be provided if practicable.
- C. When to make review. The municipal authority shall review the initial determination within 15 days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.
- D. Right to present evidence and argument. The person aggrieved may file with his request for review or within the time agreed with the municipal authority written evidence and argument in support of his position with respect to the initial determination.
- E. Decision on review. The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority's decision on review, which shall state the reasons for such decision. The decision shall advise the person aggrieved of his right to appeal the decision, that appeal may be taken within 30 days, and the office or person with whom notice of appeal shall be filed.

## § 9-9. Administrative appeal.

- A. From initial determination or decision on review.
  - (1) If the person aggrieved had a hearing substantially in compliance with § 9-10 when the initial determination was made, he may elect to follow §§ 9-6 through 9-8 but is not entitled to a further hearing under § 9-10 unless granted by the municipal authority. He may, however, seek judicial review under § 9-12.
  - (2) If the person aggrieved did not have a hearing substantially in compliance with § 9-10 when the initial determination was made, he shall follow §§ 9-6 through 9-8 and may appeal under this section from the decision made under § 9-8.
- B. Time within which appeal may be taken under this section. Appeal from a decision on review under § 9-8 may be taken within 30 days of notice of such decision.
- C. How appeal may be taken. An appeal under this section may be taken by filing with or mailing to the office or person designated in the municipal authority's decision on review written notice of appeal.

## § 9-10. Hearing on administrative appeal.

- A. Time of hearing. The Town shall provide the appellant a hearing on an appeal under § 9-9 within 15 days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least 10 days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the Town Attorney, who shall forthwith advise the Town Chairman of such appeal.
- B. Conduct of hearing. At the hearing, the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Town Chairman shall appoint, without confirmation, an impartial decision maker, who may be an officer, committee, board or commission of the Town or the Town Board, who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal. The decision maker may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Town Chairman to conduct the hearing and report to the decision maker.
- C. Record of hearing. The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the Town.
- D. Hearing on initial determination. Where substantial existing rights are affected by an initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this section before making such determination.

## § 9-11. Final determination.

- A. Within 20 days of completion of the hearing conducted under § 9-10 and the filing of briefs, if any, the decision maker shall mail or deliver to the appellant its written determination stating the reasons therefor. Such determination shall be a final determination.
- B. A determination following a hearing substantially meeting the requirements of § 9-10 or a decision on review under § 9-8 following such hearing shall be a final determination, judicial review of which may be obtained under § 9-12.

## § 9-12. Judicial review.

- A. Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within 30 days of receipt of the final determination
- B. The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at his expense. If the person seeking review establishes impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the Town and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

## § 9-13. Legislative review.

- A. Seeking review pursuant to this chapter does not preclude a person aggrieved from seeking relief from the Town Board or any of its boards, commissions, committees, or agencies which may have jurisdiction.
- B. If in the course of legislative review under this section a determination is modified, such modification and any evidence adduced before the Town Board, board, commission, committee or agency shall be made part of the record on review under § 9-12.
- C. The Town Board, board, commission, committee or agency conducting a legislative review under this section need not conduct the type of hearing required under § 9-10.

## Chapter 37. Citations

[HISTORY: Adopted by the Town Board of the Town of Genesee 1-10-1983. Amendments noted where applicable.]

### § 37-1. Statutory authority and procedures adopted.

The statutory provisions of §§ 66.0109, 66.0113, 66.0114 and 345.20 to 345.53 and Ch. 799, Wis. Stats., are adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made part of this chapter in order to secure uniform statewide regulation, issuance, and enforcement of traffic and municipal ordinance violations. Further, the Town of Genesee elects to use the citation method of enforcement of Town ordinances described herein, other than those for which a statutory counterpart exists.

### § 37-2. Form of citations.

- A. All Town of Genesee citations shall fulfill all applicable statutory requirements of notice and form as outlined in the above-adopted statutes.
- B. The Town of Genesee may elect to utilize the Wisconsin Uniform Municipal Citation form as printed by the State of Wisconsin or any other form which fulfills the applicable statutory requirements.
- C. The Town of Genesee shall elect to utilize the Wisconsin Uniform Traffic Citation as printed by the State of Wisconsin for all traffic enforcement actions.

## § 37-3. Cash deposits.

- A. The amount of the cash deposit required for particular offenses shall be established within the penalty section of each individual ordinance or shall be established by a schedule of cash deposit amounts that may be adopted from time to time by the Town Board by separate resolution.  
[Amended 8-14-2000 by Ord. No. 00-3]
- B. If a schedule of cash deposits has not been established for a specific violation, the issuing official shall require the alleged offender to deposit not less than the maximum forfeiture permitted hereunder.
- C. All applicable current penalty assessment charges and current court costs shall be added to any cash deposit.
- D. All cash deposits shall be made in cash, money order or certified check to the Clerk of the Circuit Court for Waukesha County, who shall provide a receipt pursuant to state statute. If the cash deposit is mailed, the signed statement requested by Wisconsin Statutes shall be mailed with the cash deposit.

## § 37-4. Issuance of citations.

[Amended 8-14-2000 by Ord. No. 00-3]

- A. Law enforcement officers. Any law enforcement officer, including but not limited to the Village of North Prairie Police Department officers and the Waukesha County Sheriff's Department officers and deputies, may issue citations for any Town of Genesee ordinance violation.
- B. Town officials.
- (1) The following Town officials may issue citations with respect to those specified ordinances which are directly related to their official duties and responsibilities:

<b>Ordinance Title</b>	<b>Enforcement Official</b>
Building Code	Building Inspector
Electrical and Plumbing Code	Building Inspector
Subdivision Control	Town Board
Liquor Control Ordinance	Town Board
Burning Permits	Town Board

- (2) All other ordinances not enumerated herein may be enforced by the Town Board or its duly appointed representatives.

## § 37-5. Nonexclusivity.

- A. Other ordinance. Adoption of this chapter does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
- B. Other remedies. The issuance of a citation hereunder shall not preclude the Town Board or any authorized office from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.



## § 37-6. Enforcement.

- A. Enforcement procedure. The statutory provisions of §§ 66.0109, 66.0113, 66.0114 and 345.20 to 345.53 and Ch. 799, Wis. Stats., are adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made part of this section in order to secure uniform statewide regulation and enforcement of traffic and municipal ordinance violations. Further the Town of Genesee specifically elects to use the citation method of enforcement.
- B. Deposit.
- (1) Any person arrested for a violation of the Code may make a deposit of money as directed by the arresting officer at the Town Hall offices or at the office of the Clerk of Court or by mailing the deposit to such places. The arresting officer or the person receiving the deposit shall notify the arrested person, orally or in writing, that:
    - (a) If he fails to appear in court at the time fixed in the citation, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture plus costs not to exceed the amount of the deposit; or
    - (b) If he fails to appear in court at the time fixed in the citation, and if the court does not accept the deposit as a forfeiture, he will be summoned into court to answer the complaint.
  - (2) For violations of Chapter **535**, Vehicles and Traffic, Article **III**, Traffic and Parking Regulations, the amount of the deposit shall be as set forth in § **535-13** and shall include the penalty assessment established under § 757.05, Wis. Stats., and costs. If a deposit schedule has not been established, the arresting officer shall require the alleged offender to deposit not less than the maximum forfeiture permitted under Chapter **535**, Article **III**.
  - (3) The arresting officer or the person receiving the deposit shall issue the arrested person a receipt therefor as required by § 345.26(3)(b), Wis. Stats.
- C. Stipulation of no contest. Any person charged with a violation of this Code, except §§ 346.62(1) and 346.63(1), Wis. Stats., may make a stipulation of no contest pursuant to § 345.27, Wis. Stats., which shall be received at the Town Hall offices or the office of the Clerk of Court within 10 days of the date of the alleged violation. Such person shall, at the time of entering into the stipulation, make the deposit required under Subsection **B** if he has not already done so. A person who has mailed or filed a stipulation under this subsection may, however, appear in court on the appearance date and may be relieved from the stipulation for cause shown as required in § 345.37, Wis. Stats.
- D. Issuance of citations. All sections of this Code shall be enforced by a law enforcement officer or the Town Board's duly appointed representatives.
- E. Nonexclusivity.
- (1) Other ordinances. Adoption of this section does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
  - (2) Other remedies. The issuance of a citation hereunder shall not preclude the Town Board or any authorized office from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.
- F. Traffic violation and registration program.

- (1) General. The Department of Transportation will be asked to suspend the registration on the vehicle involved or suspend the registration on any vehicle owned by any person who fails to respond to a nonmoving traffic violation either by paying the fine or appearing in court within 28 days after the issuance of a citation for said violation. Any such suspension will remain in effect until said citation plus applicable costs is satisfied.
- (2) Collection of forfeitures for nonmoving traffic violations; state procedures adopted.
  - (a) Definition. A nonmoving traffic violation is any parking of a vehicle in violation of a statute or an ordinance.
  - (b) Statutes adopted. The procedure provided for in §§ 345.28 and 345.34 to 345.47, Wis. Stats., inclusive, is hereby specifically adopted and shall be followed in actions to recover forfeitures for nonmoving traffic violations, as defined in Subsection **F(2)(a)** above.
  - (c) Increased bond amounts and costs assessed.
    - [1] The original bond amount for violation of any nonmoving traffic regulation shall increase if not paid within seven days of issuance as noted on the traffic citation parking ticket and as approved by the Town Board.
    - [2] The Town of Genesee Board shall further have the authority to determine the administrative costs of enforcement in collection of forfeitures for nonmoving traffic violations under this section, from time to time as may be necessary to adjust the same, and shall keep the court informed of the same, which court shall assess the same against violators and cause such to be collected along with stipulations, but in no event shall such costs be less than the amounts previously noted herein.
- (3) Registration record of vehicle as evidence. When any vehicle is found upon a street or highway in violation of any provision of Chapter **535**, Article **III**, regulating the stopping, standing or parking of vehicles and the identity of the operator cannot be determined, the owner as shown by the ownership registration of the vehicle supplied by the Wisconsin Department of Transportation, or a comparable authority of any other state, shall be deemed to have committed the violation for purposes of enforcement of Chapter **535**, Article **III**, and shall be subject to the applicable forfeiture penalty, provided that the defenses defined and described in § 346.485(5)(b), Wis. Stats., shall be a defense for an owner charged with such violation.

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 54. Elections

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. Nonpartisan Primary

[Adopted 11-15-1983]

#### § 54-1. Nomination process.

Commencing with the spring 1984 election, the Town of Genesee shall conduct its nomination process pursuant to § 8.05(3), Wis. Stats., for a Town nonpartisan primary. The former procedure for nomination of candidates by way of caucus is hereby abolished.

## § 54-2. Notice.

The Town Clerk shall publish a notice of the nonpartisan primary for nomination papers as established by the Town Board. Said notice shall be published in the "Index" as designated as the paper for Town notices.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article II. Election Officials

[Adopted 2-11-1991 by Ord. No. 91-2]

### § 54-3. Two sets of officials.

By this article the Town Board for the Town of Genesee provides for the selection of two sets of officials to work at different times on election day.

### § 54-4. Total number.

Said additional officials shall be employed in such a manner that the total number of officials is an odd number and the predominate party under § 7.30(2), Wis. Stats., is represented by one more official than the other party.

### § 54-5. Statutory provisions applicable.

All other provisions of § 7.30, Wis. Stats., are applicable herein.

## Chapter 58. Emergency Management

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. Incident Management

[Adopted 3-14-2005 by Ord. No. 05-1]

#### § 58-1. National Incident Management System.

The National Incident Management System is hereby established as this municipality's standard for incident management.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 70. Finance and Taxation

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. Delinquent Taxes, Assessments and Fees

[Adopted 8-10-1992 by Ord. No. 92-3]

## § 70-1. Effect on licenses and other approvals.

No initial or renewal license, permit, variance, conditional use approval, special exception, zoning matter or any other discretionary action of the governing body or any of its boards, commissions, departments or employees shall be:

A. Approved for any applicant:

- (1) Who is delinquent in the payment of any taxes, assessments, special assessments, sanitary sewer assessments, personal property taxes, or engineering, legal, administrative or other claims owed to the governing body.
- (2) Who is delinquent in the payment of a forfeiture resulting from the violation of any ordinance of the governing body.
- (3) Who is delinquent in the payment of any taxes or other claims due to the state or county.
- (4) Who has any outstanding warrant or capias from any municipal, state or federal court.

B. Issued for any premises or property for which taxes, assessments, special assessments, sanitary sewer assessments, personal property taxes, or engineering, legal, administrative or other claims of the governing body are delinquent and unpaid.

## Article II. Tax Key Numbers and Parcels

[Adopted 7-12-1993 by Ord. No. 93-3]

### § 70-2. Applicability.

This article shall apply to the following:

- A. The combination of two or more parcels, each of which exists under a separate tax key number, into one parcel existing under one tax key number.
- B. The creation of one or more parcels requiring the creation of one or more tax key numbers.

### § 70-3. Definitions.

For purposes of this article, the following words shall have the following meaning:

#### **PERSON**

Any individual, business, corporation, partnership or other entity capable of purchasing and holding land.

### § 70-4. General requirements.

No person shall conduct or cause to be conducted any of the activities subject to this article, as provided in § 70-2 above, unless that person first satisfies the following requirements:

- A. Any combination or creation of lots as provided in § 70-2 above shall only be done through a certified survey map, which map shall be duly recorded in the Register of Deeds office for

Waukesha County pursuant to the requirements of Ch. 236, Wis. Stats.

- B. The above-noted certified survey map shall first be presented to the Plan Commission for the Town of Genesee for review and approval. Said approval shall not be provided unless and until the Plan Commission determines that the provisions of this article and all other applicable ordinances of the Town of Genesee and Waukesha County have been complied with.
- C. The Town Assessor for the Town of Genesee shall not approve the combination of or creation of any tax key numbers unless the provisions of this article are first complied with.

## § 70-5. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article III. Alternative Claim Procedure

[Adopted 7-12-1999 by Ord. No. 99-5]

### § 70-6. Purpose.

It is the declared intent of this article that the Town Board delegate the Town Clerk to authorize routine payments of certain claims without prior Town Board approval under the limited circumstances described herein.

### § 70-7. Authority.

This article is adopted pursuant to the authority granted to town boards under § 60.44(2), Wis. Stats., to adopt an alternative claim procedure for approving financial claims against the Town which are in the nature of bills and vouchers.

### § 70-8. Applicability.

This article applies to payment of only the following types of claims:

- A. Payment of payroll for employees.
- B. Payment of utility bills if the due date or discount rate will expire prior to the next scheduled Town Board meeting that can have bills presented on the agenda.
- C. Payment of regular independent contractor bills that are in an amount of \$750 or less.

### § 70-9. Procedure.

- A. Payment of the types of claims described in § 70-8 above may be made from the Town treasury in the manner described in § 66.0607, Wis. Stats., without prior Town Board approval, upon the Town Clerk's review of each such bill or voucher, and the Town Clerk's approval in writing that each is a proper charge against the treasury. The Town Clerk's approval shall not be granted unless the Town Clerk first determines that:

- (1) Funds are available under the Town budget to pay the bill or voucher.
  - (2) The item or service covered by the bill or voucher has been duly authorized.
  - (3) The item or service covered by the bill or voucher has been supplied or rendered in conformity with the authorization.
  - (4) The claim appears to be a valid claim against the Town.
- B. The Town Clerk may choose to require the claimant to submit proof to aid the Clerk in determining whether the claimant has complied with these conditions prior to payment of the claim.
- C. The Town Clerk shall file with the Town Board at least monthly a list of the claims approved, showing the date the claim was paid, the name of the claimant, the purpose of the claim and the amount of the claim.

## Chapter 88. Identity Theft Protection Program

[HISTORY: Adopted by the Town Board of the Town of Genesee 7-9-2012 by Ord. No. 12-4. Amendments noted where applicable.]

### § 88-1. Purpose.

This program is established in order to comply with Wisconsin Statutes Chapter 19, Subchapter IV, and to the extent applicable the Federal Fair and Accurate Credit Transactions Act of 2003. This program is intended to establish reasonable policies and procedures to:

- A. Develop rules of conduct for Town employees who are involved in collecting, maintaining, using, providing access to, sharing or archiving personally identifiable information;
- B. Ensure that Town employees know their duties and responsibilities relating to protecting personal privacy, including applicable state and federal laws;
- C. Identify relevant indications that an identity theft is being perpetrated ("red flags") for new and existing covered accounts and incorporate those red flags into the program;
- D. Detect red flags that have been incorporated into the program;
- E. Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
- F. Update the program periodically to reflect changes in risks to customers or to the safety and soundness of the Town from identity theft.

### § 88-2. Rules of conduct.

Employees at the Town shall observe the following rules of conduct concerning personally identifiable information. These rules shall apply to any information that identifies a specific person by address, telephone number, social security number, date of birth, government passport number, employer or taxpayer identification number or unique electronic identification number. Personally identifiable information does not include a person's name for purposes of this rule.

- A. Agendas and minutes. Except when deemed reasonably necessary to apprise the public of the subject of a meeting or actions taken, personally identifiable information shall not be shown on meeting agendas or in meeting minutes.

- B. Internal distribution. Except when deemed reasonably necessary to advise public officials, Town staff, employees or agents, personally identifiable information shall not be distributed internally.
- C. External disclosures. Except as required by the Wisconsin public records laws or other applicable laws, personally identifiable information shall not be released in response to public records requests.
- D. Public information. Except when deemed reasonably necessary to properly advise the public, personally identifiable information shall not be disclosed on the Town's website, in the Town's newsletter, or in other public information materials prepared and provided by the Town.

### § 88-3. Identification of red flags.

Town employees shall check for red flags as indicators of possible identity theft. Such red flags may include:

- A. Alerts from consumer reporting agencies, fraud detection agencies or service providers.
- B. Documents provided for identification that appear to be altered or forged.
- C. Applications that appear to have been altered or forged or appear to have been destroyed and reassembled.
- D. Applications that appear to include a fictitious mailing address, mail drop addresses, jail addresses, or invalid phone numbers, page numbers or answering services.
- E. A social security number provided that is the same as one submitted by other applicants or customers.
- F. An applicant or customer that fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
- G. Personal identifying information is not consistent with personal identifying information that is on file.
- H. Mail sent to a person is returned repeatedly as undeliverable although transactions continue to be conducted in connection with such person's account.
- I. The Town is notified of unauthorized charges or transactions in connection with a customer's account.

### § 88-4. Detecting red flags.

In order to detect any of the red flags identified above, Town personnel will take the following steps when it is reasonably possible to do so:

- A. Require submittal of complete applications.
- B. Verify identity when necessary.

### § 88-5. Preventing and mitigating identity theft.

In the event any Town employee becomes aware of red flags indicating possible identity theft, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a theft of identity. If, in his or her discretion, such employee determines

that identity theft or attempted identity theft is likely or probable, such employee shall convey this information to the Town Clerk. If, in his or her discretion, the Town Clerk deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the Town Clerk may in his or her discretion determine that no further action is necessary. If the Town Clerk determines that further action is necessary, the Town Clerk or his or her designee shall perform one or more of the following responses:

- A. Contact the affected person;
- B. Cease attempts to collect funds owed by the customer or affected person;
- C. Notify the Town's debt collector of the matter;
- D. Notify law enforcement; or
- E. Take other appropriate action to prevent or mitigate identity theft.

## § 88-6. Program administration.

The Town Clerk is responsible for oversight of the program and for program implementation. Any recommended material changes to the program shall be submitted to the Town Board for consideration and shall be subject to the Town Board's approval.

## § 88-7. Program updates.

The Town Board reserves the right to periodically review this program and modify and update the program from time to time as necessary, by amendment to this chapter. In doing so, the Town Board shall consider the following factors and exercise its discretion in amending the program:

- A. The Town's experience with identity theft;
- B. Updates in methods of identity theft;
- C. Updates in customary methods used to detect, prevent and mitigate identity theft;
- D. Updates in the types of accounts that the Town offers and maintains; and
- E. Updates in service provider arrangements.

## Chapter 125. Officers and Employees

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. Treasurer

[Adopted 1-10-1974]

#### § 125-1. Election not to give bond.

The Town of Genesee elects not to give the bond on the Municipal Treasurer provided for by § 70.67(1), Wis. Stats.

#### § 125-2. Payment by Town.



Pursuant to § 70.67(2), Wis. Stats., the Town of Genesee shall be obligated to pay, in case the Treasurer thereof shall fail to do so, all state and county taxes required by law to be paid by such Treasurer to the County Treasurer.

## § 125-3. Filing.

The Town Clerk shall forthwith file a certified copy of this article with the County Treasurer.

## Article II. Assessor

[Adopted 5-10-1976]

## § 125-4. Office of appointed Assessor created.

Pursuant to unanimous approval of the qualified electors present at the Annual Town Meeting of the Town of Genesee on April 13, 1976, the office of elective Assessor is hereby repealed and the office of Assessor as an appointive office is hereby created. The Town Board shall immediately commence advertising and interviewing for the position of appointive Assessor. The former Assessor serving his elective term shall continue in office until his term expires.

## § 125-5. Salary.

The appointive Assessor shall be paid at an annual rate and in such amounts as the Town Board may from time to time establish.

## § 125-6. Appointment.

The appointment to the office of Assessor shall be by appointment by the Town Chairman, subject to confirmation of a two-thirds vote of the Town Board. The appointive Assessor may be appointed in advance to act as assistant Assessor to work with the elected Assessor in completing his term of office.

## § 125-7. Duties.

The appointive Assessor shall comply with all the duties and requirements of the Wisconsin Statutes pertaining to assessors and specifically shall obtain a certification from the State of Wisconsin as a certified assessor and will continue to do whatever necessary to maintain said certification.

## Chapter 136. Park Board

[HISTORY: Adopted by the Town Board of the Town of Genesee 3-9-1998 by Ord. No. 98-1. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Parks and recreation — See Ch. 428.

## § 136-1. Creation.

A Park Board is hereby created which shall have the powers as shall be granted herein pursuant to the authority granted in §§ 27.08 and 27.13, Wis. Stats.

## § 136-2. Purpose.

The purpose of the Park Board shall be to plan, implement and supervise the park and recreational needs of the Town of Genesee. The Board will provide for the park and recreation programs for the citizens of the Town of Genesee within the limitations of the funds made available therefor by the Town Board.

## § 136-3. Membership.

The Board shall consist of seven members. The Board shall be comprised of seven resident elector citizen members. The Board members shall be appointed by the Town Chairman, subject to confirmation by the Town Board. The seven citizen members' terms shall be staggered terms of seven years beginning on the first Monday in May of each year. A Town Supervisor shall serve as an ex officio member for a one-year term beginning on the first Monday in May of each year and shall act as a liaison between the Town and the Board. The Town Supervisor member shall not have voting rights. The Town Chairman, subject to confirmation of the Town Board, may appoint one alternate resident elector citizen member who shall be asked to attend all Park Board meetings but who shall only have voting rights if one regular citizen member is not present or does not vote. The alternate citizen member's term shall be for one year beginning on the first Monday in May of each year.

- A. Officers. The Board shall elect a Chairman and a Vice Chairman. The Town Clerk or Town Clerk's designee shall act as secretary and record minutes of the Board meetings.
- B. Official oath. Official oaths shall be taken by all members in accordance with § 19.01, Wis. Stats., within five days of receiving written notice from the Town Clerk of their appointment.  
[1]  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Vacancies. Vacancies on the Board shall be filled by appointment by the Town Chairman and confirmed by the Town Board. Such an appointee shall serve the balance of the term of the member that the appointee replaces.

## § 136-4. Organization.

The Board may make such other bylaws and regulations for its own government not inconsistent with this chapter as it may deem necessary. Meetings shall be held monthly and at the call of the Chairman and shall be open to the public. Minutes shall be kept showing all actions taken and a copy shall be filed with the Town Clerk as a public record. A quorum shall be four members. All actions shall be by majority vote. Minutes of each Park Board meeting shall be available within 10 days of each meeting.

## § 136-5. Powers.

The Board shall have only the following powers:

- A. To recommend to the Town Board the purchase, lease, sale or exchange of park or recreation lands, facilities and equipment.

- B. To recommend to the Town Board the acquisition of any park or recreation lands or facilities or equipment, or any other interest, right or privilege in real or personal property, whether by gift, grant, devise, bequest or condemnation.
- C. To govern, manage and control the use of all public parks or recreational lands and recreational activities of the Town and to adopt the necessary rules and regulations for this purpose. All rules and regulations so adopted shall be subject to approval of the Town Board, and, if necessary, enforcement ordinances shall be adopted by the Town Board.
- D. To employ, with the agreement of the Town Board, all staff and personnel necessary to conduct the recreational programs, subject to such limitations as may be set for the appropriations made by the Town Board.
- E. Additional powers as may be assigned by the Town Board.

## § 136-6. Duties.

The Board shall have the following duties:

- A. To plan for the location, layout and equipping of all parks and recreational lands.
- B. To recommend to the Town Board all recreational equipment needed to equip said parks and recreational lands.
- C. To plan for, implement and manage all recreational activities of the Town of Genesee as may be assigned to the Board and to hire and supervise all personnel necessary to carry out the recreational programs of the Town in coordination with the Town Board, including a Recreation Director who may, but need not, be a member of the Board.
- D. To recommend to the Town Board any purchases necessary unless the Town Board has approved said purchase in the budget.
- E. To spend only within the budget limits set by the Town Board. No budgetary amount shall be exceeded unless specifically authorized by the Town Board.
- F. To recommend to the Town Board all contracts necessary to make capital improvements, maintenance and repair to the parks, park equipment, recreational lands and recreational equipment.
- G. To maintain records of all Board meetings and to keep accurate records and accounts of recreation program costs and income and to segregate those expenses and funds from those of other departments. Said records shall be filed with the Town Clerk on a regular basis.

## § 136-7. Finances.

The Board shall submit to the Town Board by October 1 of each year a proposed program and budget for the ensuing year, and a representative of the Board shall be present at the budget hearing to provide the Town electors and Town Board any information requested. The Park Board shall not contract any liability in excess of the budget appropriated unless specifically authorized by the Town Board. All moneys received for the purpose of the Board, whether from the general fund or from approved donation, or from such reasonable fees as may be charged for activities, facilities or services, shall be deposited in the general fund of the Town and segregated on the books of the Town. The Town Treasurer shall act as treasurer of the Board without additional compensation. All expenditures shall be made only upon approval of the Town Board and by the issuance of an order for the expenditure by the Town Clerk.

## § 136-8. Reports.

The Board shall issue an annual written report of its findings and activities and an inventory of all its public parks, recreational lands, facilities and equipment to the Town Board by at least 30 days prior to the Annual Meeting.

## § 136-9. Audit.

The Board shall be subject to a yearly audit.

## Chapter 148. Plan Commission

[HISTORY: Adopted by the Town Board of the Town of Genesee 5-10-1976. Amendments noted where applicable.]

### GENERAL REFERENCES

Comprehensive Plan — See Ch. **272**.

Land division and development — See Ch. **375**.

## § 148-1. Authority; Plan Commission created.

Pursuant to the provisions of § 62.23, Wis. Stats., as applicable to towns by virtue of § 60.22(3), Wis. Stats., and § 61.35, Wis. Stats., there is hereby created in the Town of Genesee a Plan Commission to operate in accordance with the provisions of § 62.23, Wis. Stats.

## § 148-2. Membership.

- A. The Plan Commission shall consist of the Town Chairman, who shall be its presiding officer, one Town Supervisor, and five citizens. Citizen members shall be persons of recognized experience and qualifications.  
[Amended 1-10-1994 by Ord. No. 94-1]
- B. The Town Supervisor member shall be elected in April by two-thirds vote of the Town Board.
- C. Three citizen members of the Plan Commission shall be appointed by the Town Chairman in April subject to confirmation by the Town Board, to hold office for a term of three years. The initial appointments of these citizen members shall be for periods ending one, two and three years, respectively; thereafter all appointments shall be for a full term of three years.
- D. The fourth and fifth citizen members (filling the statutory positions of Town Engineer and Chairman of the Park Board) shall be appointed by the Town Chairman subject to confirmation by the Town Board in April for a one-year term. Thereafter, these terms of office will continue to be one-year terms.  
[Amended 1-10-1994 by Ord. No. 94-1<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. All vacancies on the Plan Commission shall be filled for the unexpired term in the same manner as appointment for the full term.
- F. Compensation for the membership of the Plan Commission shall be set by the Town Board. Citizen members shall take the official oath required by § 19.01, Wis. Stats., which shall be filed with the Town Clerk.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 148-3. Organization.

- A. As soon as all members of the first Plan Commission have been appointed, the Clerk shall give each member written notice of the appointment, and thereon shall fix the time and place of the first meeting, which shall be not less than five nor more than 10 days thereafter. Thereupon, the Plan Commission shall organize by the election of a Vice Chairman, Secretary, and such other officers as may in its judgment be necessary.
- B. The Plan Commission shall keep a written record of its proceedings, to include all actions taken, a copy of which shall be filed with the Town Clerk. Four members shall constitute a quorum, but all actions shall require the affirmative approval of a majority of the members of the Commission.
- C. The Plan Commission may employ expert advice and such staff as may be necessary and pay for their services and such other expenses as may be necessary and proper within the limits of the budget established by the Town Board as authorized by law and subject to any ordinance or resolution enacted by the Town Board.
- D. As far as possible, the Plan Commission shall utilize the services of existing Town officials and employees.

## § 148-4. Powers and duties.

The Plan Commission shall have the powers and duties prescribed in § 62.23, Wis. Stats., and such other powers and duties as shall be vested in it from time to time by the Board.

## Chapter 162. Records

[HISTORY: Adopted by the Town Board of the Town of Genesee at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

### § 162-1. Purpose.

The purpose of this chapter is to specify retention periods for certain Town records and to allow access to the same extent, and in the same manner, as allowed by state law.

### § 162-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### **LEGAL CUSTODIAN**

The individual responsible for maintaining records pursuant to § 19.33, Wis. Stats., subject to such designation and delegation of duties as described in the duly adopted notice prepared and posted, and as may be modified by the Town Board from time to time, pursuant to § 19.34(1), Wis. Stats.

#### **RECORD**

Has the meaning defined in § 19.32(2), Wis. Stats.

#### **REQUESTOR**

Has the meaning defined in § 19.32(3), Wis. Stats.

## RETENTION PERIOD

The minimum required period of time that a document will be maintained as described in § 162-4 of this chapter.

### § 162-3. Duty to maintain.

The Town legal custodians shall maintain all records for the retention period and for any additional time period as described in § 162-6 below, if applicable. Thereafter, after the State Historical Society has waived receipt of the records (see § 162-5 below), the legal custodian may destroy the records.

### § 162-4. Retention period.

- A. The Town Board, by separate resolution, may adopt a schedule which describes the minimum time periods for which records shall be maintained by a legal custodian of the Town of Genesee. Said resolution may be amended from time to time, as described below, and the resolution and any amendments thereto are incorporated herein by reference.
- B. The retention schedule resolution shall be subject to the review and approval of the State of Wisconsin Public Records Board. The retention schedule resolution shall not be modified in a manner that reduces the retention periods described in any such retention schedule resolution, or which adds additional documents to the schedule, unless those reductions or retention periods for additional documents are first reviewed and approved by the Wisconsin Public Records Board.
- C. Any record that is not described in the retention schedule shall be maintained for a minimum of seven years and may be destroyed thereafter, unless a longer retention period is required by § 162-6 below or by state statute, rule, or other applicable law.
- D. Unless and until described otherwise in any such approved retention schedule resolution, the following minimum retention periods shall apply:
  - (1) Town officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the state auditors or an auditor licensed under Ch. 442, Wis. Stats., but not less than seven years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to § 16.61(3)(e), Wis. Stats., and then after such shorter period:
    - (a) Bank statements.
    - (b) Canceled checks.
    - (c) Receipt forms.
    - (d) Vouchers.
  - (2) Town officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the state auditors or an auditor licensed under Ch. 442, Wis. Stats., subject to State Public Service Commission regulations, but not less than seven years after the record was effective, unless a shorter period has been fixed by the State Public Records Board pursuant to § 16.61(3)(e), Wis. Stats., and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after two years:
    - (a) Contracts.

- (b) Excavation permits.
  - (c) Inspection records.
- (3) Town officers may destroy the following records of which they are the legal custodians and which are considered obsolete, but not less than seven years after the record was effective, unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to § 16.61(3)(e), Wis. Stats., and then after such a shorter period:
- (a) Election notices.
  - (b) Canceled registration cards.

## § 162-5. Notice to State Historical Society.

- A. The Wisconsin State Historical Society may waive the notice that would otherwise be required prior to destruction of certain records as described in the Town retention schedule, at such time as it may be adopted and approved.
- B. In the event that the retention schedule does not specifically note the Wisconsin State Historical Society's waiver regarding any particular record, then the Wisconsin State Historical Society must be given 60 days' written notice prior to destruction of the record, as described in § 19.21(4)(a), Wis. Stats.

## § 162-6. Additional retention periods.

In addition to the retention period described herein or hereafter established, records shall be maintained for the following additional time periods:

- A. A record that is existing at the time of a request shall not be destroyed until after the request is granted or, in the event the request is denied, until at least the time period described in § 19.35(5), Wis. Stats., has passed from the date of the denial.
- B. A record that is existing at the time that the legal custodian receives written notice that a mandamus action relating to the record has been commenced pursuant to § 19.37, Wis. Stats., shall not be destroyed until the final court order is issued in the action and the appeals are exhausted, as further described in § 19.35(5), Wis. Stats.
- C. A record that is known by the legal custodian to be relevant to litigation or audit that is pending at the time that the record would otherwise be destroyed shall not be destroyed until the litigation or audit is resolved.

## § 162-7. Reproduced original records.

Records may be kept and preserved through the use of microfilm or another reproductive device, optical imaging, electronic formatting, or any other reproduction format authorized by § 19.21(4)(c), Wis. Stats., and said reproduction shall be deemed an original record for all purposes, in accordance with § 19.21(4)(c), Wis. Stats.

## § 162-8. Fees.

Fees for public records shall be charged and collected pursuant to § 19.35(3), Wis. Stats., and pursuant to the Town of Genesee Fee Schedule adopted by separate resolution from time to time by the Town Board.

## § 162-9. Statutes incorporated.

Applicable Wisconsin laws shall be observed with regard to public records, including the laws as described in Wisconsin Statutes Chapter 19, Subchapter II, titled "Public Records and Property." All state statutes incorporated or referenced herein shall be deemed to include all subsequent amendments, repeals, and renumbering that may be enacted regarding the same, in order to ensure uniform statewide regulation of public records.

## Chapter 166. Review, Board of

[HISTORY: Adopted by the Town Board of the Town of Genesee at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

### § 166-1. Membership.

The membership of the Board of Review shall be as described in § 70.46(1), Wis. Stats.

### § 166-2. Alternate members.

Pursuant to §§ 70.47(6m)(c) and 70.46(1), Wis. Stats., the Town Board allows for appointments of alternates to serve on the Board of Review in the event a Board member is removed or unable to serve for any reason. The Town Chairman shall appoint, subject to confirmation of the Town Board, one alternate member for a term of five years. The Town Chairman may appoint, subject to confirmation of the Town Board, alternate members in addition to the one required alternate member. If more than one alternate member is appointed, the Town Chairman, subject to confirmation of the Town Board, shall designate one of the existing or newly appointed members as first alternate, one as second alternate, and so forth to establish the priority of all alternate members. The terms of any additional alternate members shall be for five years, unless that term must be reduced by one or more years at the time of appointment to ensure that no two alternate members' terms end in the same year. The first alternate member shall act with full power when three members are absent, refuse, or are otherwise unavailable to hear an objection. The second alternate member (if any) shall act with full power when four members (or three members and the first alternate member) are absent, refuse or are otherwise unavailable to hear an objection. Additional alternate members (if any) shall act, in order of their priority, when necessary to provide three members/alternate members to hear any objection.

### § 166-3. Confidentiality of income and expense information provided to Assessor.

Pursuant to § 70.47(7)(af), Wis. Stats., income and expense information provided by a property owner to the Assessor for the purposes of establishing the valuation for assessment purposes by the income method of valuation shall be confidential and not a public record open to inspection or copying under § 19.35(1), Wis. Stats. Notwithstanding the foregoing, an officer may make disclosure of such information under the following circumstances:

- A. The Assessor has access to such information in the performance of his/her duties.
- B. The Board of Review may review such information when needed, in its opinion, to decide upon a contested assessment.
- C. Another person or body has the right to review such information due to the intimate relationship of the duties of an office or as set by law.



- D. The officer is complying with a court order.
- E. The person providing the income and expense information has contested the assessment level at either the Board of Review or by filing a claim for excessive assessment under § 74.37, Wis. Stats., in which case the records are open and public.

## § 166-4. Filing and electronic transmission.

Filing documents with the Clerk of the Board of Review may be accomplished in person, by mail, by facsimile transmission or by e-mail transmission. In each case the document is not deemed to be filed until, and it is only deemed to be filed if, it is complete and it is actually received by the Clerk in hand, in the case of in-person delivery, mail or facsimile, or it is opened by the Clerk, in the case of e-mail. No document transmitted by facsimile transmission or by e-mail transmission while the Board of Review is in session shall be deemed filed with the Clerk during the session. Any message left orally by telephone voice recording or other electronic means, similarly, is not deemed to be received until such message is actually heard by the Clerk. The party transmitting the document or message is solely responsible for ensuring its timely and complete receipt and filing.

## Chapter 185. Town Board

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. Membership Expanded

[Adopted 7-11-1977]

#### § 185-1. Number of Town Supervisors increased.

Pursuant to § 60.21(1), Wis. Stats., the Town Board of the Town of Genesee is hereby expanded to five members from the existing membership of three. Two new Supervisors shall be added to said Town Board.<sup>[1]</sup>

[1] *Editor's Note: Original § 2, Supervisors elected, and § 3, Salary, which immediately followed this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 190. Virtual Meetings

[HISTORY: Adopted by the Town Board of the Town of Genesee 2-9-2022 by Ord. No. 22-2. Amendments noted where applicable.]

#### § 190-1. Conduct of virtual meetings and remote attendance at meetings of Boards, Authorities, Committees and Commissions.

- A. Virtual meetings and remote attendance. In exceptional circumstances as determined by the Town Chair of the applicable Town Board, Authority, Committee or Commission, meetings may on a case-by-case basis be held on a virtual basis or otherwise with remote attendance as described in this section. Virtual meetings and remote attendance are only authorized when the Town Chair determines that health, safety, welfare, family, or work circumstances warrant a virtual meeting or remote attendance. Virtual meetings and remote attendance are not authorized solely for convenience, or due to vacation, travel, or

seasonal relocation of one or more members of the body. For meetings that include quasi-judicial action requiring due process, the Chair must consult the Town Attorney before authorizing a virtual meeting or remote attendance. Virtual meetings and remote attendance are subject to the following:

- (1) Remote attendance. When a meeting is held in person, the Chair of the applicable body, may allow one or more members of the body to attend the meeting by telephone or other electronic means, subject to the requirements of this section. A member of the body seeking to attend remotely shall notify the Town Clerk in advance of their expected remote attendance of the meeting. The Town Clerk shall immediately notify the Chair. Applicable governing body members attending remotely shall have all powers of participation, including counting toward a quorum and having the opportunity to vote. Such attendance is only permitted if systems allow the remote member to hear the proceedings and be heard in the meeting room. If visual information is presented at the meeting, the technology must allow the remote attendees to view what is presented. No assurance is provided to any governing body member who attempts to attend remotely that the technology will perform sufficiently to allow for their participation. If circumstances leading to one or more members of the body seeking to attend remotely are widely shared by others in the public, the Chair should consider providing a similar remote attendance option for the public. Such option must be provided to citizens in a timely manner as part of the meeting agenda notice.
- (2) Virtual meeting. Upon direction of the Chair, a body may on a case-by-case basis conduct an entirely virtual meeting, in which no member of the body is present at the Town Hall or specified meeting place subject to the requirements of this section. Members of the body attending virtually shall have all powers of participation, including counting toward a quorum and having the opportunity to vote. If visual information is presented at the meeting, remote attendees must have the opportunity before or during the meeting to view what is presented or be prohibited from voting on the matter. The public shall be given access to the system implementing the virtual meeting platform. Information about access to the meeting shall be provided to citizens in a timely manner as part of the meeting agenda notice. Best efforts shall be used to ensure that members of the public lacking access to the virtual meeting platform are provided alternative reasonable methods to attend.

B. Open Meetings Law limitations. In no event shall a virtual meeting be convened, or remote attendance be permitted where a violation of the Wisconsin Open Meetings Law would result.

## Chapter 207. Address Numbers

[HISTORY: Adopted by the Town Board of the Town of Genesee 7-12-2010 by Ord. No. 10-2. Amendments noted where applicable.]

### § 207-1. Uniform building address required.

All existing properties/buildings and all new properties/buildings located within the Town of Genesee shall have placed thereon and within easy view of the public highway serving said building/property an address as provided herein. The owner of said building shall be responsible for complying with this chapter.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 207-2. Uniform address system and street names.

- A. The uniform address system of the Town of Genesee shall be based on and become a part of a uniform address system for Waukesha County, as recommended by the County Board on March 12, 1957. All provisions therein relating to the establishment of a uniform address system for the county are hereby approved, and such provisions as are applicable to the Town of Genesee, as more specifically set forth in the following subsections, are hereby adopted by the Board of the Town of Genesee.
- B. There is hereby established a uniform system of numbering properties on all streets, highways and rights-of-way in the Town of Genesee, and all existing residences and places of business and all residences and places of business which are hereafter constructed shall be numbered in accordance with the provisions of this section.
- (1) Base lines, as recommended for a uniform county address system, shall be used for determining the numbering in the Town of Genesee. The east-west line, as recommended, shall be used for numbering along all streets running north and south. This base line shall be a continuation of the east-west base line used in Milwaukee County and shall be the north or top line of Sections 31 to 36 inclusive in the Towns of Brookfield, Pewaukee, Delafield and Summit. Its numerical designation shall be "1." A north-south base line, as recommended, shall be used for numbering along all streets running in a westerly direction. This base line shall be the eastern boundary of Waukesha County, and its numerical designation shall be "124."
  - (2) Each property south of the east-west base line and facing a street running in a southerly direction shall carry an address indicating its position west of the north-south base line and its position south of the east-west base line.
  - (3) Each property west of the north-south base line and facing a street running in a westerly direction shall carry an address indicating its position either north or south of the east-west base line and its position west of the north-south base line.
  - (4) Properties on diagonal or curvilinear streets shall be numbered the same as, or similarly to, properties on northerly or southerly streets if the diagonal or curvilinear streets run from the north to the south. The same shall hold for diagonal or curvilinear streets which run more from the east to the west, in that properties on such streets shall be numbered the same as, or similarly to, properties on westerly streets.
  - (5) Where the general direction of a diagonal or curvilinear street has a deviation of exactly 45° the direction of the street shall be considered as being northerly or southerly.
  - (6) A street may reverse its direction by being in the form of a U or a half circle. In general, a half circle street would be considered as running in the direction of its diameter and the numbering would progress the same as though the street were straight. With a U-shape street the progression of numbers would be down each leg to a meeting point at the center of the bottom of the U, provided that a grid line bisects the U at or very near that same point. If a grid line lies to one side of the center of the U it would probably be best to consider the bottom or curved portion as a half circle and number it according to its direction and each of the legs according to their direction. In these instances, where the legs of the U lie in different blocks or grid sections, one name, such as "Circle Drive," could be used for the entire U and there would be no duplication of numbers. In some unusual cases both legs, or portions of both legs, of a U-shaped street might lie in one grid section. This would result in identical numbers appearing on portions of both legs, and the only way to avoid complete duplication of address would be to assign different street names to each leg.
- C. A system of invisible rectangular blocks shall be established as a control grid in the following manner in conformity with the recommended uniform address system:
- (1) The established section lines shall form a basis for the block system, and in a westerly direction from the eastern boundary of the county the first six sections, extending

through the Towns of Menomonee, Brookfield, New Berlin and Muskego, shall be divided into 16 blocks each. These invisible block lines shall have numerical designations of from "124" at the county line to "220" at the western town lines of Muskego, New Berlin, Brookfield and Menomonee. Westward through the remaining towns the sections shall be divided into 10 blocks each and the block lines shall have numerical designations of from "220" to "400," the latter being at the west edge of the county.

- (2) In a northerly direction from the east-west base line the first and second rows of sections shall be divided into 11 blocks each, the third row into eight blocks, and the fourth row into nine blocks. From and including the fifth row northward to the north county line the sections shall be divided into eight blocks each. These invisible block lines shall have numerical designations of from "1," the base line, to "96" at the north county line.
- (3) In a southerly direction from the east-west base line the first row of sections shall be divided into 13 blocks and the second row into nine blocks. From and including the third row southward to the south county line the sections shall be divided into eight blocks each. These invisible block lines shall have the numerical designations of from "1," the base line, to "111" at the south county line.

D. Assignment of numbers.

- (1) One hundred numbers shall be assigned to each invisible block, regardless of discrepancies in block sizes. Properties on the north and east sides of streets shall bear even numbers and properties on the south and west sides of streets shall bear odd numbers.
- (2) The number assigned to each property shall be composed of two parts. The first part, or street designation, shall be composed of a directional letter, "S" or "W," followed by the number of the appropriate block line.
- (3) The second part of the property number, the block and house designation, shall be composed of a directional letter followed by the number of the appropriate block line plus two additional digits indicating the relative position of the property in the block.
- (4) For a block which lies south of the east-west base line, the designation of the block shall be by the block line numbers of its north and its east boundaries. For a block which lies north of the east-west base line, the designation of the block shall be by the block line numbers of its south and its east boundaries.
- (5) Properties and street intersections contained within any block shall bear numbers and directional letters related to the point of intersection of the block boundary lines stipulated in the subsection next above.

E. The point from which any property shall be assigned its proper number shall be determined as follows:

- (1) Where land has been subdivided or platted into lots, the center point of the frontage line of each parcel shall be the point of determination.
- (2) In cases of farm residences or other residences or business places situated on large acreage or away from other development, the point of determination shall be the intersection of the center line of the principal driveway with the street or highway right-of-way line.
- (3) The proper number shall be determined and assigned by the Town Clerk, who will have the right to request assistance from the Building Inspector, Town Engineer, Town Planner or other designee selected by the Town Board to assist the Clerk.

- (4) Where residential units are served by a private street or private way, said properties shall be addressed based on the intersection of the private street or private way with the public road. Placement of the mailbox and house numbers will be at the public highway at the location of the private drive or private way. The property owner shall also display the house numbers at the intersection of his/her driveway with the intersection of the private drive or private way as described in § 207-3 of this chapter.
- (5) In the areas in which there are multiple buildings on commercial or business properties, the buildings will be addressed in accordance with their location on the subject property. The address will be based on the driveway entrance which the business uses. In the instances in which a commercial or business property is created and there are no buildings on the site at the time it is created in accordance with the land division ordinance, the initial address will be assigned either based on location of a driveway or in the center of the property if no driveway is specified.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

#### F. Records.

- (1) For the purpose of facilitating the establishment and continuing workability of a uniform address system in the Town of Genesee there shall be prepared and kept on file in the office of the Clerk a plat book showing the proper addresses of all residences and places of business within the Town. The Clerk shall inform any person applying therefor of the number or numbers and approved street names belonging to a lot or property. In case of doubt as to the proper address belonging to any property the Town Clerk shall make the final determination utilizing the advice of the Building Inspector, Town Engineer or firm retained by the Town Board for that purpose.
- (2) Within 30 days after the final approval of any new subdivision or other division of land, the Town Clerk shall assign addresses to each new building site. Records shall be kept of the assignments and a copy shall be provided for the developer at his request.

## § 207-3. Signs; installation and placement requirements.

- A. Signs shall have a green reflective background with white reflective alpha numeric characters for the assigned address. Signs shall be 18 inches by six inches.
- B. Posts shall be 6.5 feet, galvanized steel channel post, not less than four feet and not more than five feet above the surface of the roadway. Post shall be for address sign only. No other signs (of any kind) shall be placed on the post.
- C. Location.
  - (1) Primary location. Posts shall be installed approximately 10 feet from either side of the driveway and on the back edge of the road right-of-way (no greater than 15 feet from the edge of the pavement).
  - (2) Alternate location. Alternative locations may be determined by the Public Works Superintendent if necessary due to foliage, lot line boundaries or other obstructions that would compromise the effectiveness of the sign if installed in the primary location, but this does not include affixing the number sign to any building or other permanent structure.
- D. The Town of Genesee shall employ a contractor of its choosing to perform the installation of the new address numbers. The cost of the new installations shall be paid by a one-time special charge. The special charge shall be established through a separate Town resolution and shall be paid to the Town Treasurer within 10 days of the date of installation of the signpost. In the event such special charge is not fully paid within 10 days of the installation

of the signpost the delinquent special charge shall become a lien on the property and shall be included in the current or next tax roll for collection as allowed by § 66.0627(4), Wis. Stats.

- E. All new construction subsequent to adoption of this chapter shall pay a separate fee for the address number installation on said property, in conjunction with obtaining a building permit. This fee shall be established through a separate Town resolution.
- F. Private roads shall be marked with Town-installed signs at the intersection of the private road and the Town road and at the primary location referenced in Subsection **C(1)** of this section. In order to mark an individual property for emergency vehicles, property owners on private roads will purchase signs/posts from the Town for a certain fee. The special charge shall be established through a separate Town resolution and shall be paid to the Town Treasurer within 10 days of the date of installation of the signpost. In the event such special charge is not fully paid within 10 days of the installation of the signpost the delinquent special charge shall become a lien on the property and shall be included in the current or next tax roll for collection as allowed by § 66.0627(4), Wis. Stats.

## § 207-4. Maintenance.

- A. Property owners shall maintain the address numbers located on their properties in good and visible condition at all times. No property owner may change the placement location of sign/post after installation without the express written consent of the Public Works Superintendent. Maintenance shall include keeping the address numbers clear of organic growth, debris, and other impediments to a direct line of sight from the roadway.
- B. The Town shall install replacement address numbers for property owners, at that property owner's expense, and the property owner will be charged a fee in the event of loss or damage to any numbers that was not caused by the Town of Genesee. Such fee shall be paid to the Town Treasurer within 10 days of the date of installation of the signpost. In the event such special charge is not fully paid within 10 days of the installation of the signpost the delinquent special charge shall become a lien on the property and shall be included in the current or next tax roll for collection as allowed by § 66.0627(4), Wis. Stats. The fee shall be established through a separate Town resolution.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. The Town shall install replacement address numbers for property owners, at the Town of Genesee's expense, in the event of loss or damage to any numbers that was caused by the Town of Genesee.

## § 207-5. Administration

- A. The Town Clerk, or his/her designee or other person designated by the Town, shall be responsible for maintaining the numbering system.
- B. The Town Clerk shall keep a record of all address numbers assigned. The Town Clerk shall maintain a plat book and/or map showing the proper addresses of all parcels in the Town.
- C. Upon receipt of the proper address numbers from the Town Clerk or his/her designee, and payment of a fee for materials, which shall be established through a separate Town resolution, the Town Clerk or his/her designee shall instruct the Public Works Superintendent to erect the new post and sign at the designated location.
- D. The Town Clerk and any other designated personnel shall monitor placement and condition of installed signs and posts and advise the Public Works Superintendent when necessary to replace damaged signs/post or correct unacceptable sign locations.

## § 207-6. Violations and penalties.

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 212. Adult-Oriented Establishments

[HISTORY: Adopted by the Town Board of the Town of Genesee 11-8-1999 by Ord. No. 99-8. Amendments noted where applicable.]

### Article I. General Provisions

#### § 212-1. Findings of fact.

- A. The Town Board finds that adult-oriented establishments operating in the Town require special licensing by the Town in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the Town.
- B. Based on a review of studies conducted in Phoenix, Arizona, Garden Grove, California, Los Angeles, California, Whittier, California, Indianapolis, Indiana, Minneapolis, Minnesota, St. Paul, Minnesota, Cleveland, Ohio, Oklahoma City, Oklahoma, Amarillo, Texas, Austin, Texas, Beaumont, Texas, Houston, Texas, and Seattle, Washington, and the findings incorporated in *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), and *Coleman A. Young v. American Mini-Theaters, Inc.*, 427 U.S. 50 (1976), the Town finds that adult-oriented establishments are frequently used for sexual liaisons of a casual nature and unlawful sexual activities, including prostitution.
- C. It has been documented that entertainers in adult-oriented establishments offer to perform sexual acts for patrons and that sexual contact occurs between patrons and other employees of adult-oriented establishments.
- D. There is convincing documented evidence that booths, rooms or cubicles in adult-oriented establishments have been used by patrons for the purpose of engaging in specified sexual activities or in high-risk sexual behavior, and configuration of the interior of the premises is an important factor in combating such activities.
- E. The State of Wisconsin Department of Health Services has published reports that have been considered by the Town relating to the subject of sexually transmitted diseases, and the concern over sexually transmitted diseases is a legitimate concern of the Town in order to protect the health and well-being of its citizens.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- F. The State of Wisconsin has seen a steady increase in several types of sexually transmitted diseases since 1986.
- G. Researchers have found that contracting sexually transmitted diseases may increase a person's vulnerability to Human Immuno-Deficiency Virus (HIV), the virus that causes AIDS (Acquired Immune Deficiency Syndrome) and some types of cancer.
- H. AIDS is a sexually transmitted disease which destroys the body's immune system.
- I. The State of Wisconsin Department of Health Services reports that as of June 30, 1999, 4,217 cases of AIDS were reported in the state, including 2,507 that resulted in death, and new cases of HIV infection have been reported in Wisconsin each year.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- J. The Town is concerned with the protection of its minors from exposure to age-inappropriate, sexually explicit materials and offenses.
- K. Licensing is a legitimate and reasonable means of accountability to ensure that the operators and employees of adult-oriented establishments comply with reasonable regulations and to ensure that operators and employees do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- L. Information relating to pending charges and convictions of the applicants is desired to further the Town's interest in controlling the secondary effects of adult-oriented establishments.
- M. There is convincing documented evidence that adult-oriented establishments have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values.
- N. The Town Board has reviewed studies of the secondary effects of adult-oriented establishments and has concluded that, if unregulated, they present an increased risk of prostitution, high-risk sexual behavior and crime, deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
- O. The Town Board desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; and preserve the property values and character of surrounding neighborhoods.
- P. It is not the intent of this chapter to suppress any speech activities protected by the First Amendment but to enact a content-neutral ordinance which addresses the secondary effects of adult-oriented establishments.
- Q. It is not the intent of the Town Board to condone or legitimize the promotion of obscene material, and the Town Board recognizes that the law prohibits the promotion of obscene materials. The Town Board expects and encourages law enforcement officials to enforce anti-obscenity laws against any such illegal activities in the Town.
- R. Restricted hours of operation will allow law enforcement personnel to concentrate on crime prevention during high crime hours and/or low staffing hours by relieving them of enforcement duties relative to prostitution, loitering, and criminal activity associated with adult-oriented establishments.
- S. Prohibition of alcohol beverages on the premises will reduce the need for law enforcement resources to respond to alcohol-related problems upon the premises, will reduce high-risk sexual activity and will contribute to the reduction of secondary effects of adult-oriented establishments.

## § 212-2. Purpose and intent.

Based upon the findings stated above, it is the intended purpose of the Town to regulate adult-oriented establishments to promote the health, safety, morals, and general welfare of the citizens of the Town and to establish reasonable and uniform regulations for the operation thereof so as to minimize secondary effects of these establishments on the community. The provisions of this chapter have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials protected by the First Amendment to the Constitution of the United States. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of adult-



oriented entertainment to their intended market. The promotion of obscene material which is not protected by the First Amendment is subject to criminal sanctions under the state's penal code. The Town Board further intends that this chapter shall be construed and enforced in a manner consistent with the First Amendment to the United States Constitution; Article I, Section 3, of the Wisconsin Constitution; and the compelling state interest in protection of the free flow of ideas.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 212-3. Definitions.

The following terms have the meanings indicated:

### **ADULT ARCADE**

Any place to which the public is permitted or invited wherein coin, slug, electronically, or mechanically controlled or operated still- or motion-picture machines, projectors, computers, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing specified sexual activities or specified anatomical areas.

### **ADULT BATHHOUSE**

A commercial establishment which provides a bath as a service and which provides to its patrons an opportunity for engaging in specified sexual activities.

### **ADULT BODY PAINTING STUDIO**

A commercial establishment wherein patrons are afforded an opportunity to be painted or to paint images on specified anatomical areas. "Adult body painting studio" does not include a tattoo parlor.

### **ADULT BOOKSTORE**

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

- A. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, videocassettes, video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on specified sexual activities or specified anatomical areas.
- B. Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.
- C. Facilities for the presentation of adult entertainment as defined herein, including adult-oriented films, motion pictures, videocassettes, video reproductions, slides or other visual representations for observation by patrons therein.

### **ADULT CABARET**

A nightclub, bar, restaurant, or similar commercial establishment which features:

- A. Live performances which are characterized or distinguished by the exposure of specified anatomical areas or the removal of articles of clothing; or
- B. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing specified sexual activities or specified anatomical areas.

### **ADULT ENTERTAINMENT**

Any exhibition of any motion picture, videocassette or recording, photographic reproduction, closed-circuit transmission, cable/satellite transmission, subscriber programming, or other physical medium that allows an image to be displayed or transmitted

and/or any live performance, display or dance of any type which has as its dominant theme or is distinguished or characterized by any one or more of the following:<sup>[1]</sup>

- A. Specified sexual activities.
- B. Specified anatomical areas.
- C. Removal of articles of clothing.

### **ADULT MASSAGE PARLOR**

A commercial establishment with or without sleeping accommodations which provides the service of massage or body manipulation, including exercise, heat and light treatment of the body, and any form or method of physiotherapy, which also provides its patrons with the opportunity to engage in specified sexual activities.

### **ADULT MOTEL**

A hotel, motel or other similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, video reproductions, slides, or other visual reproductions characterized by depicting or describing specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this type of adult entertainment;
- B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- C. Allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than 10 hours.

### **ADULT-ORIENTED ESTABLISHMENT**

Includes an adult arcade, adult bathhouse, adult body painting studio, adult bookstore, adult cabaret, adult massage parlor, adult motel, adult theater, and any commercial establishment presenting adult entertainment, whether or not such establishment is operated or maintained for a profit.

### **ADULT THEATER**

An enclosed building such as a theater, concert hall, auditorium or other similar commercial establishment which is used for presenting adult entertainment.

### **APPLICANT**

The individual or business entity that seeks to secure a license under this chapter.

### **BOARD**

The Town Board for the Town of Genesee, Waukesha County, Wisconsin.

### **EMPLOYEE**

Any and all persons, including but not limited to operators, entertainers, clerks, managers, janitors or other persons, who work in or at or render any services directly related to the day-to-day operation of an adult-oriented establishment. "Employee," as used in this chapter, specifically excludes independent contractors who are responsible for the improvement or repair of the physical premises or who provide supplies to the establishment, provided that these persons are not also in the position of providing any other day-to-day services for the adult-oriented establishment.

### **ENTERTAINER**

Any person who provides entertainment within an adult-oriented establishment, whether or not a fee is charged or accepted for the entertainment and whether or not the entertainment

is provided by the person as an employee of the adult-oriented establishment or as an independent contractor.

### **OPERATOR**

The person who is designated on the license application to be the person in charge of the daily operation of the premises and who is to be the adult-oriented establishment's contact person for the municipality.

### **PERSON**

An individual, proprietorship, corporation, association, partnership, limited liability entity, or other legal entity.

### **PUBLIC AREA**

Includes all areas of an adult-oriented establishment except:

- A. A public rest room to the extent it is used for its proper purpose;
- B. Individual rooms rented in an adult motel; or
- C. Areas to which patrons have no physical or visual access.

### **SPECIFIED ANATOMICAL AREAS**

- A. Less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or
- B. Human male genitals in a discernibly turgid state, even if opaquely covered.

### **SPECIFIED SEXUAL ACTIVITIES**

Includes any of the following, simulated or actual:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus, or anilingus.
- C. Showing of human genitals in a state of sexual stimulation or arousal.
- D. Excretory functions during a live performance, display or dance of any type.

### **TRANSFER OF OWNERSHIP OR CONTROL**

Transfer of ownership or control of an adult-oriented establishment includes any of the following:

- A. The sale, lease, or sublease of the business;
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or other means; or
- C. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of the law upon the death of the person possessing the ownership or control.

### **YOUTH FACILITY**

Any facility where minors gather for educational or recreational activities, including but not limited to playgrounds, swimming pools, libraries, licensed child-care facilities, or youth clubs.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## **Article II. Licensing**

## § 212-4. Licenses required.

- A. License required for all adult-oriented establishments. From and after the effective date of this chapter, except as provided in Subsection **C** below, no adult-oriented establishment shall be operated or maintained in the Town without first obtaining a license to operate issued by the Town. A license may be issued only for one adult-oriented establishment located at a fixed and certain place. Any person desiring to operate more than one adult-oriented establishment must have a license for each.
- B. License required for all employees of adult-oriented establishments. In addition to the license required by the establishment, all employees of an adult-oriented establishment must also be licensed.
- C. Licenses for existing adult-oriented establishments. All adult-oriented establishments existing at the time of the passage of this chapter must submit an application for a license within 90 days of the effective date of this chapter. Any establishment that submits an application within the ninety-day period shall be allowed to continue to operate until the license application is acted upon by the Town Board. Any establishment which fails to submit an application within the ninety-day period must cease operation upon expiration of the ninety-day period unless and until a valid license is timely issued by the Town Board. The Town shall act upon any such license application in accordance with the provisions of this chapter.
- D. Licenses for employees of existing adult-oriented establishments. All employees already working in an adult-oriented establishment existing at the time of the passage of this chapter must submit an application for a license within 90 days of the effective date of this chapter. Any employee that submits an application within the ninety-day period shall be allowed to continue his or her employment until the license application is acted upon by the Town Board. Any employee who fails to submit an application within the ninety-day period must cease employment upon expiration of the ninety-day period unless and until a valid license is issued by the Town Board. The Town shall act upon any such license application in accordance with the provisions of this chapter.
- E. Change of name form. Any licensed adult-oriented establishment which desires to change its name from that as listed on the original license application must file a change of name form with the Town Clerk and pay a fee set by the Town Board at least 30 days prior to effectuating the name change.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- F. Effect of other licenses. The fact that a person possesses any other valid license or permit required by law does not exempt that person from the requirement of obtaining an adult-oriented establishment license under this chapter.
- G. Nontransferability of licenses. No license or interest in a license may be transferred to any person. Any change in location of an adult-oriented establishment shall require a new license application for that location.

## § 212-5. License procedure for establishments.

- A. Any person desiring to secure an adult-oriented establishment license shall file an application together with two additional copies of the application with the Town Clerk.
- B. The application shall be on a form provided by the Town Clerk.
- C. The following information shall be required of each applicant and must be provided under oath or affirmation:

- (1) Name, including any aliases, address, and phone number.
- (2) If the applicant is a corporation, partnership, limited liability corporation or limited liability partnership, the application shall include the name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; the name and address of the registered agent where applicable; and the names and addresses of all officers and directors, operating or managing partners or general partners, members or managers, whichever is applicable for the particular form of business entity.
- (3) If the applicant is an individual, written proof that the applicant is at least 18 years of age and two copies of a recent photo.
- (4) If the applicant is a business entity, a statement that no officer, director, partner, general partner, owner or manager is less than 18 years of age.
- (5) Name, address and phone number of the adult-oriented establishment for which a license is being secured.
- (6) Name and address of any other current or past adult-oriented establishments operated by the applicant, whether in this state or any other state or district within the United States.
- (7) For any current adult-oriented establishment operated by the applicant, the applicant shall describe the status of any required license for the establishment.
- (8) Nature and date of offense if the applicant has charges pending or has been convicted of violating any of the terms of this chapter.
- (9) Nature and date of offense if the applicant has charges pending or has been convicted of any of the following crimes in Wisconsin. The Wisconsin statute numbers listed below are for reference purposes only. In the event that one or more of the crimes listed below are renumbered or categorized differently by an act of the Legislature, the applicant shall list those crimes for which the applicant has been convicted that are similar in nature to those listed below.

§ 940.225	Sexual assault
§ 944.17	Sexual gratification
§ 944.20	Lewd and lascivious behavior
§ 944.21	Obscene material or performance
§ 944.30	Prostitution
§ 944.31	Patronizing prostitutes
§ 944.32	Soliciting prostitutes
§ 944.33	Pandering
§ 944.34	Keeping place of prostitution
§ 948.02	Sexual assault of a child
§ 948.025	Engaging in repeated acts of sexual assault of the same child
§ 948.05	Sexual exploitation of a child
§ 948.055	Causing a child to view or listen to sexual activity
§ 948.06	Incest with a child
§ 948.07	Child enticement
§ 948.08	Soliciting a child for prostitution
§ 948.11	Exposing a child to harmful material or harmful descriptions or narrations
§ 948.12	Possession of child pornography

## § 948.13 Child sex offender working with children

- (10) Nature and date of offense if the applicant has charges pending or has been convicted of an offense under a statute analogous to those listed in Subsection **C(9)** above in a state other than Wisconsin or under an analogous ordinance of another municipal entity.
  - (11) Name, address and phone number of an individual who is responsible for the day-to-day operation of the establishment, who will be deemed the operator for purposes of this chapter, and who will be the contact person for the municipality.
  - (12) A statement that the applicant is familiar and in compliance with the provisions of this chapter.
- D. When the applicant is a business entity, the information requested of the applicant shall include the information required in this section for each of the officers and directors, partners and general partners, or other owners, and managers of the business entity applying for the license. This provision shall not apply to any owner of any kind who holds an ownership interest of less than 10%.
- E. Each application shall be accompanied by:
- (1) A building plan which meets all the requirements of this chapter and the Waukesha County Zoning Code, if the Waukesha County Zoning Code for the zoning district imposes any building plan requirements in addition to those in this chapter. Each application shall be accompanied by a sketch or diagram showing the floor plan of the interior of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a one-fourth-inch scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
  - (2) A written plan of operation which meets all the requirements of this chapter and the Waukesha County Zoning Code, if the Waukesha County Zoning Code for the zoning district imposes any plan of operation requirements in addition to those in this chapter.
  - (3) A written site plan which meets all the requirements of this chapter and the Waukesha County Zoning Code, if the Waukesha County Zoning Code for the zoning district imposes any site plan requirements in addition to those in this chapter.
- F. Each application shall be signed by the applicant.
- G. Each application shall be accompanied by payment of the license fee set by the Town Board. Filing of the application does not occur until this fee has been paid.<sup>[1]</sup>
- H. The Town Clerk shall date the filing of the application on the face of the application.
- I. Upon filing of the application, each applicant shall place a sign at the proposed business location providing notification of the application. Each sign shall be at least 24 inches by 36 inches in size. The sign shall state "Adult-Oriented Establishment License Application Pending" and "Application Filed On (fill in the date)." The letters on the sign shall be no less than 1 1/2 inches high by two inches wide. The sign must be placed in a conspicuous location so that it is clearly visible to all passersby, whether on the public road, highway, sidewalk or parking lot.
- J. Upon receipt of the application, the Town Clerk shall immediately distribute a copy of the application to the Building Inspector, Waukesha County Sheriff's Department, and the Town Board.<sup>[2]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- K. The Waukesha County Sheriff's Department shall notify the Town Board in writing of any information bearing on the applicant's qualifications within 20 business days of the filing of the application.<sup>[3]</sup>  
[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- L. The Building Inspector shall notify the Town Board in writing as to whether or not the applicant's building plan, site plan, and plan of operation comply with this chapter and the Zoning Code, if the Zoning Code for the zoning district imposes any requirements in addition to those in this chapter, within 20 business days of the filing of the application.
- M. The Town Board shall, within 45 days of the filing of the application with the Town Clerk, either grant the license or deny the application after reviewing the application for compliance with the licensing standards found in this chapter. If the Board fails to act upon the license application within 45 days of the filing of the application with the Clerk, then the license shall be deemed granted.
- N. If the license is granted by the Town Board, then the Town Clerk shall issue the license on the next business day.
- O. If the Town Board decides to deny the application for a license, the Board shall immediately notify the applicant in writing of the reasons for denial. Such notice shall be sent to the applicant within five days of the decision by certified mail, return receipt requested.
- P. Any applicant aggrieved by such a decision of the Town Board shall be entitled to immediately appeal the Board's decision in Circuit Court. Such an appeal must be made within 30 days of the date of the written decision by the Board. The Town explicitly elects not to be governed by Ch. 68, Wis. Stats., and to provide the review procedures described in this chapter.
- Q. Each license issued for an adult-oriented establishment shall state on its face the name of the licensee, the name of the establishment, the street address of the establishment, the date of issue of the license and its expiration date.

## § 212-6. License procedure for employees.

- A. Any individual desiring to secure an employee license shall file an application together with two additional copies of the application with the Town Clerk.
- B. The application shall be on a form provided by the Town Clerk.
- C. The following information shall be required of each applicant and must be provided under oath or affirmation:
- (1) Name, including any aliases, and address. Pursuant to § 19.35(1)(am)2a, Wis. Stats., the name and address of any entertainer shall be considered as exempt from disclosure under the public records law of the State of Wisconsin because of potential danger to the life and safety of such individuals from such disclosure.
  - (2) Written proof that the individual is at least 18 years of age and two copies of a recent photo.
  - (3) Nature and date of offense if the applicant has charges pending or has been convicted of any violations of any of the terms of this chapter.
  - (4) Nature and date of offense if the applicant has charges pending or has been convicted of any of the following crimes in Wisconsin. The Wisconsin statute numbers listed below are for reference purposes only. In the event that one or more of the crimes listed below are renumbered or categorized differently by an act of the Legislature, the

applicant shall list those crimes for which the applicant has been convicted that are similar in nature to those listed below.

§ 940.225	Sexual assault
§ 944.17	Sexual gratification
§ 944.20	Lewd and lascivious behavior
§ 944.21	Obscene material or performance
§ 944.30	Prostitution
§ 944.31	Patronizing prostitutes
§ 944.32	Soliciting prostitutes
§ 944.33	Pandering
§ 944.34	Keeping place of prostitution
§ 948.02	Sexual assault of a child
§ 948.025	Engaging in repeated acts of sexual assault of the same child
§ 948.05	Sexual exploitation of a child
§ 948.055	Causing a child to view or listen to sexual activity
§ 948.06	Incest with a child
§ 948.07	Child enticement
§ 948.08	Soliciting a child for prostitution
§ 948.11	Exposing a child to harmful material or harmful descriptions or narrations
§ 948.12	Possession of child pornography
§ 948.13	Child sex offender working with children

- (5) Nature and date of offense if the applicant has charges pending or has been convicted of an offense under a statute analogous to those listed in Subsection **C(4)** above in a state other than Wisconsin or under an analogous ordinance of another municipal entity.
- (6) A statement that the applicant is familiar with the provisions of this chapter and is in compliance with them.
- (7) A list of other similar or analogous adult entertainer or employee licenses issued by any other municipalities, the name and state of the municipality and the status of the license.

D. Each application shall be signed by the applicant.

E. Each application shall be accompanied by payment of the license fee set by the Town Board. Filing of the application does not occur until this fee has been paid.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

F. The Town Clerk shall date the filing of the application upon the face of the application.

G. Upon receipt of the application, the Town Clerk shall immediately distribute a copy of the application to the Waukesha County Sheriff's Department and the Town Board.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

H. The Waukesha County Sheriff's Department shall notify the Town Board in writing of any information bearing on the applicant's qualifications as required herein within 20 business days of the filing of the application.<sup>[3]</sup>

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*



- I. The Town Board shall, within 45 days of the filing of the application with the Town Clerk, either issue the license or deny the application after reviewing the application for compliance with the licensing standards found in this chapter. If the Board fails to act upon the license application within 45 days of the filing of the application with the Clerk, then the license shall be deemed granted.
- J. If the license is granted by the Town Board, then the Town Clerk shall issue the license on the next business day.
- K. If the Town Board decides to deny the application for a license, the Board shall notify the applicant in writing of the reasons for denial. Such notice shall be sent to the applicant within five days of the decision by certified mail, return receipt requested.
- L. Any applicant aggrieved by such a decision of the Town Board shall be entitled to immediately appeal the Board's decision in Circuit Court. Such an appeal must be made within 30 days of the receipt by the applicant of the written decision of the Board. The Town explicitly elects not to be governed by Ch. 68, Wis. Stats., and to provide the review procedures described in this chapter.

## § 212-7. Alteration of licensed premises.

Following the granting of a license, any licensee who wishes to alter any aspect of the licensed premises which was required to be described in the building plan, site plan or plan of operations required under this chapter shall be required to apply for a new license.

## § 212-8. Licensing standards for initial licenses.

The Town Board shall grant an initial license to an applicant unless it finds one or more of the following to be true:

- A. The applicant is less than 18 years of age.
- B. The applicant has charges pending or has been convicted of violating a provision of this chapter or an analogous ordinance of another municipality within the five years immediately preceding the date of application.
- C. Charges pending or conviction.
  - (1) The applicant has charges pending or has been convicted of a crime specified in § **212-5C(9)** or **212-6C(4)** and, if convicted, for which:
    - (a) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense.
    - (b) Less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a felony offense.
    - (c) Less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are for two or more misdemeanor offenses, or combination of misdemeanor offenses, occurring within any twenty-four-month period.
  - (2) The fact that an appeal has been taken from any of the above-mentioned convictions shall have no effect.
- D. The applicant provides false information on the application.

- E. The applicant fails to provide information, to post the required notice, or to pay any fee required by this chapter.
- F. The adult-oriented establishment does not submit plans which meet the requirements of § 212-5E.
- G. The application does not conform in all respects to this chapter.<sup>[1]</sup>  
 [1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- H. The location of the adult-oriented establishment is within 1,000 feet of any church or synagogue building, school building or park or within 500 feet of any residential district.<sup>[2]</sup>  
 [2] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- I. The applicant has had an adult-oriented establishment license or permit or other similar license or permit revoked or suspended in this state or any other state within three years prior to the date of application.<sup>[3]</sup>  
 [3] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- J. The applicant, if a corporation or a limited liability company, is not licensed to do business or is not in good standing in the state.<sup>[4]</sup>  
 [4] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 212-9. License expiration and renewal.

- A. Transfer of ownership or control of an adult-oriented establishment shall result in automatic expiration of the existing license. Upon transfer of ownership or control, the procedures for a new license application must be followed. In order to ensure continuous operation, such procedures may also be commenced by a new applicant prior to the expiration of the prior license.
- B. Every license issued pursuant to this chapter will terminate upon the expiration of one year from the date of issuance unless sooner revoked. Any licensee desiring to renew an initial license shall make application to the Town Clerk. The application procedures governing new licenses shall be followed by an applicant for a renewal license except for those found in § 212-5I, M, N, O and P for adult-oriented establishment licenses and § 212-6I, J, K and L for employee licenses. The application fee for a renewal license for an adult-oriented establishment license and for an employee license shall be set by the Town Board.<sup>[1]</sup>  
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Any licensee desiring to renew an initial license shall file the application for renewal no later than 60 days before the license expires. Any licensee who fails to apply for a renewal license at least 60 days before the license expires shall pay the same fee as if the licensee were applying for an initial license.
- D. An existing license shall be allowed to continue until such time as the Town Board acts upon the renewal license application. If the Board fails to act upon the license application within 45 days of the filing of the application with the Clerk, then the license shall be deemed granted.
- E. The Town Board will not expedite the renewal procedure to ensure that a license will not expire when the expiration of the license is due to the licensee's untimely filing of a renewal application. Upon expiration of a license under these circumstances, the licensee is prohibited from operating or serving as an employee until the new license is granted.
- F. A license may not be renewed if the Board, following the procedures found in this chapter, finds that a violation of this chapter has occurred or that the applicant is not qualified to hold the license.

- G. If the license is granted by the Town Board, then the Town Clerk shall issue the license on the next business day.

## § 212-10. Exemptions.

The provisions of this chapter relating to the licensing of adult-oriented establishments shall not apply to:

- A. A business operated by or employing a licensed psychologist, licensed physical therapist, licensed masseuse, licensed vocational nurse, registered nurse, licensed athletic trainer, licensed cosmetologist, or licensed barber, provided that such business and the licensed individual are solely engaged in performing the normal and customary functions authorized under the license held;
- B. A business operated by or employing a licensed physician or licensed chiropractor while engaged in practicing the healing arts;
- C. A retail establishment whose primary business is the offering of wearing apparel for sale to customers and that does not exhibit merchandise on a live model(s); or
- D. An activity sponsored by a school licensed by the State of Wisconsin or a college, junior college or university supported entirely or partly by taxation or a private college or university that maintains or operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation. Any activity conducted or sponsored by an entity identified in this subsection must meet all of the following requirements:
- (1) The activity must be situated in a structure that has no sign or other advertising visible from the exterior of the structure indicating a nude person is available for viewing;
  - (2) In order to participate in a class, a student must enroll at least three days in advance of the class; and
  - (3) No more than one nude model is on the premises at any one time.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 212-11. Restrictions on corporate and limited liability company licenses.

Any corporation or limited liability company holding an adult-oriented establishment license under this chapter shall report to the Clerk, in writing, within 15 days of the event described herein, any of the following:

- A. Any change of officers of the corporation or any change in the manager(s) or officers of the limited liability company.
- B. Any change in the membership of the board of directors of the corporation or any change in the membership of the limited liability company.

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article III. Location, Operation and Design Requirements

### § 212-12. Location.

If all the requirements for a license as stated in this chapter are met, an adult-oriented establishment shall only be allowed to locate in the zoning district(s) provided for by the Waukesha County Zoning Code and shall not be allowed to locate in any other district.

## § 212-13. Operational standards.

- A. No adult-oriented establishment is permitted to operate between the hours of 2:00 a.m. and 8:00 a.m. Further, no adult-oriented establishment is permitted to operate between the hours of 8:00 a.m. and 12:00 midnight on any Sunday or legal holiday as defined in § 995.20, Wis. Stats.
- B. No operator or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow patrons to perform any specified sexual activity in the establishment or on the site. This provision does not apply to adult motels, to the extent that such specified sexual activity is not prohibited by law.
- C. No operator or employee of an adult-oriented establishment shall allow any minor to enter into, loiter around or to frequent an adult-oriented establishment or to view adult entertainment.
- D. The operator shall maintain the premises in a clean and sanitary manner at all times.
- E. The operator shall maintain at least 10 footcandles of illumination in the public areas of the establishment, with the following exceptions:
  - (1) In a booth, room, or cubicle, if a lesser level of illumination is necessary to enable a patron to view the adult entertainment, but at no time shall there be less than 0.01 footcandle of illumination as measured 30 inches from the floor.
  - (2) In an aisle adjacent to a booth, room, or cubicle, if a lesser amount of illumination is necessary to allow the occupant to view the adult entertainment, but at no time shall there be less than 1 1/2 footcandles of illumination as measured 30 inches from the floor.
  - (3) Adult theaters must maintain five footcandles of illumination in the auditorium during intermission and no less than 0.01 footcandle during a picture.
- F. All employees, while engaged in the display or exposure of any specified anatomical area, shall maintain a six-foot distance from any patron or other employee.
- G. No rest room shall be designed, operated or maintained so that a patron can view adult entertainment therein.
- H. No employee or patron in an adult cabaret shall be permitted to have physical contact with any employee or patron on the premises.
- I. The selling, serving, possession, or consumption of alcohol beverages is strictly prohibited at all times in all adult-oriented establishments.
- J. No employee or operator shall knowingly work in or about or knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.
- K. All employees shall carry their license upon their person at all times while working in the adult-oriented establishment and shall produce said license upon demand for inspection by any law enforcement authority. Entertainers are exempt from carrying their license upon their person while providing entertainment but shall be readily able to produce said license upon demand for inspection by any law enforcement authority.
- L. The license for the adult-oriented establishment shall be displayed in a conspicuous public place in the adult-oriented establishment.

- M. No employee, operator, or owner may refuse law enforcement officials entry into an adult-oriented establishment for purposes of inspecting the adult-oriented establishment for compliance with these operational standards during business hours, or at other times at a reasonable hour, with reasonable notice.
- N. The operator shall be responsible for compliance with the provisions of this section by the adult-oriented establishment, its employees and patrons.
- O. Every act or omission by any employee constituting a violation of the provisions of this section shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be accountable for such act or omission in the same manner as if operator committed the act or caused the omission.
- P. No operator or employee shall knowingly allow another to appear in a state of nudity, unless the person is an employee of the operator's establishment who, while in a state of partial or total nudity, is on a stage (on which no customer or patron is present) at least 18 inches above the floor and such employee is either:
- (1) At least six feet from any customer or patron; or
  - (2) Physically separated from patrons by a wall or partition composed of solid glass or light-transmitting plastic or substantially equivalent material extending from the floor of the performance stage to at least five feet above the level of the performance stage, but such that there are no openings in the wall or partition that would permit physical contact between customers or patrons and such employee.
- Q. No employee, while in a state of partial or total nudity on the premises of an adult-oriented establishment, shall receive directly any pay or gratuity from any patron or customer and no patron or customer shall pay or give any gratuity directly to any employee, while that employee is in a state of partial or complete nudity in an adult-oriented establishment. Such gratuity or pay may be provided to such employee through a tip receptacle, located more than six feet from the nearest point of the performance stage where such employee is in a state of partial or complete nudity, or may be paid to an employee that is not in a state of partial or complete nudity, as part of the customer's bill.
- R. No employee of an adult-oriented establishment while on the premises shall, while in a state of partial or complete nudity, touch a customer or patron or the clothing of a customer or patron.
- S. No customer or patron of an adult-oriented establishment shall touch an employee appearing in a state of partial or complete nudity or touch the clothing of the employee while such employee is on the premises.
- T. Employees shall maintain a minimum distance requirement of five feet from areas on the adult-oriented establishment's premises being occupied by customers for a minimum of one hour after such employee appears in a state of partial or complete nudity on the establishment's premises. This regulation is not intended to prohibit ingress or egress from the premises or the employee's use of a common rest room. It is, however, intended to control illicit sexual contact and reduce the incidents of prostitution occurring in any adult-oriented establishment. Regulating a reasonable delay between the times entertainers appear in a state of partial or complete nudity and their commingling with customers is a narrowly tailored furtherance of this interest.
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 212-14. Design and layout.

- A. External visibility. At no time should any adult entertainment inside the premises be visible to any persons who are outside the premises.
- B. Booths.
- (1) Any adult-oriented establishment having available for patrons any booth, room or cubicle for the private viewing of adult entertainment must comply with the following requirements:
- (a) Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock or other control-type devices.
- (b) Construction. Every booth, room or cubicle shall meet the following construction requirements:
- [1] Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any nonpublic areas by a wall.
- [2] All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet, and be light colored.
- [3] Each booth, room or cubicle shall have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth.
- [4] Booths must be separated at least 12 inches from the exterior walls of any other viewing booths by open space.
- (c) Visibility. The interior of the booth, room or cubicle shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever.
- (d) Lighting. Lighting for a booth, room or cubicle shall comply with the provisions of § **212-13E** of this chapter.
- (e) Occupants. Only one individual shall be permitted to occupy a booth, room or cubicle at any time. No occupant of the booth, room or cubicle shall be permitted to engage in any specified sexual activity, cause any bodily discharge or litter while in the booth. No individual shall be permitted to damage or deface any portion of the booth.
- (2) Exception. This subsection does not apply to the individual rooms located in adult motels.
- C. A two-inch-wide glow-in-the-dark line shall be prominently and continuously displayed on the floor marking a distance of six feet from each unenclosed stage on which an employee in a state of partial or total nudity may appear. For purposes of this provision, an unenclosed stage is a stage physically separated from customers or patrons by a solid, clear, transparent, unbreakable glass or Plexiglas® wall with no openings that would permit physical contact with customers or patrons.<sup>[1]</sup>
- [1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. A sign shall be continuously and conspicuously posted on the interior of the adult-oriented establishment at each entrance where customers or patrons enter the premises and adjacent to each stage that states, in letters at least two inches high: "Touching or tipping an employee who is in a state of nudity is a violation of Chapter **212** of the Code of the Town of Genesee, punishable by a forfeiture of up to \$1,000. Patrons shall remain at least six feet from all unenclosed performance stages."<sup>[2]</sup>
- [2] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article IV. Enforcement

### § 212-15. Nonrenewal, suspension or revocation of license.

The Town Board may refuse to renew, suspend or revoke a license for any violations of this chapter or if the applicant is not qualified to hold the license.

- A. In order to commence the procedure for a license nonrenewal, suspension or revocation, the Town shall notify the licensee in writing by certified mail, return receipt requested, of the alleged violation or cause and the intent of the Town to seek a nonrenewal, suspension or revocation of the license.
- B. The licensee shall be entitled to a public hearing before the Town Board regarding the license nonrenewal, suspension or revocation, upon written request to the Town Clerk within 10 days of receipt of the notification required in Subsection **A**.
- C. Any public hearing requested pursuant to Subsection **B** shall take place within 10 days of the filing of such written request.
- D. At the hearing both the Town and the aggrieved party may be represented by an attorney, present evidence, call and examine witnesses, cross-examine witnesses of the other party, and make opening and closing statements. Such witnesses shall be sworn. The Town Chairman shall be the presiding officer at the hearing.
- E. Attorneys may issue subpoenas to compel attendance of witnesses or the production of evidence. Subpoenas issued must be in substantially the same form as provided in § 805.07(4), Wis. Stats., and must be served in the manner provided in § 805.07(5), Wis. Stats. Copies of the subpoenas must be served on the opposing party.
- F. The Board shall cause the proceedings to be recorded by a stenographer, the expense thereof to be paid by the Town. Costs for copies of any transcripts or transcription of a recording shall be paid by the party requesting the transcript or transcription. All exhibits shall be marked and preserved.
- G. Within 10 days of the completion of any hearing the Town Board shall determine if cause for nonrenewal, suspension or revocation exists. If no public hearing is requested, the Town Board shall make a determination within 20 days of the notification date.
- H. The Town Board shall issue its determination in writing and provide it within five days to the licensee by certified mail, return receipt requested.
- I. If a license period expires while a nonrenewal, suspension or revocation procedure is pending, then the nonrenewal, suspension or revocation of any license shall be stayed pending the issuance of a determination by the Town Board. The nonrenewal, suspension or revocation of a license shall become effective 30 days following the issuance of a decision by the Town Board, if judicial review is not commenced as provided in this section.
- J. If judicial review of such determination by the Town Board is timely commenced, then license nonrenewal, suspension or revocation shall not become effective until judgment is entered.
- K. Any person aggrieved by such a decision of the Town Board shall be entitled to immediately appeal the Board's decision in Circuit Court. Such an appeal must be made within 30 days of the licensee's receipt of the written decision by the Board. The Town explicitly elects not to be governed by Ch. 68, Wis. Stats., and to provide the review procedures described in this chapter.
- L. Any person whose license is nonrenewed, suspended or revoked shall not be eligible to receive a license for a period of five years from the effective date of the suspension or

revocation.

## § 212-16. Violations and penalties.

- A. Penalties. Any person who violates this chapter will be subject to a monetary forfeiture in the amount of \$1,000 for each violation. Each day that a violation exists shall constitute a separate violation and be punishable as such.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Injunction. Compliance with the provisions of this chapter may also be enforced by an injunction properly issued by a court of competent jurisdiction upon the request of the Town.
- C. Nonexclusivity. The imposition of any penalty under this chapter or the seeking of an injunction shall not impair the right of the Town to seek a nonrenewal, suspension or revocation of a license as provided in this chapter.

## Chapter 221. Alarm Systems

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. False Alarms

[Adopted 3-10-1986]

#### § 221-1. Intent.

Although the Town of Genesee recognizes that alarm systems serve a public purpose, it is the intent of this article to prohibit all false alarms in order to prevent responses by the Police or Fire Department servicing the Town of Genesee citizenry when an emergency situation does not exist, due to carelessness, improper maintenance of alarm systems or any other cause which results in false alarms from privately owned, commercially owned, leased or contracted alarm systems. Such false alarms initiate police and fire personnel and vehicle response which results in unnecessary expense to the Town, increases the risk of damage to property or injury to persons and depletes protection available to other areas of the Town. Such false alarms constitute a public nuisance which much be abated and/or penalized.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

#### § 221-2. Liability for costs.

- A. Any individual, partnership, corporation or other entity owning, leasing, renting or maintaining or in any way responsible for an alarm system, of any type, located at any property, which results in a signal, regardless of how received, resulting in a response by the Police or Fire Department personnel when an emergency situation does not exist shall be liable and responsible for any and all costs incurred, in any way, by the Town of Genesee for said police or fire response.
- B. Upon default of payment, said costs shall be included as a special charge against the property tax on the subject property.

#### § 221-3. Administrative review.



Any individual, partnership, corporation or other entity aggrieved by any administrative determination under § 221-2 of this article may have such determination reviewed by the Town Board of the Town of Genesee as provided by the Town of Genesee and State of Wisconsin administrative review procedures.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 9, Administrative Review.*

## § 221-4. Violations and penalties.

- A. In addition to the aforementioned costs, any individual, partnership, corporation or other entity owning, leasing, renting or maintaining or in any way responsible for an alarm system, of any type, located at any property, who or which is found to have permitted a signal to occur which intentionally, negligently or unintentionally resulted in a response by the Police or Fire Department personnel when an emergency situation did not exist is in violation of this article and upon conviction is subject to the following:  
[Amended 9-12-1994 by Ord. No. 94-6]
- (1) Any person over the age of 17 years shall be subject to a forfeiture of not less than \$10 nor more than \$500 plus allowable statutory costs per each offense. Failure to pay any forfeiture hereunder shall subject any violator over the age of 17 years to be sentenced to the county jail and/or revocation or suspension of driving privileges.
  - (2) Any person between the ages of 12 and 17 years shall be subject to a forfeiture of not less than \$10 nor more than \$500 plus allowable statutory costs per each offense or referred to the proper authorities as provided in Ch. 48, Wis. Stats. Failure to pay any forfeiture hereunder shall subject any violator to the provisions of § 938.17(2), Wis. Stats.
  - (3) Any person under the age of 12 years shall be referred to the proper authorities as provided in Ch. 48, Wis. Stats.
- B. Upon default of payment, said fine shall be included as a special charge against the property tax on the subject property.

## Chapter 226. Ambulance Service

[HISTORY: Adopted by the Town Board of the Town of Genesee 2-8-1982. Amendments noted where applicable.]

### § 226-1. Ambulance service provided.

The Town of Genesee shall provide emergency and nonemergency ambulance and other conveyance vehicles and personnel for the benefit of all persons who request said service while within the boundaries of the Town of Genesee. The Town shall provide said service by contract with the Village of North Prairie and the Village of Wales or other contracting persons, corporations or entities, public or private, with which the Town Board deems best to contract.

### § 226-2. Responsibility for costs.

Any person or persons utilizing said conveyance service, whether emergency or otherwise, shall thereupon become responsible to the Town of Genesee for the expense incurred by the Town in providing said service. The actual fee charged by the Town to the person or persons utilizing the conveyance service shall be established by the Town Board by resolution in December of each year for the following year.

## § 226-3. Contracting agency to report conveyances to Town Clerk.

The Villages of North Prairie and Wales, or any other contracting agency, shall report all conveyances performed in the Town of Genesee for which the Town shall be charged to the Town Clerk within 30 days after said conveyance on a form titled "Report of Ambulance Conveyance" provided by the Town.

## § 226-4. Recovery of fees.

- A. The Town Clerk shall, upon receipt of the ambulance/conveyance report from the party performing the conveyance, prepare and forward to the person utilizing the service a statement for said fees giving 30 days for payment thereof. At the expiration of 60 days from billing, if said fees remain unpaid, the Town Clerk shall proceed as follows:
- (1) If the party utilizing said conveyance service is a real estate owner in the Town of Genesee, then the unpaid charge shall be placed upon the real estate tax roll as a special charge under § 66.0627, Wis. Stats., with the following legend: "Ambulance run (date)."
  - (2) If the person utilizing said conveyance service is not an owner of real estate located in the Town of Genesee and the bill remains unpaid, the Town Clerk shall, from time to time, collect said unpaid bills and present them to the Town Board for referral to the Town Attorney or other collection agency.
- B. Any statements remaining unpaid after said 30 days shall bear interest at the rate of 15% per annum and said statement shall so advise the debtor.

## Chapter 233. Animals

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. Dogs

[Adopted 11-14-1988]

## § 233-1. Adoption of statutory provisions.

Except as otherwise specifically provided in this article, the current and future statutory provisions of Ch. 174, Wis. Stats., describing and defining regulations with respect to dogs, exclusive of any provisions therein relating to penalties to be imposed, are adopted and by reference made a part of this article as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this article. Any future additions, amendments, revisions or modifications of the current or future statutes incorporated herein are intended to be made part of this article in order to secure uniform statewide regulation of dogs.

## § 233-2. License required.

- A. When dog license required. Every owner, keeper or person having physical care or custody of a dog which is at least five months of age on January 1 of any year, or which reaches five months of age within the license year, shall annually, or on or before acquiring ownership of a licensable dog, or on or before the date the dog becomes five months of age, and in the manner provided for the payment of personal property taxes, pay a dog license fee and obtain a license therefor. Such license fees as well as late penalty fees shall be established by the Town Board by separate resolution and may be periodically changed from time to time. Licenses and renewals shall be due each year between January 1 and April 1. A late penalty fee, as set by resolution of the Town Board, shall be imposed upon any license applied for as authorized by § 174.05(5), Wis. Stats. [Amended 12-13-1993 by Ord. No. 93-6]
- B. Physical care or custody. Care or custody shall include the owning, boarding, confinement and general maintenance of a dog on the premises.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Quantity. The number of dogs kept on a single lot of record within the Town is controlled by the Zoning Code in Waukesha County.
- D. Harboring stray dog. Any person harboring in any manner a stray dog for 10 days or more shall be considered its owner and shall be subject to the terms and regulations of this article.
- E. Exemptions. Every dog specially trained to lead blind or deaf persons is exempt from the dog license tax herein. The owner of such dog may apply for and receive each year a free license for said dog upon application therefor.

### § 233-3. Running at large.

It shall be unlawful for the owner, keeper or person having physical possession of any dog or dogs to permit the same to run at large at any place within the Town unless accompanied by and under the control of the owner, keeper or person having physical custody of said dog or dogs. A dog will be considered running at large under this section if it is upon the property of another without consent of the owner or occupant of that property. The restriction set forth herein shall not be construed as to prevent any dog or dogs running at large upon the premises of the owner, person having physical custody, or keeper of said dog or dogs as long as the dog or dogs remain on said premises.

### § 233-4. Removal and disposal of excrement.

The owner, keeper or person having physical possession of a dog or dogs shall remove and properly dispose of any dog excrement deposited by said animal on the same day of such deposit, whether that animal is on private or public property. This section shall not apply to a blind or disabled person using a guide dog who is unable to comply due to his or her disability.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 233-5. Vicious dogs.

It shall be unlawful to keep a vicious dog within the Town. A visual confirmation that a dog has bitten, attacked or injured any person shall constitute a prima facie showing that such a dog is vicious. Upon finding a dog to be vicious the court shall order immediate destruction of the dog or removal from the Town after passage of any retention period required for rabies or other health reason.

## § 233-6. Impoundment of dogs.

- A. It shall be the duty of the humane officer, law enforcement officer or any other officer duly appointed by the Town Board to apprehend any dog or dogs running at large within the Town, as defined in § 233-3 above, and confine the animal in the Waukesha County Animal Shelter or other pound as designated by the Town Board.
- B. The humane officer or dog pound operator shall keep at said dog pound all apprehended dogs for a period of seven days or until the owner picks up his/her dog, whichever occurs earlier, and if the dog(s) is (are) not reclaimed by its rightful owner within such time, it may be sold for the amount incurred in keeping said animal plus an administrative fee for the Town as set by the Town Board by separate resolution, or the dog may be destroyed in such a manner as the dog pound operator or humane officer shall direct.  
[Amended 11-13-1989]
- C. The owner, person who has physical custody, or keeper of any dog so confined by the dog pound or humane officer may reclaim such dog before the same is disposed of by payment of all costs and charges incurred by the Town in impounding and keeping said dog. Before said dog shall be released to the owner, person who has physical custody, or keeper said dog shall be licensed as provided for herein and its owner, person who has physical custody, or keeper shall receive a receipt from the Town Clerk authorizing the animal shelter or dog pound to release said dog.

## § 233-7. Barking or howling dogs.

A dog that barks or howls to such an extent that the noise disturbs any neighbor residing nearby by reason of excessive sound or unusual hours is hereby declared a nuisance.

## § 233-8. Complaints.

Should a violation of this article be reported by a citizen, the Town shall not be required to pursue prosecution unless and until the complaining citizen shall present his/her complaint in writing on forms supplied by the Town and have the complaint notarized or witnessed by a Town official. Said citizen shall also agree in writing that, in the event said complaint is filed with the court for prosecution, he/she will cooperate fully with the Town Attorney in said prosecution, including, if necessary, testifying in a court trial to support said complaint. Any failure by a complaining citizen to cooperate with the Town shall result in immediate dismissal of the complaint.

## § 233-9. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 250. Building and Construction Code

[HISTORY: Adopted by the Town Board of the Town of Genesee 4-12-2021 by Ord. No. 21-1.<sup>[1]</sup> Amendments noted where applicable.]

[1] *Editor's Note: This ordinance also repealed former Ch. 250, Building Construction, adopted 11-14-1988, as amended.*

## Article I. General

### § 250-1. Scope.

The provisions of the Town of Genesee Building and Construction Code (this chapter) shall govern the design, construction, alteration, demolition and moving of all buildings and structures constructed per the State of Wisconsin Department of Safety and Professional Services (SPS) and all Wisconsin Administrative Codes, including the Uniform Building Code.

### § 250-2. Title.

These regulations shall be known and cited as "Municipal Building Code" and shall be construed to secure their expressed intent and to ensure public safety, health and welfare insofar as they are dependent upon building construction.

### § 250-3. Application of Wisconsin Administrative Code.

The following Wisconsin Administrative Codes, their referenced codes and standards, and subsequent revisions are hereby made a part of this chapter and adopted for municipal enforcement by the Building, Electrical, Plumbing and Heating, Ventilating, and Air Conditioning (HVAC) Inspector, whom shall be certified as DSPS Inspector(s) by the Wisconsin Department of Safety and Professional Services in both UDC and non-UDC (including Commercial) and other categories.

#### **Electrical Code**

SPS 316 Electrical: This chapter is adopted in its entirety

#### **ICC Codes**

2015 International Building Code (IBC), with Wisconsin amendments

2015 International Energy Conservation Code (IECC), with Wisconsin amendments

2015 International Mechanical Code (IMC), with Wisconsin amendments

2015 International Fuel Gas Code (IFGC), with Wisconsin amendments

2015 International Existing Building Code (IEBC), with Wisconsin amendments

#### **Wisconsin Commercial Building Code**

SPS 360 Erosion control, sediment control and stormwater management

SPS 361 Administration and enforcement

SPS 362 Buildings and structures

SPS 363 Energy conservation

SPS 364 Heating, ventilating and air conditioning

SPS 365 Fuel gas appliances

SPS 366 Existing buildings

SPS 360 to 366 Appendixes A and B

### § 250-4. Application of Wisconsin Uniform Dwelling Code.

The Wisconsin Uniform Dwelling Code, SPS Chapters 320 through 325, inclusive and all amendments thereto, are hereby made a part of this Code by reference and shall apply to all one- and two-family dwellings and alterations and additions thereto. Except as provided in

§ 250-7, this chapter shall also apply to alterations and additions to all one- and two-family dwellings constructed prior to the effective date of the Wisconsin Uniform Dwelling Code. A copy of said code is on file in the office of the Municipal Clerk.

## § 250-5. Application of Wisconsin Uniform Building Code.

- A. All buildings and structures hereafter erected, altered, repaired, moved or demolished that are used or designed to be used for the purpose herein defined shall comply in full with the requirements of this chapter.
- (1) Zoning laws. No provision of this chapter shall be construed to repeal, modify or constitute an alternative to any lawful zoning regulations.
  - (2) New buildings. The construction requirements of the Wisconsin Uniform Building Code shall apply to all buildings not covered under § **250-3**.
  - (3) Existing buildings. This chapter shall also apply to buildings and conditions described in this section.
    - (a) An existing building to be occupied as a one- or two-family dwelling which building was not previously so occupied.
    - (b) An existing structure that is altered or repaired, when the cost of such alterations or repair during the life of the structure exceeds 50% of the equalized value of the structure, said value to be determined by the assessor of the municipality.
    - (c) Additions and alterations, regardless of cost, made to an existing building shall comply with the requirements of this chapter. The provisions of Subsection **A(4)** of this section shall also apply.
    - (d) Roof coverings. Whenever more than 25% of the roof covering of a building is replaced in any twelve-month period, all roof covering shall be in conformity with applicable sections of this chapter.
    - (e) Additions and alterations. Any addition or alteration, regardless of cost, made to a building shall be made in conformity with applicable sections of this chapter.
  - (4) Alterations and repairs. The following provisions shall apply to buildings altered or repaired:
    - (a) Alterations. When not in conflict with any regulations, alterations to any existing building or structure, accommodating a legal occupancy and use but of nonconforming type of construction which involves either the structural members of floors or roofs, beams, girders, columns, bearing or other walls, room heating and air-conditioning systems, arrangement, light and ventilation, changes in location of exit stairways or exits or any of the above, then such existing construction shall be made to conform to the minimum requirements of this chapter applicable to such occupancy and use and given type of construction.
    - (b) Repairs. Repairs for purposes of maintenance or replacements in any existing building or structure which do not involve the structural portions of the building or structure or which do not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection or exterior aesthetic appearance and which do not increase a given occupancy and use, shall be deemed minor repairs.
    - (c) Alterations and repairs required. When any of the structural members of any building or structure have deteriorated from any cause whatsoever to less than their required strength, the owner of such a building or structure shall cause such

structural members to be restored to their required strength; failing in which the building or structure shall be considered a menace to public safety and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the regulations of this chapter are complied with.

- (d) Extent of deterioration. The amount and extent of deterioration of any existing building or structure shall be determined by the Building Inspector.
- (e) Use of unsanitary building. It shall be unlawful to occupy or use or permit the occupancy or use of any building or structure that is unsanitary or dilapidated, or deteriorated, or out of repair, thereby being unfit for human habitation, occupancy or use until the regulations of this chapter have been complied with.

## § 250-6. through § 250-19. (Reserved)

## Article II. Building Inspector and Permits

### § 250-20. Building Inspector.

- A. There is hereby created the Department of Building Inspection. The Building Inspector, appointed by the municipality, shall act as head of this department.
  - (1) Duties. The Building Inspector is vested with the authority and responsibility to enforce all laws controlling safe building construction. He shall make inspections at the site of buildings damaged, by any cause whatsoever, to determine the safety of buildings affected thereby.
  - (2) Rights. The Building Inspector, or his authorized agent, shall have the power and authority, at all reasonable hours, for any proper purpose, to enter upon any public or private premises and make inspection thereof and to require the production of the permit for any building, plumbing, electrical or heating work being done or the required license therefore. No person shall interfere with or refuse to permit access to any such premises to the above-described representatives of the municipality while in the performance of their duties.
  - (3) Records. There shall be kept, in the Department of Building Inspection, a record of all applications for building permits in files for such purpose and each permit shall be regularly numbered in the order of its issue. Also, a record showing the number, description size of all buildings erected indicating the kind of materials used and the cost of each building and aggregate cost of all buildings in the various classes shall be kept. There shall be kept, in the Department of Building Inspection, a record of all inspections made of all removal and condemnation of buildings and a record of all fees collected showing the date of their receipt.

### § 250-21. Permits.

- A. Permits required. No building or structure, or any part thereof, shall hereafter be built, enlarged, altered or demolished within the municipality or moved into, within or out of the municipality except as hereinafter provided, unless a permit therefore shall first be obtained by the owner or his agent from the building, electrical, plumbing, HVAC inspector. All required fees, including any professional fees, sewer and/or water impact fees (including assessment and/or connection fees), park fees, etc. shall be paid before any building permit can be issued. Permits required are as follows:
  - (1) New building/addition.

- (2) Alterations/remodeling.
  - (3) Electrical. In addition, all electrical service changes and/or modifications require state certified master electrician and electrical contractor certification to secure electrical permit.
  - (4) Plumbing, including replacement dishwashers, water heaters, water softeners, R.O. units, etc.
  - (5) Heating, ventilating and air conditioning, including replacement furnaces, A/C's, boilers, etc.
  - (6) Enlarging windows or doors.
  - (7) Razing or wrecking.
  - (8) Occupancy.
  - (9) Moving of buildings.
  - (10) Other permits as required by governing municipality.
- B. Permits not required. Permits not required for the following [Except for a combination of Subsection **B(1)**, **(2)** and/or **(3)**]:
- (1) Reroofing.
  - (2) Re-siding.
  - (3) Replacement windows (same size or smaller).
  - (4) Replacing carpet, flooring, etc.
  - (5) Painting.
- C. Application for permits. Application for a building permit shall be made in writing upon a blank form to be furnished by the Building Inspector and shall state the name and address of the owner of the building and the owner of the land on which it is to be erected, the name and address of the designer and shall set forth legal description of the land on which the building is to be located, the location of the building, the house number thereof and such other information as the Building Inspector may require. With such application, there shall be submitted, to the Building Inspector, two complete sets of plans, specifications and two copies of a survey.
- (1) Survey. The survey shall be prepared and certified by a surveyor or registered by the State of Wisconsin and shall bear the date of the survey. The certified survey shall also show the following:
    - (a) Location and dimensions of all buildings on the lot, both existing and proposed.
    - (b) Dimensions of the lot.
    - (c) Dimensions showing all setbacks to all buildings on the lot.
    - (d) Proposed grade of proposed structure, to Town datum.
    - (e) Grade of lot and of road opposite lot.
    - (f) Grade and setback of adjacent buildings. If adjacent lot is vacant, submit elevation of nearest buildings on same side of the road.
    - (g) Type of monuments at each corner of lot.
    - (h) Water courses or existing drainage ditches.



- (i) Seal and signature of surveyor.
- (2) Plans and specifications. All plans shall be drawn to a scale not less than 1/4 inch per foot, on paper or cloth in ink, or by some other process that will not fade or obliterate, and shall disclose the existing and proposed provisions for water supply, sanitary sewer connections and surface water drainage. All dimensions shall be accurately figured. Drawings that do not show all necessary detail shall be rejected. A complete set of plans for residential construction shall consist of:
    - (a) All elevations.
    - (b) All floor plans.
    - (c) Complete construction details.
    - (d) Fireplace details showing the section view. Cross section of fireplace and flues.
    - (e) Plans of garage when garage is to be built immediately or location of garage when it is to be built at a later date. All plans shall remain on file in the office of the Building Inspector after the completion of the building, after which time the Building Inspector may return the same to the owner, may keep them for public record or may destroy them.
- D. Waiver of some requirements. At the option of the Building Inspector, plans, data, specifications and survey need not be submitted with an application for permit to execute minor alterations and repairs to any building, structure or equipment, provided the proposed construction is sufficiently described in the application for permit.
- E. Drainage; grading of lots. The plans shall show the present and proposed grades of the lot on which it is proposed to erect the building for which a building permit is sought and of the immediately adjoining property in sufficient detail to indicate the surface water drainage before and after the completion of the grading. No permit shall be issued if the erection of the building and the proposed grades shall unreasonably obstruct the natural flow of water from the surface of adjoining property or obstruct the flow of any existing ravine, ditch, drain or storm water sewer draining neighboring property, unless suitable provision is made for such flow by means of an adequate ditch or pipe, which shall be shown on the plans and shall be constructed so as to provide continuous drainage at all times.
- F. Inspector may revoke permits.
- (1) The Building Inspector may revoke any permit, certificate of occupancy or approval issued under the regulations of this chapter and may stop construction or use of approved new materials, equipment, methods of construction, devices or appliances for any of the following reasons:
    - (a) Whenever there is a violation of any regulation of this chapter or of any other ordinance, law or lawful orders or Wisconsin statute relating to the same subject matter.
    - (b) Whenever the continuance of any construction becomes dangerous to life or property.
    - (c) Whenever there is any violation of any condition or provision of the application for permit or of the permit.
    - (d) Whenever, in the opinion of the Building Inspector, there is inadequate supervision provided on the job site.
    - (e) Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, data, specifications or certified lot or plot plan on which the issuance of the permit or approval was based.

- (f) Whenever there is a violation of any of the conditions of an approval or occupancy given by the Building Inspector for the use of any new materials, equipment, methods of construction devices or appliances.
- (2) The notice removing a permit, certificate of occupancy or approval shall be in writing and may be sewed upon the applicant for the permit, owner of the premises and his agent, if any, and on the person having charge of construction.
- (3) A revocation placard shall also be posted upon the building structure, equipment or premises in question by the Building Inspector.
- (4) After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises and the permit which has been so revoked shall be null and void and before any construction or operation is again resumed, a new permit, as required by this chapter, shall be procured and fees paid therefore and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this chapter.
- (5) Construction times. Activities regulated by the Town of Genesee Building Code shall be conducted in a manner that minimizes the noise and other adverse impacts upon surrounding properties, consistent with the rural character of the Town. This obligation includes, but is not limited to, limiting the conduct of activities to the following times, unless otherwise authorized by the Town Building Inspector or Town Administrator: The activities shall not commence before 7:00 a.m. on weekdays (Monday through Friday) and 8:00 a.m. on Saturdays and Sundays; the activities shall not continue beyond 7:00 p.m. on weekdays, and 5:00 p.m. on Saturdays and Sundays.

#### G. Fees.

- (1) Before receiving a building permit, the owner or his agent shall pay the fee according to the fee schedule. "Project value" is defined as a total cost of the project from start to finish including labor, materials, mechanicals, costs of subcontractors, etc. If a homeowner is completing the project, labor costs shall be calculated at comparable rate to area contractors.
- (2) Cash bond deposits are required with application and are located on the Town's fee schedule.
- (3) Upon receipt of the required certificates and/or affidavits, the Clerk shall attach them to a voucher to be signed by the permittee as a request for refund of the deposit. Any charges (i.e., road damage due to construction, reinspection fees, etc.) will be deducted from the deposit and the refund of the balance will be made to the permittee.
- (4) In the event that an occupancy permit is not issued and an extension is not applied for within six months after the expiration date of the building permit, the entire deposit is forfeited. Forfeiture of any such deposit is not a license to occupy the premises contrary to this chapter.

## § 250-22. Approved plans.

- A. A placard, signed by the Building Inspector, indicating the permit has been issued shall be posted at the job site during construction. After issuance of a building permit, the approved plans shall not be altered unless any proposed change is first approved by the Building Inspector as conforming to the provisions of this chapter.
- B. Expiration of permit.

- (1) Existing buildings and any alterations or additions thereto, accessory buildings and accessory structures. The building permit shall expire 12 months from the date the permit is issued. Time periods referenced herein may be extended by the Building Inspector if the delay was due to conditions beyond the control of the applicant. No additional permits for the same work will be issued unless a timetable of completion is agreed upon by the Building Inspector.
  - (2) New dwellings. The building permit shall expire 24 months after issuance if the dwelling exterior has not been completed.
  - (3) New commercial buildings. The building permit shall expire 18 months from the date the permit is issued. Time periods referenced herein may be extended by the Building Inspector if the delay was due to conditions beyond the control of the applicant. No additional permits for the same work will be issued unless a timetable of completion is agreed upon by the Building Inspector.
- C. Before any work is commenced or recommenced after the permit has lapsed, a new permit shall be issued with appropriate fee.

## § 250-23. Regulations for moving buildings.

- A. General. No person shall move any building or structure upon any of the public right-of-ways of the municipality without first obtaining a permit therefore from the Building Inspector and upon the payment of the required fee. Every such permit issued by the Building Inspector for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued.
- B. Moving damaged buildings. No building shall be repaired, altered or moved within or into the municipality that has deteriorated or has been damaged by any cause (including such moving and separation from its foundation and service connections in case of moved buildings) 50% or more of its equalized value and no permit shall be granted to repair, alter or move such building within or into the municipality.
- C. Continuous movement. The movement of buildings shall be a continuous operation during all the hours of the day, and day by day and at night, until such movement is fully completed. All of such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection, or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lighted lanterns shall be kept in conspicuous places at each end of the building during the night.
- D. Street repair. Every person receiving a permit to move a building shall, within one day after said building reaches its destination, report the fact to the Building Inspector who shall thereupon, in the company of the municipal highway superintendant, inspect the streets and highways over which said building has been moved and ascertain their condition. If the removal of said building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place them in good repair as they were before the permit was granted. On the failure of the said permittee to do so within 10 days thereafter to the satisfaction of the governing body, said body shall repair the damage done to such streets and hold the person obtaining such permit and the sureties on his bond responsible for the payment of same.
- E. Conformance with Code. No permit shall be issued to move a building within or into the municipality and to establish it upon a location within the said municipality until the Building Inspector has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that said building is in a sound and stable condition and of such construction that it will meet the requirements of this Building Code in

all respects. A complete plan of all further repairs, improvements and remodeling, with reference to such building, shall be submitted to the Building Inspector, and he shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this Building Code and that when same are completed, the building, as such, will so comply with said Building Code. In the event a building is to be moved from the municipality to some point outside of the boundaries thereof, the provisions, with respect to the furnishing of plans and specifications for proposed alterations to such building, may be disregarded.

## § 250-24. Razing of buildings.

- A. Razing of buildings. The Building Inspector is hereby authorized to act for the municipality under the provisions of § 66.0413 of the Wisconsin Statutes, relating to the razing of buildings and all acts amendatory thereof and supplementary thereto. The municipal treasurer is authorized to place the assessment and collect the special tax as therein provided.
- B. Before a building can be demolished or removed, the owner or agent shall notify all utilities having service connections within the building, such as water, electric, gas, sewer and other connections.
- C. Demolition.
- (1) Permits are required prior to any demolition. The municipality may require a performance bond. The municipality may also require erosion control, plumbing, street occupancy, cutting, and wrecking permits.
  - (2) Any potential asbestos, lead and other hazards shall be identified and removal can only occur after a notice of intent shall be filed with the Department of Natural Resources. Erosion control methods must be in place and approved by the Building Inspector prior to any demolition.
  - (3) Sewer, water, electric, gas and other connections to the property shall be properly abandoned in a safe manner that shall be approved by the building, electrical, and plumbing inspector prior to demolition.
  - (4) The use of a torch for cutting may require a permit and approval by the fire inspector. Street occupancy permits may be required for any street material or dumpster storage or pavement cuts.
  - (5) All municipal sidewalks, curbs, approaches, and other public property shall be protected from damage.
  - (6) Sanitary facilities shall be required for on-site workers.
  - (7) Demolition shall be performed from the top down, floor by floor.
  - (8) Chutes shall be used to transfer materials above one story.
  - (9) Dust control methods shall be required at all times.
  - (10) Waste material shall be removed and not stored on-site.
  - (11) Burning of waste materials shall be prohibited.
  - (12) Floor slabs, footings, and foundations shall be removed or broken into pieces less than one foot in diameter, unless approved by the Building Inspector.
  - (13) All disturbed areas shall be graded to match adjoining grades or to the satisfaction of the Building Inspector.

- (a) Topsoil (two inches minimum) and grass are required if the lot is to be left vacant.
- (b) Special demolition methods utilizing explosives shall be approved by the governing body.
- (c) A final site inspection shall be required.

## § 250-25. Inspections.

- A. Coordinated inspections. All provisions of the laws and regulations of the municipality and of legally adopted rules of local fire and health officials in respect to the operation, equipment, housekeeping, fire protection, handling and storage of flammable materials, liquids and gases and the maintenance of safe and sanitary conditions of use in occupancy in all buildings shall be strictly enforced by the administrative officials to whom such authority is delegated. Whenever inspection by any authorized enforcement officer discloses any violation of the provisions of this chapter, or of any other rules, regulations or laws, he shall immediately notify the administrative officer having jurisdiction of the violation.
- B. Certified report. The Building Inspector may require a certified report of all required inspections as regulated by this chapter from the registered architect or registered engineer supervising the construction of any building, structure or equipment requiring their supervision. Such certified report shall state, in detail, that all construction work has been executed in accordance with all of the regulations of this chapter, approved plans, specifications, terms of the permit and, further, that such construction work was executed in accordance with accepted architectural and engineering standard procedures.

## § 250-26. Stop-work order.

Whenever the provisions of this chapter or of the plans approved there under are not complied with, a stop-work order shall be served on the owner or his representative and a copy thereof shall be posted at the site of the construction. Such stop-work order shall not be removed except by written notice of the Building Inspector after satisfactory evidence has been supplied that the violation has been corrected.

## § 250-27. Certificate of occupancy.

- A. Inspections.
  - (1) The Building Inspector shall make a final inspection of all new buildings, additions and alterations. If no violations of this or any other ordinance can be found the Building Inspector may issue a certificate of occupancy, stating the purpose for which the building is to be used.
  - (2) No building, nor part thereof, shall be occupied until such final inspection or certificate has been issued, nor shall any building be occupied in any manner which conflicts with the conditions set forth in the certificate of occupancy.
- B. Use discontinued.
  - (1) Whenever any building or portion thereof is being used or occupied contrary to the provisions of this chapter, the Building Inspector shall order such use or occupancy discontinued and the building, or portion thereof, vacated by notice served on any person using or causing such use or occupancy to be continued and such person shall vacate such building or portion thereof within 10 days after receipt of the notice or make the building, or portion thereof, comply with the requirements of this chapter.

- (2) Any building, structure or premises, or any part thereof, hereafter vacated or damaged by any cause whatsoever so as to jeopardize public safety or health, shall not hereafter be occupied or used under an existing certificate of occupancy or without the same, until an application has been filed and a new certificate of occupancy issued.
- C. Change. It shall be unlawful to change the use of any building, structure, premises or part thereof, without first obtaining, from the Building Inspector, an approval of such change in the occupancy or use and a certificate of occupancy therefore.

## § 250-28. through § 250-29. (Reserved)

## Article III. Garages

### § 250-30. General requirements.

#### A. Definitions.

- (1) An "attached private garage" shall mean a private garage attached directly to the principal building, or attached by means of an enclosed or open breezeway, porch, terrace or vestibule, or a private garage so constructed as to form an integral part of the principal building.
- (2) A "detached private garage" shall mean a private garage entirely separated from the principal building.
- (3) Accessory buildings shall conform to all requirements of this chapter. Structures with poly/vinyl type sides and/or roof shall also meet required setbacks and be properly maintained. Any unsightly, ripped, torn material on said structures can be deemed a nuisance by the Zoning Administrator, and may be required to be removed in its entirety.

#### B. Locations. Detached garages shall be governed by the following unless otherwise provided for in appropriate codes.

- (1) Garages of wood frame construction shall be located not less than 10 feet from any residence building, except that such distance may be reduced to not less than five feet when the adjacent wall is protected as required for attached garages in SPS 321.08(1). Such separations shall be measured as the perpendicular distance from the exterior dwelling wall to the closest exterior garage or accessory building wall.
- (2) Garages of masonry wall construction shall not be located less than five feet from any residence building.

#### C. Foundations and footings. Attached private garages shall be provided with the same type footings and foundations as required herein for the principal building. Concrete floors shall be not less than four inches in thickness. Detached private garages may be built with a continuous floating slab of reinforced concrete not less than four inches in thickness. Reinforcement shall be a minimum of number 10 six-by-six-inch wire mesh. The slab shall be provided with a thickened edge all around, eight inches wide and eight inches below the top of the slab. The thickened edge shall have two #4 horizontal reinforcement bars placed at the center. The lower reinforcement bar shall be set two inches above the bottom of the thickened edge and the upper reinforcement bar shall be set six inches above the bottom of the thickened edge. Exterior wall curbs shall be provided not less than four inches above the finished ground grade adjacent to the garage. Bolts 3/8 inch in diameter with nuts and washers attached, six inches long, shall be embedded three inches in the concrete curb of detached garages, eight feet on centers.

D. Construction. Private garages shall be constructed as follows:

- (1) Unless designed through structural analysis, load-bearing foundation walls and partitions shall be constructed as per sections SPS 321.15 to 321.18.
- (2) Detached private garages of wood frame construction shall be constructed with the following requirements.
  - (a) Studs may have a maximum spacing of 24 inches on centers.
  - (b) Diagonal corner bracing shall be installed on both walls at each corner. Diagonal corner bracing may be applied on the inside surface of studs.
  - (c) Corner posts may consist of two two-by-four-inch studs or a single four-by-four-inch stud.
  - (d) Collar beams at the top plate and collar ties in the upper 1/3 of the roof shall be installed with a maximum spacing of 48 inches on center. Collar beams may be two-by-six-inch. Collar ties shall be at least two-by-four-inch for roof slopes less than four inches per foot. A one-by-six-inch collar tie may be used for roof slopes four inches per foot or greater.
  - (e) Detached garage roofs shall be framed in accordance with the applicable requirements of section SPS 321.28.

E. Heating, ventilating and air conditioning. The provisions of Chapter SPS 323 shall apply to the design, installation and construction of all heating, ventilating and air-conditioning systems installed in detached garages and accessory buildings.

## § 250-31. through § 250-39. (Reserved)

## Article IV. Decks

### § 250-40. General requirements.

A. Definitions.

**ATTACHED DECK**

Any deck which is physically connected to the principal building or accessory structure.

**DECK**

Any structure which serves as a raised horizontal platform on floor constructed of wood or other materials, without enclosing walls or roof.

**DETACHED DECK**

Any deck which is not physically attached to the principal building or accessory structure or used as an egress path from the principal building or accessory structure.

B. Construction. All decks shall be constructed in accordance with SPS 321.225 (1) and (2), if applicable, and also with:

- (1) SPS 320-325 Appendix A, B or C, if applicable.
- (2) Commercial Building Code, if applicable.
- (3) DCA 6, if applicable.
- (4) Licensed design professional.

- C. Permits. A building permit is required for any new deck, deck addition, alteration, or replacement of required guardrails. Sole replacement of deck boards does not require a building permit.

## § 250-41. through § 250-49. (Reserved)

## Article V. Swimming Pool/Spa (Hot Tub) Requirements

### § 250-50. General requirements.

A. Type of pools requiring permits.

- (1) Aboveground pools (except wading pools having a depth of less than two feet and which are readily movable).
- (2) Temporary or permanent air inflatable pools with a side wall height greater than two feet above grade.
- (3) In-ground pools.
- (4) Public pools. All public pools constructed shall be built and maintained in accordance with the rules of the SPS 390.
- (5) Spas (outdoor).

B. General pool regulations.

(1) Location.

- (a) No person, firm or corporation shall have a swimming pool or spa located in the front yard or side yard setback unless specifically allowed in the local zoning code.
- (b) Side and rear yard setbacks shall be located as regulated by the local zoning code.
- (c) Swimming pools shall not be located closer than four feet to any wall or fence.
- (d) Swimming pools shall be located from well and septic systems in accordance with the Wisconsin State Plumbing Code, Chapter SPS 383.
- (e) Swimming pools shall be located no closer than 10 feet measured horizontally to any balcony, porch, stairway or roofline of any adjacent structure.

(2) Access.

- (a) A fence or other solid structure of not less than four feet in height shall completely enclose said premises and/or swimming pool. There shall be no opening in said fence or wall larger than that which can pass a 4 3/8 inch or larger sphere. All gates or doors opening through such enclosure shall be kept securely closed at all times while unattended and shall be equipped with a self-closing and self-latching device designed capable of keeping such door or gate securely closed. Latches shall be located at least three feet above the ground, accessible deck or stairs.
- (b) A fence is not required around an aboveground pool where the pool wall is at least four feet above grade for the full pool perimeter. The finished grade shall be maintained for a minimum of four feet beyond the outside perimeter of the pool.
- (c) When not completely fenced, all ladders, steps, pool pump filter equipment or other means of access to an above ground pool shall be removed and/or designed



to prevent access when the pool is unattended.

- (d) Spas shall be made inaccessible by a locking safety cover or other approved safety barrier when not in use.
- (3) Swimming pool decks. All decks shall be constructed in accordance with the Uniform Building Code. Decking shall be considered an integral part of the swimming pool and shall comply with the applicable setback dimensions per the local zoning code.
- (4) Drainage. In no case shall any swimming pool be drained onto lands of property owners other than the owner of the swimming pool. Drainage from said lot shall be in accordance with any local zoning ordinance.
- (5) Lighting. Lights shall be erected so as to eliminate direct rays and minimize reflected rays of light onto adjoining properties and roadways. Lighting installation shall be done in accordance with the State of Wisconsin Electrical Code.
- (6) Electrical. All wiring for pools and spas shall be done in accordance with the Wisconsin Electrical Code and/or local code by a state certified master electrician.
- (7) Pools and spas shall be separated from overhead and underground electrical wiring shall be in accordance with the State of Wisconsin Electrical Code and/or local code.

C. Application for permit. The following information is necessary:

- (1) Survey or accurate drawing of the property, in duplicate, showing all existing structures, proposed swimming pool or spa location, fencing if required, and overhead or underground electrical wiring.
  - (a) Type of pool installation, aboveground or in-ground.
  - (b) Pool height above highest point of grade if aboveground installations.
  - (c) Type and height of fence, if proposed.
  - (d) Type and support of decking, if proposed.
  - (e) Overall size and locations of the above in regard to existing buildings and lot lines for property survey reference.
  - (f) Any change in finished grade near pool.
  - (g) County Health Department approval for properties using a private septic system, where applicable.
  - (h) Site inspection letter from a local wiring utility.
- (2) Two copies of brochure which shows the type, style, etc. of the pool or spa to be installed.

§ 250-51. through § 250-59. (Reserved)

## Article VI. Foundation Repair and Damp-Proofing

§ 250-60. Foundation repairs and damp-proofing.

- A. Application for permit and required fee shall include a statement of the existing defects, and an analysis of the cause of those existing defects to ensure that all conditions responsible for foundation defects are corrected.

- B. Plans and/or specifications must be submitted for approval prior to issuance of a permit.
- C. Except as otherwise permitted by the authority having jurisdiction, foundation repairs shall be performed in accordance to the Best Management Standards for Foundation Repair dated June 13, 2012.

## § 250-61. through § 250-69. (Reserved)

## Article VII. Alterations and Remodeling for Pre-1980 One- and Two-Family Dwellings

### § 250-70. Alterations and remodeling for pre-1980 one- and two-family dwellings.

- A. Purpose. The purpose of this article is to provide uniform minimum construction regulations for alterations and remodeling of existing one- and two-family dwellings built prior to June 1, 1980.
- B. Scope.
  - (1) This article shall apply to all existing one- and two-family dwellings constructed prior to June 1, 1980 for building code regulations and December 1, 1978 for energy code regulations.
  - (2) The provisions of this article are not retroactive.
  - (3) The Uniform Dwelling Code, SPS 320-325 is incorporated by reference and shall apply to all construction except as modified by this article.
  - (4) These provisions shall not apply to any building repair as defined herein.
  - (5) Energy calculations are not required for new additions to one- and two-family dwellings constructed prior to December 1, 1978. Upon request by the Building Inspector, a recognized heating professional shall provide a written statement that the heating system is capable of maintaining the indoor design temperature during outdoor design conditions per SPS 322.07.
- C. Definitions.

#### **BUILDING, NEW**

Any construction that results in the creation of a structure for the support, shelter or enclosure of persons, animals, chattel or movable property of any kind.

#### **BUILDING, STRUCTURAL REPAIR**

The reconstruction or replacement of any load bearing component that has been damaged, deteriorated or is failing.

#### **BUILDINGS, ADDITION**

New construction performed on a dwelling, which increases the outside dimensions of the dwelling.

#### **BUILDINGS, ALTERATION/REMODEL**

An enhancement, upgrade, substantial change or modification other than an addition, a repair or modifications to electrical, plumbing, heating, ventilating, air conditioning and other systems within a dwelling.

**BUILDINGS, EXISTING**

Any structure that is already constructed or one for which a legal permit has been issued prior to the adoption of this chapter.

**BUILDINGS, REPAIR**

The act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs or maintenance, or the replacement of existing fixtures, systems or equipment with the equivalent fixture, system or equipment.

**CEILING HEIGHT**

The clear vertical distance from the finished floor to the finished ceiling. Any part of any room where the ceiling height is less than five feet, shall not be considered in computing the total floor area of the room for the purpose of determining the habitable occupancy or thereof.

**D. Permit application.**

- (1) Any person desiring a building permit as required by this chapter shall file with the Building Inspector an application therefore in writing on a permit form to be furnished for that purpose along with required fee.
- (2) Application shall show the use or occupancy of all parts of the building.
- (3) Application for a permit shall be accompanied by two complete sets of plans and/or specifications. The plans shall consist of the following where applicable:
  - (a) Floor plans: showing general layout and egress path for the remodeled area(s), the square footage, size and span of existing attic floor joists, location of lower floor-bearing walls, area(s) that will have the ceiling raised (dormers), wall locations, window location including size of headers, door sizes and locations, location of smoke and carbon monoxide detectors, stairways, heating system or devices, and any related architectural features.
  - (b) Elevations: showing the sizes, location and configuration of doors, windows and skylights; exterior wall covering material; roof design and exterior material; any architectural features relating to the dwelling's existing architectural style.
  - (c) Cross-section: showing all construction details, framing, insulation, materials, interior finishes, ceiling heights and structural features.
- (4) The application, plans and specifications filed by an applicant for a permit shall be reviewed by the Building Inspector, and if found to be in conformity with the requirements of this chapter and all other laws or ordinances applicable thereto, the Building Inspector shall, upon receipt of the required fees issue a permit therefore.
- (5) When the Building Inspector issues the permit, all sets of plans and specifications shall be stamped "conditionally approved." One such approved set of plans and specifications shall be retained by the Building Inspector as a public record, and one such approved set of plans and specifications shall be returned to the applicant. One approved set shall be kept on such building or work site at all times during which the work authorized thereby is in progress and shall be open to inspection by public officials. Such approved plans and specifications shall not be changed, modified or altered without permission from the Building Inspector.
- (6) The contractor shall submit a copy of their valid dwelling contractor financial responsibility credential prior to permit issuance.

**E. Fees.**

- (1) Before issuance of a permit, the owner or their agent shall pay to the municipal treasury a permit fee. These fees shall be as established by the municipality.

- (2) Double fees. Upon failure to obtain a permit before work on a building has been started, except in emergency cases, the total fees shall be double the fees charged.
- (3) Reinspection fee. Where additional inspections are made necessary by reason of neglect in work found faulty, defective or incomplete at the time of inspection, or at the expiration of time permitted in an order of noncompliance, a reinspection fee may be charged.

#### F. Inspections.

- (1) Rough inspection. To be made after the roof, all framing, fire-blocking and bracing is in place and all chimneys and vents are complete. No drywall or any insulation between the studs shall be applied to any building until the rough inspection, electrical inspection, plumbing and heating inspections have been made and the work approved.
- (2) Insulation inspection: to be made after all insulation has been installed, with vapor barrier in place and before any of the walls and ceilings are covered.
- (3) Final inspection: upon the completion of any building, structure, or construction for which a permit was issued and before the same is occupied or used, a final inspection shall be made by the Building Inspector, and until such building or structure is in compliance with all the requirements of this chapter and terms of the permit, no occupancy shall be permitted.
- (4) Written approval: no work shall be done on any part of the building or structure beyond the point indicated in each successive inspection without first obtaining the written approval of the Building Inspector. Such written approval shall be given only after an inspection shall have been made for each successive step in the construction as indicated by each of the inspections.
- (5) Inspection notice.
  - (a) The applicant or authorized representative shall request inspections from the municipality or the registered UDC inspection agency enforcing this Code.
  - (b) Except as provided under Subsection **F(5)(c)**, construction may not proceed beyond the point of inspection, as described under Subsection **F(6)(a)** to **(c)**, until the inspection has been completed.
  - (c) Construction may proceed if the inspection has not been completed within two full business days after notification is received or as otherwise agreed between the applicant and the municipality or registered UDC inspection agency.
- (6) Inspection types. The following sequence of inspections shall be performed for the purpose of determining if the work complies with this chapter:
  - (a) Footing, rebar reinforcement and foundation inspection. The excavation shall be inspected after the placement of forms, shoring and reinforcement, where required, and prior to the placement of footing materials. Where below-grade drain tiles, stone, waterproofing and/or exterior insulation is required, the foundation shall be inspected prior to backfilling.
  - (b) Rough inspection. A rough inspection shall be performed for each inspection category listed in Subsection **F(6)(b)[1]** through **[5]** after the rough work is constructed but before it is concealed. All categories of work for rough inspections may be completed before the notice for inspection is provided. The applicant may request one rough inspection or individual rough inspections. A separate fee may be charged for each individual inspection.

[1] General construction, including framing.

[2] Rough electrical.

- [3] Rough plumbing.
  - [4] Rough heating, ventilating and air conditioning.
  - [5] Basement floor/drain tiles.
  - (c) Insulation inspection. An inspection shall be made of the insulation and vapor retarder after they are installed but before they are concealed.
  - (d) Final inspection.
- G. Construction requirements.
- (1) Basement conversion to habitable space.
    - (a) Existing stairways shall conform to the following: (Note: A new, relocated or reconfigured stairway shall conform to the requirements of SPS 321.04.)
      - [1] Riser height shall be eight inches maximum.
      - [2] Tread depth shall be nine inches minimum.
      - [3] Headroom shall be 72 inches minimum.
      - [4] Stair width shall be 36 inches minimum.
      - [5] Handrails and guardrails shall be installed in accordance with SPS 321.04(3). (Exception: Existing handrails and guardrails do not require modifications unless the stairway is new, relocated or reconfigured. In such conditions, the handrails and guardrails shall conform to the requirements of SPS 321.04.)
      - [6] Stairway landings shall have minimum dimensions of 36 inches by 36 inches.
    - (b) Light and ventilation. All habitable rooms shall be provided with natural light and ventilation in accordance with SPS 321.05. Balanced mechanical ventilation may be used in lieu of natural ventilation.
    - (c) Ceiling height. All habitable rooms shall have a minimum ceiling height of seven feet for a minimum of 50% of the floor area. Beams and ducts may not encroach more than eight inches into ceiling area below the minimum ceiling height.
    - (d) Smoke and carbon monoxide detectors: Smoke and carbon monoxide detectors shall be installed in the remodeled areas in accordance with SPS 321.09 and 321.097. In addition to being wired to house current and interconnected, each smoke detector installed in the remodeled areas shall have a battery back-up power.
    - (e) Basement bedrooms shall be constructed as follows:
      - [1] Doors shall be a minimum of 32 inches in width unless at least 50% of the bedroom doors in the dwelling are a minimum of 32 inches or have a minimum net clear opening width of 30 inches.
      - [2] Light and ventilation. All habitable rooms shall be provided with natural light and ventilation in accordance with SPS 321.05. Balanced mechanical ventilation may be used in lieu of natural ventilation.
      - [3] Exits. Either an egress window within each bedroom or two exits from the basement level common area shall be provided. An egress window and areaway shall be designed in accordance with SPS 321.03(6).
      - [4] Smoke and carbon monoxide detectors. Smoke and carbon monoxide detectors shall be installed in the remodeled areas in accordance with SPS

321.09 and 321.097. In addition to being wired to house current and interconnected, each smoke detector installed in the remodeled areas shall have a batter backup power.

- (2) Unfinished attic conversion to habitable space, third floor levels.
- (a) Design floor load. All new floor areas shall be designed in accordance with SPS 321.02. (40 pounds per square foot plus dead load).
  - (b) Exits. Two interior stairways spaced apart 1/3 of the longest diagonal dimension of the floor in plan view or 20 feet from the third floor level to the second floor level are required.
  - (c) Lofts shall comply with SPS 321.03(4).
  - (d) Existing stairways shall conform to the following: (Note: A new, relocated or reconfigured stairways shall conform to the requirements of Section SPS 321.04.)
    - [1] Riser height shall be eight inches maximum.
    - [2] Tread depth shall be nine inches minimum.
    - [3] Headroom shall be 72 inches minimum.
    - [4] Stair width shall be 36 inches minimum.
    - [5] Handrails and guardrails shall be installed in accordance with SPS 321.04(3).
    - [6] Stairway landings shall have minimum dimensions of 36 inches by 36 inches.
  - (e) Light and ventilation. All habitable rooms shall be provided with natural light and ventilation in accordance with SPS 321.05. Balanced mechanical ventilation may be used in lieu of natural ventilation.
  - (f) Ceiling height. Ceiling height in all habitable rooms shall be provided in accordance with SPS 321.06.
  - (g) Smoke and carbon monoxide detectors. Smoke and carbon monoxide detectors shall be installed in the remodeled areas in accordance with SPS 321.09 and 321.097. In addition to being wired to house current and interconnected, each smoke detector installed in the remodeled areas shall have battery back-up power.
  - (h) Insulation and windows shall comply with the following requirements:
    - [1] Walls shall have a minimum of R-13.
    - [2] Sloped ceilings shall have a minimum of R-38.
    - [3] Ceilings or attics shall have a minimum of R-49.
    - [4] Windows shall be double glazed or better.
  - (i) Bedrooms shall be designed as follows:
    - [1] Doors shall be a minimum of 32 inches in width unless at least 50% of the bedroom doors in the dwelling are a minimum of 32 inches or have a minimum net clear opening width of 30 inches.
    - [2] Light and ventilation. All habitable rooms shall be provided with natural light and ventilation in accordance with SPS 321.05. Balanced mechanical ventilation may be used in lieu of natural ventilation.
    - [3] Exits. Two exits from the third floor level are required.

[4] Smoke and carbon monoxide detectors. Smoke and carbon monoxide detectors shall be installed in the remodeled areas in accordance with SPS 321.09 and 321.097. In addition to being wired to house current and interconnected, each smoke detector installed in the remodeled areas shall have battery back-up power.

- H. Remodeled bathrooms. Newly constructed or remodeled bathrooms shall be provided with a minimum thirty-two-inch-wide bathroom entrance door. Note: Only one thirty-two-inch bathroom door per dwelling unit is required, provided it serves a full bathroom.
- I. Fuel fired appliances. All fuel fired equipment shall be provided with combustion and ventilation air in accordance with SPS 323.06.

## § 250-71. through § 250-79. (Reserved)

## Article VIII. Miscellaneous and Violations

### § 250-80. New materials and methods.

Alternate materials. No provision in this chapter is intended to prohibit or prevent the use of any alternate material or method of construction not specifically mentioned in this chapter. Approval of alternate materials or methods of construction shall be obtained from the municipality having jurisdiction. Requests for approval shall be accompanied by evidence showing that the alternate material or method of construction performs in a manner equal to the material or method required by the chapter. The municipality having jurisdiction may require any claims made regarding the equivalent performance of alternate materials or method to be substantiated by test.

### § 250-81. Tests.

- A. The municipality having jurisdiction may require that the materials, methods, systems, components or equipment be tested to determine the suitability for the intended use. The municipality having jurisdiction will accept results conducted by a recognized independent testing agency. The cost of testing shall be borne by the person requesting the approval.
  - (1) The test method used to determine the performance shall be one that is a nationally recognized standard.
  - (2) If no nationally recognized standard exists, past performance or recognized engineering analysis may be used to determine suitability.
  - (3) Ungraded or used building materials may be used or reused as long as the material possesses the essential properties necessary to achieve the level of performance required by the chapter for the intended use. The municipality enforcing this chapter may require tests in accordance with this section.

### § 250-82. Identification of products.

All materials shall be identified by the approved label, the grade mark, the trade mark or by other approved manufacturer's identification.

### § 250-83. Appeals.

Any person feeling aggrieved by an order or a determination of the Building Inspector may appeal from such order or determination in accordance with Chapter 9, Administrative Review, of this Code.

## § 250-84. Severability.

If any section, subsection, paragraph, clause or provision of this chapter shall be adjudged invalid, such adjudication shall apply only to the provisions so adjudged and the rest of this chapter shall remain valid and effective. All referenced code sections under the WI UDC and WI Commercial Building Code subject to change without notice.

## § 250-85. Violations and penalties.

It shall be unlawful for any person to erect, use, occupy or maintain any building or structure in violation of any provisions of this chapter, or to cause, permit or suffer any such violations to be committed. Any person violating any of the provisions of this chapter shall be subject to the penalty provisions as set forth in Chapter I, General Provisions, Article I, General Penalty, of the Municipal Code of Ordinances. It shall be the responsibility of the offender to abate the violation as expeditiously as possible and each day that such violation is permitted to continue shall constitute a separate offense. If, in any action, a permit was issued, it shall not constitute a defense nor shall any error, oversight or dereliction of duty on the part of the Building Inspector constitute a defense.

## § 250-86. Failure to obtain permit.

It shall be unlawful to commence work prior to obtaining a permit therefore. Triple fees shall be charged if work is commenced prior to the issuance of a permit.

## § 250-87. Nonliability of Town.

- A. This chapter shall not be construed as creating or assuming any liability on the part of the Town of Genesee or its officials for damages to anyone injured or any property damaged or destroyed by any defect in any building, equipment or swimming pool, or in any plumbing, electric wiring or equipment, or any flammable materials, equipment or devices.
- B. The recommended approval of amendments, code changes, products, systems or quality control agencies by the Code Committees and the Wisconsin Uniform Code Associations does not constitute an approval or acceptance by any local community. Such acceptance is a function of local government administered by the designated local officials without the necessity of submitting further data because it is supported by factual reports describing the nature and use of the product or system and its performance under designated standard tests by recognized testing agencies.

## Chapter 256. Business Regulation

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

## Article I. Employee Wages and Benefits

[Adopted 4-13-2009 by Ord. No. 09-2]



## § 256-1. Mandating of employee benefits for private businesses.

No ordinance of the Town of Genesee nor any other municipal ordinance, rule, or regulation shall mandate that any person, partnership, limited liability corporation or other corporation or business entity of any kind, other than the Town itself, shall provide certain wages or benefits to its employees or set the amount or type of any employee wages or benefits to be provided by an employer located within the Town limits.

## Chapter 272. Comprehensive Plan

[HISTORY: Adopted by the Town Board of the Town of Genesee 4-13-2009 by Ord. No. 09-1. Amendments noted where applicable.]

### § 272-1. Plan adoption.

The plan titled "Town of Genesee Smart Growth Plan" with a revision date of February 19, 2009, as attached to this chapter is adopted.<sup>[1]</sup>

[1] *Editor's Note: The Comprehensive Plan is on file at the office of the Town Clerk.*

### § 272-2. Distribution of adopted plan.

The Town Clerk shall send a copy of the adopted Comprehensive Plan to all of the following:

- A. Every governmental body that is located in whole or in part within the boundaries of the Town of Genesee;
- B. The clerk of every government unit that is adjacent to the Town of Genesee;
- C. The Wisconsin Land Council;
- D. The State of Wisconsin Department of Administration;
- E. The Southeastern Wisconsin Regional Planning Commission; and
- F. The public libraries that serve the Town of Genesee.

## Chapter 285. Direct Sellers

[HISTORY: Adopted by the Town Board of the Town of Genesee 6-9-2003 by Ord. No. 03-2. Amendments noted where applicable.]

### § 285-1. Registration required.

It shall be unlawful for any direct seller to engage in sales within the Town of Genesee without being registered for that purpose as provided herein.

### § 285-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**CHARITABLE ORGANIZATION**

Includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

**CLERK**

Town Clerk.

**DIRECT SELLER**

Any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. For purposes of this chapter, "sale of merchandise" includes a sale in which the personal services rendered upon or in connection with the merchandise constitute the greatest part of value for the price received but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

**MERCHANDISE**

Includes personal property of any kind and shall include merchandise, goods or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.

**PERMANENT MERCHANT**

Any person who, for at least one year prior to the consideration of the application of this chapter to said merchant:

- A. Has continuously operated an established place of business in the local trade area among the communities bordering the place of sale; or
- B. Has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.

## § 285-3. Exemptions.

A. The following shall be exempt from all provisions of this chapter:

- (1) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- (2) Any person selling merchandise at wholesale to dealers in such merchandise.
- (3) Any person selling agricultural products which the person has grown.
- (4) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within the Town and who delivers such merchandise in his regular course of business.
- (5) Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis and in which the buyer has initiated contact with, and specifically requested a home visit by, said person.
- (6) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.
- (7) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.

- (8) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
  - (9) Any employee, school fund-raiser, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Clerk proof that such charitable organization is registered under § 202.12, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under § 202.12, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this chapter.
  - (10) Any person who claims to be a permanent merchant but against whom a complaint has been made to the Town that such person is a direct seller, provided that there is submitted to the Town proof that such person has leased for at least one year or purchased the premises from which he/she has conducted business in the Town for at least one year prior to the date the complaint was made.
  - (11) Any individual licensed by an examining board as defined in § 15.01(7), Wis. Stats.
- B. This chapter does not apply to direct merchants while doing business at special events authorized by the Town Board.

## § 285-4. Registration procedure.

- A. Applicants for registration must complete and return to the Clerk a registration form furnished by the Clerk which shall require the following information:
- (1) Name, permanent address and telephone number and temporary address if any.
  - (2) Age, height, weight, color of hair and color of eyes.
  - (3) Name, address and telephone number of the person, firm, association, corporation, limited liability company, limited liability partnership, family partnership or any other entity that the transient merchant represents or is employed by, or whose merchandise is being sold.
  - (4) Temporary address and telephone number from which business will be conducted, if any.
  - (5) Nature of business to be conducted and a brief description of the merchandise and any services offered.
  - (6) Proposed methods of delivery of merchandise, if applicable.
  - (7) Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business.
  - (8) Most recent cities, villages, and towns, not to exceed three, where the applicant conducted his/her business.
  - (9) Statement as to whether the applicant has been convicted of a crime or ordinance violation related to the applicant's direct seller business within the last five years, and the nature of the offense and the place of conviction.
  - (10) A current passport-size photo of the applicant to be attached to the registration and carried by the applicant.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. The applicant shall present to the Clerk for examination:

- (1) A driver's license or some other proof of identify as may be reasonably required.
- (2) A state certificate of examination and approval from the Sealer of Weights and Measures where the applicant's business requires use of weighing and measuring devices approved by state authorities.
- (3) A state health officer's certification where the applicant's business involves the handling of food or clothing and is required to be certified under state law, such certificate to state that the applicant is apparently free from contagious or infectious disease, dated not more than 90 days prior to the date the application for registration is made.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- C. At the time the registration is returned, a fee set by the Town Board shall be paid to the Clerk to cover the cost of processing said registration. The applicant shall sign a statement appointing the Clerk as his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant in the event the applicant cannot, after reasonable effort, be served personally. Upon payment of said fee and the signing of said statement, the Clerk shall register the applicant as a direct seller and date the entry. Said registration shall be valid for a period of six months from the date of entry, subject to subsequent refusal as provided in § **285-5B** below.<sup>[3]</sup>

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 285-5. Investigation; refusal of registration.

- A. Upon receipt of each application, the Clerk may refer it immediately to the appropriate agencies, which may make and complete an investigation of the statements made in such registration.
- B. The Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of § **285-4B** above.<sup>[1]</sup>

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 285-6. Prohibited practices; disclosure requirements.

- A. Prohibited practices.

- (1) A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors," or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or characteristics of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization direct seller shall specifically

disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.

- (3) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made by vehicles, all traffic and parking restrictions shall be observed.
- (4) No direct seller shall make any loud noises or use any sound-amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one-hundred-foot radius of the source.
- (5) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

#### B. Disclosure requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
- (2) If any sale of merchandise is made by a direct seller or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in § 423.203, Wis. Stats. The seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of § 423.203(1)(a), (b) and (c), (2) and (3), Wis. Stats.
- (3) If the direct seller takes a sale order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement; the amount paid in advance, whether full, partial or no advance payment is made; the name, address and telephone number of the seller; the delivery or performance date; and whether a guarantee or warranty is provided and, if so, the terms thereof.

## § 285-7. Records.

The investigating agent/agency shall report to the Clerk all convictions for violations of this chapter, and the Clerk shall note any such violation on the record of the registrant convicted.

## § 285-8. Revocation of registration.

- A. Registration may be revoked by the Town Board after notice and hearing if the registrant made any material omission or materially inaccurate statements in the application for registration or in the course of engaging in direct sales, violated any provision of this chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in selling.
- B. Written notice of the hearing shall be served personally or pursuant to § 285-4C above on the registrant at least 72 hours prior to the time set for the hearing. Such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

## § 285-9. Violations and penalties.

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 293. Drug Paraphernalia

[HISTORY: Adopted by the Town Board of the Town of Genesee at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

### § 293-1. Definition.

As used in this chapter, the term "drug paraphernalia" shall be defined as provided in § 961.571, Wis. Stats.

### § 293-2. Determination of drug paraphernalia.

In determining whether an object is drug paraphernalia, the following shall be considered:

- A. Statements by an owner or by anyone in control of the object concerning its use.
- B. The proximity of the object, in time and space, to a direct violation of this chapter or Ch. 961, Wis. Stats.
- C. The proximity of the object to controlled substances or controlled substance analogs.
- D. The existence of any residue of controlled substances or controlled substance analogs on the object.
- E. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of this chapter or Ch. 961, Wis. Stats.; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter or Ch. 961, Wis. Stats., shall not prevent a finding that the object is designed for use or primarily intended for use as drug paraphernalia.
- F. Instructions, oral or written, provided with the object concerning its use
- G. Descriptive materials accompanying the object that explain or depict its use.
- H. Local advertising concerning its use.
- I. The manner in which the object is displayed for sale.
- J. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
- K. The existence and scope of legitimate uses for the object in the community.
- L. Expert testimony concerning its use.

### § 293-3. Prohibited activities.

- A. Possession of drug paraphernalia. No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain,

conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this chapter or Ch. 961, Wis. Stats.

- B. Manufacture or delivery of drug paraphernalia. No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this chapter or Ch. 961, Wis. Stats.
- C. Delivery of drug paraphernalia to a minor. Any person 17 years of age or over who violates Subsection **B** by delivering drug paraphernalia to a person 17 years of age or under who is at least three years younger than the violator is guilty of a special offense.
- D. Advertisement of drug paraphernalia. No person may place in any newspaper, magazine, handbill or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed for use or primarily intended for use as drug paraphernalia in violation of this chapter or Ch. 961, Wis. Stats.
- E. Exemption. This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 961, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 961, Wis. Stats.

## § 293-4. Violations and penalties.

- A. Any drug paraphernalia used in violation of this chapter shall be seized and forfeited to the Town of Genesee.
- B. Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

## Chapter 310. Explosives

[HISTORY: Adopted by the Town Board of the Town of Genesee 11-14-1988. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Fires and fire prevention — See Ch. 330.

Fireworks — See Ch. 334.

Nonmetallic mining — See Ch. 400.

## § 310-1. Authority.

Pursuant to the provisions of § 60.555, Wis. Stats., the Town Board of the Town of Genesee hereby passes the following regulations pertaining to the use, control and discharge of explosives and explosive devices in the Town of Genesee.

## § 310-2. Permit required.

No person, corporation or organization shall cause to be exploded within the limits of the Town of Genesee any device having an explosive combustible nature without having first obtained from the Town Board of the Town of Genesee a written permit therefor.

## § 310-3. Application for permit.

- A. Each person, corporation or organization desiring permission to explode any devices within the Town of Genesee shall make application to the Town Board as follows:
- (1) Said application shall contain the full name and address of the applicant, and for each application for a corporation, the names and addresses of the principal officers.
  - (2) The application shall contain the express purpose for which the explosive device is to be detonated.
  - (3) The application shall contain the exact location of the explosive device and where it will be discharged.
  - (4) The application shall contain the names and addresses of all landowners and residents within 1,000 feet of the location where the explosive device is intended to be detonated.
  - (5) The application shall contain a scale map showing the location of the intended detonation.
  - (6) The application will show the name, address, and license number of the certified person in charge of detonating the explosive device.
  - (7) The application will have attached to said application a surety bond approved in form by the Town Attorney in the sum of \$100,000. Said surety would cover any damage or losses that may be occasioned to adjoining properties or to any other properties caused by the detonation of the explosive device.
  - (8) The applicant shall submit a fee to accompany the application set by the Town Board to cover administrative costs of handling said application and hearing thereafter.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. Upon receipt of said application and if it appears that all information has been furnished by the applicant as required, the Town Clerk shall schedule a hearing before the Town Board no sooner than 15 days after the application has been filed and no later than 45 days thereafter. The Clerk shall notify by mail all owners and residents within 1,000 feet of the intended detonation of the hearing. The Town Board shall have 30 days after said hearing to issue its decision.

## § 310-4. Town decision on application.

The Town Board shall have the power to grant said application with whatever conditions the Town feels necessary or the Town shall have the power to deny said application. In reaching a decision the Town Board may employ the services of the Town Engineer and any other experts it feels necessary to arrive at a complete decision, having full regard for the safety and welfare of the Town residents and property within the Town. Any costs of such experts shall be charged to the applicant and shall be paid by the applicant. Failure to pay the charges for any experts required by the Town Board shall result in the Town Board placing the charge on the tax roll for the ensuing year for the property on which said detonation was to have taken place. Said charges shall thereafter be collected as other real estate taxes.

## § 310-5. Standards to be applied.



The Town Board shall consider the following standards in arriving at a decision on said application:

- A. Safety and welfare of any person or persons.
- B. Potential damage to any property.
- C. Potential destruction of any wells, septic systems, storm sewers, sewer mains or laterals, or water mains or laterals, or any subterranean devices.
- D. Potential danger to any basement walls, silos or any other foundation of any nature.
- E. Potential danger to any watercourses, lakes or streams or any other potential danger to the environment.

## § 310-6. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 319. Fees and Financial Security

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. Fees of Town Professionals

[Adopted 7-9-2001 by Ord. No. 01-6]

#### § 319-1. Fees of Town professionals charged back.

Whenever either the Town Board, Town Clerk or other Town official has authorized a property owner in the Town of Genesee to contact the Town Attorney, Engineer, Planner or any other of the Town's professional staff or the Town Board, Town Clerk or other Town official contacts said Town Attorney, Engineer, Planner or any of the Town's professional staff or a property owner contacts the Town Attorney, Engineer, Planner or other of the Town's professional staff, if said contact results in a charge to the Town of Genesee for that professional's time and services and said service is not a service applied to the Town of Genesee as a whole, then and in that event the Town Clerk shall, pursuant to the provisions of § 66.0627, Wis. Stats., charge that service to said property owner for the fees incurred by the Town.

#### § 319-2. Notice to property owner.

The Town Clerk shall give each property owner billed for current services as provided for herein notice that he or she shall have a specified period of time not less than 30 days to pay. Said notice shall also state that within 15 days of the date of the notice the property owner may request a hearing before the Town Board regarding the charges against the property. Said notice shall also include an itemized statement of the professional service fees to be charged. Thereafter, if the property owner requests a hearing within the proper time period, the matter shall proceed as described in § 319-3, Appeal to Town Board. If a hearing is not requested within the required time period, if that charge remains unpaid, the Town Clerk shall automatically charge that delinquent tax against the property as provided by law. In the event that it is too late

in the current year for the charge, when it becomes delinquent, to be extended on that year's tax roll, then the delinquent charge shall be extended to the following year's tax roll.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 319-3. Appeal to Town Board.

Upon receipt of a timely request for hearing, the Town Board shall hold a hearing regarding the property charges at its next scheduled meeting or as soon as feasible. Such hearing shall be preceded by posted public notice and reasonable notice, via first-class mail, to the property owner. In the event a hearing is requested, no charges shall be placed on the tax roll unless and until such hearing has been held and a decision has been rendered by the Town Board to approve the charges against the tax roll in whole or in part. If approved only in part, only that part of the charges that is approved may be charged against the tax roll.

## Article II. Financial Guarantee for Building Permits, Culverts and Driveways

[Adopted 2-10-2003 by Ord. No. 03-1]

### § 319-4. Financial guarantee required.

[Amended 2-13-2006 by Ord. No. 06-1]

Every person, corporation or organization that intends to conduct an activity in the Town of Genesee that requires a building permit for new construction or that requires a culvert permit, or that includes installation of a driveway in a location where no driveway currently exists, shall, prior to commencing such work, provide to the Town Clerk cash in an amount which shall be determined from time to time by separate Town Board resolution as a guarantee that the work will be completed with due care and skill, in accordance with the requirements of this article.

### § 319-5. Forfeiture of financial guarantee.

The financial guarantee required by this article shall be forfeited to the Town of Genesee upon motion duly adopted by the Town Board, upon the Town of Genesee Building Inspector finding any of the following conditions to exist on the property at the time that the work is required to be completed:

- A. Damage has been done to Town roads or ditches during the course of construction and said damage has not been repaired in a satisfactory manner.
- B. There are outstanding fees, costs, or assessments due and owing to the Town of Genesee.
- C. A building permit was required for new construction as described in § 319-4 above and the building was occupied prior to the issuance of an occupancy permit.
- D. The construction included work for which a culvert should have been installed in accordance with Town of Genesee ordinances but the culvert was not installed, or was installed but not in compliance with the requirements of the ordinance.
- E. The construction on the property has resulted in the ponding of water or a drainage condition which adversely affects neighboring lands or has given rise to related stormwater drainage concerns which have not been adequately addressed.
- F. The construction has disturbed the previously existing topography and the disturbed areas have not been stabilized or do not have established vegetation or landscaping.

## § 319-6. Return of financial guarantee.

Any cash bond provided to the Town pursuant to this article, less any amount forfeited as described in § 319-5 above, shall be returned to the person, corporation or organization that provided the cash bond upon a determination being made by the Town Building Inspector that all of the issues identified in § 319-5 above have been properly addressed and an occupancy permit, if applicable, has been issued.

## § 319-7. Definitions.

As used in this article, the following terms shall have the meanings indicated:

### **OCCUPANCY PERMIT**

An occupancy permit issued by the Town of Genesee.

### **OCCUPY**

A building shall be considered to be occupied for the purposes of this article if it appears to the satisfaction of the Town of Genesee Building Inspector that any personal property, other than that absolutely necessary for construction of the building, has been moved into the building or that any person, at any time, has used the building in the manner in which it is intended to be used upon completion.

## § 319-8. Violations and penalties.

In addition to, and not to the exclusion or prejudice of, the specific penalties provided in this article, each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 326. Firearms and Hunting

[HISTORY: Adopted by the Town Board of the Town of Genesee 2-9-2015 by Ord. No. 15-13. Amendments noted where applicable.]

### § 326-1. Hunting without written permission prohibited.

There shall be no hunting within the limits of the Town of Genesee unless said hunter has permission from the owner of the land upon which he/she is hunting. Any person apprehended on land not owned by that person without permission from the owner shall be deemed to have violated the terms of this chapter.

### § 326-2. Discharge of weapons.

No person shall discharge any shotgun, bow and arrow or crossbow, rifle, pistol, revolver (of whatever caliber), air rifle, BB gun or other weapon using air as a propulsion device, or a muzzleloader, black powder, or antique or replica weapon within the limits of the Town of Genesee without permission from the owner of the land where the weapon is discharged, and, in addition, any such discharge is subject to the following limitations and restrictions:

- A. Discharge is prohibited within 250 feet of any building in the Town of Genesee that is not owned by the person discharging the weapon.

- B. Hunting with a bow and arrow or crossbow is subject to the following additional limitations and restrictions: No person shall hunt with a bow and arrow or crossbow within 100 yards from a building located on another person's land, provided that this prohibition does not apply if the person who owns the land on which the building is located allows the hunter to hunt within 100 yards of the building. Any person who hunts with a bow and arrow or crossbow must discharge the arrow or bolt from the respective weapon toward the ground, such as from a tree stand.
- C. No person may hunt on any land owned or leased by the Town of Genesee.

## § 326-3. Discharge of firearms for protection.

Nothing in this chapter shall be deemed to prohibit any person from the discharging of firearms when said discharge is solely for the protection of life or property.

## § 326-4. Violations and penalties.

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

# Chapter 330. Fires and Fire Prevention

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Alarm systems — See Ch. 221.  
 Building construction — See Ch. 250.  
 Explosives — See Ch. 310.  
 Fireworks — See Ch. 334.

## Article I. Water Tanks for Fire Protection

[Adopted 6-12-2006 by Ord. No. 06-7]

### § 330-1. Water reservoir requirements.

Developers shall provide emergency water reservoirs of fiberglass construction for fire protection purposes within developments as follows:

- A. Subdivisions (including certified survey maps) from:
- (1) Zero to 10 lots: one ten-thousand-gallon reservoir (not mandatory; required at the discretion of the Plan Commission after receiving the recommendation of the Fire Chief).
  - (2) Eleven to 39 lots: one ten-thousand-gallon reservoir.
  - (3) Forty to 79 lots: two ten-thousand-gallon reservoirs.
  - (4) Eighty to 120 lots: three ten-thousand-gallon reservoirs.
- B. Other residential (including multifamily and condominium) developments. The number, location and size of tanks shall be determined by the Town Board upon recommendation of the Fire Chief.

## § 330-2. Location.

Tanks shall be located in Town road rights-of-way but not in culs-de-sac. The location of the tanks shall be specified by the Chief of the Fire Department which protects the fire district in which the subdivision is located.

## § 330-3. Specifications.

See the diagram which is on file in the Town Clerk's office and is available for inspection.

- A. Pea gravel bedding will be utilized for backfilling and for base.
- B. Any used tank will be hydrostatically tested and coated on the outside of the tank according to NFPA standards.
- C. The drafting/suction pipe height above the finished roadway surface shall be 24 inches to the center line of the elbow fitting of the six-inch pipe with a four-and-one-half-inch adapter.
- D. The drafting pipe shall be comprised of steel or metal (unless otherwise approved by the Town of Genesee Town Board) and extend to within 12 inches of the bottom of the tank. The length of the draft pipe should be kept to a minimum after meeting the requirements of Subsection C. The drafting pipe shall be six inches in diameter and shall terminate with an elbow to accept the four-and-one-half-inch hydrant fitting with cap and chain.
- E. A screened, four-inch vent pipe with the opening facing downward will be included in all tanks. The vent pipe shall be a minimum of 24 inches above the finished roadway surface. The vent pipe shall have a two-inch capped inspection pipe located at the top.
- F. A four-inch fill pipe with elbow will be provided at each tank by the installer which terminates 24 inches above the finished roadway surface, measured at the pipe, with two-and-one-half-inch Siamese Y with cap and chain.
- G. The maximum distance from the road edge to the drafting pipe shall not exceed nine feet. This will allow a fire pumper, positioned on the finished road surface, using one section of standard hard suction hose, to easily reach the draft pipe. As an alternative, the developer may provide a paved apron adjacent to the roadway adequate for the parking of Fire Department apparatus.
- H. All aboveground piping shall be primed and then painted red for suction with a four-and-one-half-inch adapter, white for vent and yellow for fill, by the installer before the tank is approved for service and filled. The contractor installing the tank shall also install a "No Parking" sign at a location specified by the Fire Department. The sign and installation shall be at the expense of the developer.
- I. The installation shall be made with consideration of the winter temperatures. Steps will be taken to ensure the piping and water in the tank will not freeze during extended periods of below-zero weather.

## § 330-4. Administration.

- A. Inspections. The developer or the installer shall notify the Building Inspector for purposes of inspection before backfilling. The developer or the installer of the water tank shall notify the Fire Department protecting the fire district in which the development is located of completion of the installation for purposes of inspection. Forty-eight-hour notification shall be provided, and a fee as established by the Town of Genesee Town Board shall be submitted to the Fire Department to cover the cost of the initial inspection after the tank is

installed. The Fire Department shall complete maintenance and inspections of all water tanks. All new or upgraded installations shall require an inspection. Once approved, tanks shall be filled by the developer. Water tank inspection forms may be obtained from the Town Clerk or Fire Department protecting the district.

- B. The developer or contractor installing the tank shall post with the Town a cash bond, in an amount as established by the Town Board, to be held by the Town until the tank has received final Fire Department approval.
- C. Any municipal or private fire department may utilize the water tank for fire protection purposes. All tanks shall be refilled by the department making use of the water. Refilling shall be accomplished as soon as possible.
- D. The Fire Department having fire protection responsibility for the district in which the subdivision is located shall inspect the water tanks in the spring and fall of each year.
- E. If the above facilities and improvements have not been fully installed at the time the development is submitted to the Town for final approval, the developer shall file with the Town Clerk a surety bond or other financial guarantee deemed adequate by recommendation of the Attorney, Plan Commission and/or Town Engineer and approved by the Town Board to adequately cover the cost of completing such facilities and improvements.
- F. All other improvements to be installed shall be at the direction of the Town Board or in accordance with any other ordinance in effect.
- G. The adequacy of such facilities and improvements and their proper installation shall be subject to review by the Town Plan Commission, Engineer and Attorney and approval of the Town Board prior to approval of the final plat.
- H. Construction or installation of improvements shall not commence until the preliminary plat and the construction plans have been approved by all agencies having authority to review the plat. All work or improvements to the subdivision shall also be subject to inspection by the Town Engineer to determine conformance with any applicable requirements.

## Article II. Key Lock Box System

[Adopted 8-14-2006 by Ord. No. 06-9]

### § 330-5. Structures required to have key lock box.

The following structures shall be equipped with a key lock box at or near the main entrance or such other location as required by the Fire Chief:

- A. All commercial or industrial buildings identified by the fire officials as difficult to access during emergencies.
- B. All buildings within the Town of Genesee having an automatic alarm system or equipped with an automatic fire suppression system, except one- and two-family owner-occupied dwellings.
- C. Multifamily residential structures, including senior citizen apartment/condominium complexes, that have restricted access through locked doors and have a common corridor for access to the living units.
- D. All other buildings as recommended by the Fire Chief and required by the Town Plan Commission or Town Board.

## § 330-6. New construction.

All new construction subject to this article shall have the key lock box installed and operational prior to the issuance of an occupancy permit.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 330-7. Existing structures.

All structures in existence on the effective date of this article and subject to this article shall have one year from the effective date of this article to have an entry key lock box installed and operational in a location as approved by the Fire Chief.

## § 330-8. Keys.

The owner or operator of a structure required to have a key lock box shall, at all times, keep a key or keys in the lock box that will allow for complete and unobstructed access to the structure interior. These keys are to be marked and identified in a manner approved by the Fire Chief.

## Article III. Solid-Fuel-Fired Heating Devices

[Adopted 10-9-2006 by Ord. No. 06-12]

## § 330-9. Definitions.

As used in this article, the following terms shall have the meanings indicated:

### **SOLID-FUEL-FIRED HEATING DEVICE**

Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source.

### **STACK or CHIMNEY**

Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid-fuel-fired heating device, especially that part of such structure extending above a roof.

## § 330-10. Abatement of nuisance.

If any solid-fuel-fired heating device permitted under this article becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, the owner or occupant may be required to correct, improve or abate such conditions by such measures in accordance with Section 3.04(3) of the Waukesha County Zoning Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 330-11. Conditions for installation, operation and maintenance.

All outdoor devices shall be installed, operated and maintained pursuant to the following conditions:

- A. Fuel. Fuel shall be only natural, untreated wood or wood specifically permitted by the manufacturer. The following fuels are strictly prohibited:
- (1) The burning of processed wood products and other nonwood products.
  - (2) Petroleum, kerosene and gasoline products.
  - (3) Rubber.
  - (4) Plastics.
  - (5) Garbage and/or trash.
  - (6) Leaves.
  - (7) Paper products or cardboard.
  - (8) Railroad ties.
  - (9) Painted wood or treated wood.
  - (10) Any other items not specifically allowed by the manufacturer or this article.

## § 330-12. Use restrictions.

An outdoor solid fuel-fired heating device may be used in the Town of Genesee only in accordance with the following provisions:

- A. The outdoor solid-fuel-fired heating device shall not be used to burn any of the prohibited materials listed in § **330-11A** of this article.
- B. The outdoor solid-fuel-fired heating device shall be located at least 200 feet from the nearest inhabited building which is not on the same property as the outdoor solid-fuel-fired heating device.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. The outdoor solid-fuel-fired heating device shall have a chimney that extends at least 15 feet above the ground surface. If there are any residences within 400 feet, the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. All stacks shall be equipped with a cap having a spark arrester.  
[Amended 12-10-2007 by Ord. No. 07-4]
- D. The owner of the outdoor solid-fuel-fired heating device shall obtain a building permit from the Town of Genesee before installing the outdoor solid-fuel-fired heating device. Such permit can be obtained from the Town of Genesee Building Inspector upon payment of the fee established by separate resolution of the Town Board from time to time. The Building Inspector may issue the permit upon finding that the outdoor solid-fuel-fired heating device will be located, constructed, and used in compliance with the requirements of this article.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 330-13. Existing units.

All existing units shall immediately comply with all manufacturer's specifications and specifications of this article and all must comply with all other building code requirements within 90 days from effective date of this article. All existing nonconforming devices, upon the complaint of a Town resident or Town official, shall be removed, replaced, or modified to meet the requirements of this article within 45 days of notification of noncompliance from the Town Building Inspector, Fire Department, or other Town officer or agent.



## § 330-14. Permit required.

[Amended 2-9-2015 by Ord. No. 15-1]

No person shall allow, maintain or use an outdoor solid-fuel-fired heating device in the Town of Genesee without first having obtained a permit from the Town Building Inspector on the forms prescribed by such official, except an outdoor solid-fuel-fired heating device installed prior to the enactment of this article. Permit fee per schedule.

## § 330-15. Suspension of permit.

A permit may be suspended in the event the owner fails to comply with this article.

## § 330-16. Enforcement.

[Amended 2-9-2015 by Ord. No. 15-1]

- A. The Waukesha County Sheriff's Department, Fire Chief, Town of Genesee Building Inspector and Town of Genesee Board of Supervisors are authorized to enforce the provisions of this article.
- B. Outdoor solid-fuel-fired heating device permits may be revoked by the Building Inspector if the Building Inspector finds that burning has been conducted in violation of this article.
- C. A violation of this article is hereby declared to be a public nuisance which may be enforced through injunction or abatement proceedings or other applicable remedies as allowed by law, which shall be in addition to such other penalties and remedies as may apply.

## § 330-17. Right of entry and inspection.

- A. The Fire Chief or any authorized officer, agent, employee or representative of the Town of Genesee who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this article.
- B. Special exception. Where the Town finds that extraordinary hardship will occur from the enforcement of this article, upon application to the Town Board, said Town Board may vary the regulations contained herein to afford substantial justice, provided that such special exception will not have the effect of nullifying the intent and purpose of this article.

## § 330-18. Property owner's assumption of all risks.

Persons responsible for lighting fires in the Town of Genesee assume all risks associated with such fire. Compliance with the requirements of this article shall not relieve such person from the ultimate responsibility to ensure that the fire is conducted safely and appropriately with due regard for the health, safety and welfare of all persons and property potentially affected by the fire.

## § 330-19. Violations and penalties.

[Added 2-9-2015 by Ord. No. 15-1]

In addition to, and not to the exclusion or prejudice of, the specific penalties provided in this article, each violation of any provision of this article shall be subject to the penalties and

remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

## Article IV. Open Burning

[Adopted 10-13-2014 by Ord. No. 14-2<sup>[1]</sup>]

[1] *Editor's Note: This ordinance repealed former Art. IV, Open Burning, adopted 7-9-2012 by Ord. No. 12-3, as amended.*

### § 330-20. General rules.

- A. Open burning regulated. No person, firm or corporation shall start any outdoor fire within the Town except as described in this article and as regulated by Wisconsin Administrative Code Section NR 429.04 including any amendments that may be made thereto in the future.
- B. Size of fire. Materials that are to be burned shall be in a pile that is no larger than five feet in diameter and three feet in height, unless an exception is granted in § 330-22.
- C. Location. The fire must be located at least 50 feet from any structure, wood pile, or wooden fence, and provision shall be made to prevent the fire from spreading to within 50 feet of such items and the fire must be located at least 15 feet from any property line.
- D. Material. The material for burning must be dry material only, not ignited with flammable or combustible liquids. Material shall not be rubbish, garbage, trash or any material made of, or coated with, rubber, plastic, leather, or petroleum-based products.
- E. Supervision. The fire shall be attended by a competent person, at least 16 years of age, until the fire is extinguished.
- F. Time of burn. The fire shall only be allowed to burn during daylight hours, with the fire being started after the sun has risen and extinguished before the sun sets, except by special permission of the Fire Chief of the Fire Department having jurisdiction.
- G. Circumstances. Burning is prohibited when local circumstances make the fire potentially hazardous. Such circumstances during which burning is prohibited include, but are not limited to, thermal inversions, gusty winds, winds in excess of 15 miles per hour, ozone alerts, or very dry conditions. Burning is also prohibited at all times when a burning ban is in effect and duly issued by the Fire Chief of the fire department having jurisdiction.
- H. Inspection. The site may be inspected by the Fire Chief of the fire department having jurisdiction.
- I. Fire Chief authority. The authority granted to the Fire Chief by Wisconsin Administrative Code Section SPS 314, including any amendments that may be made thereto in the future, is delegated to and shall be exercised by the Fire Chief of the fire department having jurisdiction.
- J. Burning ban. All burning shall be prohibited during any period of time that a burning ban is in effect and duly issued by the Fire Chief of the fire department having jurisdiction.

### § 330-21. Burn barrels.

A burn barrel may be used in the Town of Genesee only in accordance with the following provisions:

- A. The burn barrel shall not be used to burn any prohibited materials listed in this article and may only be used in accordance with the provisions of this article.

- B. The burn barrel shall be located at least 50 feet from any structure, wood pile, or wooden fence, and provisions shall be made to prevent the fire from spreading to within 50 feet of such items and the burn barrel must be located at least 15 feet from any property line.
- C. The burn barrel shall have vent holes above the ash line for combustion air and shall be covered with a heavy wire screen.
- D. The burn barrel shall not serve a business.

## § 330-22. Specific rules for burning of leaves and grass.

In addition to the foregoing general rules, except as modified herein, the burning of leaves, grass and similar vegetation shall also be subject to the requirements of this section.

- A. Fire suppressant.
  - (1) Before starting a grass or leaf fire, a person shall have on hand and in readiness either:
    - (a) A garden hose attached to a source of water under pressure;
    - (b) A tank or pails filled with water; or
    - (c) Portable fire extinguishing equipment of suitable size and capacity.
  - (2) In addition to one or more of the foregoing, beating equipment, such as brooms or burlap sacks, must also be available.
- B. Constant attendance. Persons starting grass or similar vegetation fires, or any fire for the disposal of leaves or lawn rubbish, shall remain in constant attendance of such fire, or make suitable provisions for such attendance, and must be ready and able to check such fire and keep it under control at all times.
- C. Exception regarding size of fire. The size of such fire may be larger than described in the general rules, provided that such larger size is specifically requested by the applicant, and approved by the Fire Chief of the fire department having jurisdiction, such approval to be noted in writing.

## § 330-23. Exceptions.

The requirements of this article are not applicable to the following activities, except as described below:

- A. Outdoor cooking. Fires that are started for the sole purpose of cooking food outdoors, and that are located in a device or structure that is specifically designed for that purpose, including but not limited to a grill, are exempt from the requirements of this article, except that the requirements of § 330-24, below, shall apply.
- B. Diseased trees. Fires that are started for the sole purpose of destroying trees or tree limbs that are infected with disease that could otherwise spread, including but not limited to Oak Wilt disease, may be exempt from the requirements of § 330-20B (size of fire), and/or § 330-20F (time of burn) of this article, if waived by the Fire Chief of the fire department having jurisdiction as may be necessary to allow for timely and adequate destruction of the infected trees or tree limbs. The Fire Chief of the fire department having jurisdiction may, but is not obligated to, require proof of such infection, and/or proof that no reasonable alternative is available to protect against spread of the disease before granting any such waiver. If the Fire Chief finds that the fire is subject to this exception, the Fire Chief shall note which subsections of the general rules, § 330-20B and/or F, are waived, and may

instead establish reasonable limitations in lieu of the waived provisions that will allow the fire to proceed. All requirements of this article that are not specifically waived shall apply to such fires.

- C. Fire department training. Fires that are started for the sole purpose of providing training for a fire department may be exempt from any or all requirements of this article. The Fire Chief shall note which sections of this article are waived, and may instead establish reasonable limitations in lieu of the waived provisions that will allow the fire to proceed. All requirements of this article that are not specifically waived shall apply to such fires.
- D. Recreational fires. Campfires and fires in outdoor portable or permanent fireplaces are allowed only in compliance with the requirements of this article, with the following exceptions and additional requirements:
  - (1) Section **330-20B** (size of fire) is modified for recreational fires as follows: The size of such fires must be no larger than three feet in diameter.
  - (2) Section **330-20D** (material) is modified for recreational fires as follows: Such fires must burn only wood.
  - (3) Section **330-20F** (time of burn) is modified for recreational fires as follows: The allowed hours are extended in the evening beyond sunset to 11:59 p.m., and the fire must be extinguished no later than 11:59 p.m.
  - (4) Campfires shall be conducted on the ground, or in a pit dug into the ground, surrounded by a campfire ring that is no larger than three feet in diameter and constructed of metal, concrete, brick, rock, and/or other suitable material to prevent the spread of the fire.

## § 330-24. Cost of fire response.

Any person, firm or corporation who violates the terms of this article, or who burns in a manner which results in a response from a fire department, in addition to the penalties provided herein, shall be liable to the Town of Genesee for the actual costs incurred by the Town for the fire department response.

## § 330-25. Violations and penalties.

Any person, firm or corporation who violates the provisions of this article shall, upon being found guilty thereof, forfeit to the Town of Genesee an amount not to exceed \$200, and not less than \$100, for each violation, plus all applicable court fees and costs, and the costs of prosecution. In the event that the forfeiture imposed by a court of competent jurisdiction is not paid within the time period fixed by the court, the court is authorized to order the violator to be incarcerated in the Waukesha County Jail for a term not to exceed 90 days.

## § 330-26. Repealer.

Town of Genesee Ordinance No. 12-3 to control fires within the Town of Genesee, dated July 7, 2012, and Town of Genesee Ordinance No. 06-6 entitled "An Ordinance to Repeal and Recreate the Town of Genesee Ordinance Regulating the Burning of Trash, Rubbish and Litter within the Town of Genesee," dated on or about April 10, 2006, are hereby repealed.

## § 330-27. Severability.

The several sections of this article are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the article. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this article are hereby repealed as to those terms that conflict.

## § 330-28. Effective date.

This article shall take effect on January 1, 2015, upon passage and posting or publication as provided by law.

## Chapter 334. Fireworks

[HISTORY: Adopted by the Town Board of the Town of Genesee 5-8-2006 by Ord. No. 06-8. Amendments noted where applicable.]

### GENERAL REFERENCES

Explosives — See Ch. **310**.

Fires and fire prevention — See Ch. **330**.

## § 334-1. Adoption of statutory provisions; fireworks permitted to be sold.

[Amended 9-29-2008 by Ord. No. 08-1]

- A. Incorporation of state law. Section 167.10, Wis. Stats., excluding the penalties described in § 167.10(9), is incorporated herein by reference, including such amendments as may be made thereto from time to time in the future. The terms and requirements of this chapter are intended to be, and shall be interpreted to be, more restrictive than the otherwise applicable requirements of § 167.10, Wis. Stats., as allowed by § 167.10(5)(b), Wis. Stats.
- B. Definition of "fireworks." Pursuant to § 167.10(5)(a)(1), Wis. Stats., as used in this chapter, the term "fireworks" shall include all items included in § 167.10(1)(intro.), (e), (f), (i), (j), (k), (L), (m) and (n), Wis. Stats.
- C. Fireworks sales permitted. Only the following types of fireworks may be sold in the Town of Genesee pursuant to a fireworks sale license issued under § **334-2** of this chapter:
  - (1) A cap containing not more than 1/4 grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion;
  - (2) A toy snake which contains no mercury;
  - (3) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects;
  - (4) A device designed to spray out paper confetti or streamers and which contains less than 1/4 grain of explosive mixture;
  - (5) A fuseless device that is designed to produce audible or visible effects or audible and visible effects and that contains less than 1/4 grain of explosive mixture;
  - (6) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects or audible and visible

effects;

- (7) A cylindrical fountain that consists of one or more tubes and that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50; and
- (8) A cone fountain that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

## § 334-2. Fireworks sale license.

- A. No fireworks shall be sold or possessed for sale in the Town of Genesee except by persons holding a fireworks sale license issued hereunder.
- B. Applicants for a fireworks sale license shall apply for each site in writing on forms provided by the Town Clerk. A nonrefundable license application fee for each site shall accompany each application, in an amount which shall be determined from time to time by separate Town Board resolution.
- C. The application for license shall include, without limitation, the following information:
  - (1) Name, address, and telephone number of the applicant.
  - (2) Itemization of the specific fireworks the applicant intends to sell.
  - (3) Address(es) at which the applicant intends to sell the enumerated fireworks.
  - (4) Name(s), address(es), and consent(s) of the owner(s) of the real estate upon which the enumerated fireworks will be sold.
- D. The Town Board shall consider the applications for licenses hereunder and shall approve or deny each application. The Town Clerk shall issue a license upon approval of the Town Board.
- E. Licenses issued hereunder shall be for a term of one year from May 1 through the following April 30. Application for annual licenses shall be filed not later than April 1 each year.
- F. The Town Board may condition the issuance of any licenses hereunder as it deems appropriate to protect the public interest and safety.
- G. The Town Board shall have the right to suspend or revoke any licenses hereunder as it deems necessary to protect the public interest and safety after notifying the licensee and providing the licensee an opportunity to be heard.
- H. Licenses issued hereunder shall not be transferred or assigned without the consent of the Town Board, and no licensee may use a site other than the site licensed.
- I. In considering applications for licenses hereunder, without limitation by reason of enumeration, the following shall be deemed to be sufficient cause for denial of the license:
  - (1) The applicant previously held a license issued hereunder or operated in the Town in the 2006 calendar year and violated the terms of the license or violated the terms of this chapter or other applicable laws.
  - (2) The property where the sale operation would be conducted was previously the location of a licensed fireworks sale operation and the prior operation was conducted in violation of the requirements of the license or the requirements of this chapter or other applicable laws.
  - (3) The applicant is:

- (a) Delinquent in the payment of any real property taxes, assessments, special assessments, sanitary sewer assessments, personal property taxes, special charges, professional fee reimbursements, or other claim(s) owed to the Town of Genesee.
  - (b) Delinquent in the payment of a forfeiture resulting from the violation of any ordinance of the Town of Genesee.
- (4) The premises or property where the fireworks sale license operation would be located has delinquent and unpaid real property taxes, assessments, special assessments, sanitary sewer assessments, personal property taxes, special charges, professional fee reimbursements or other claims of the Town of Genesee.

## § 334-3. Use permit.

### A. Use of fireworks restricted.

[Amended 9-29-2008 by Ord. No. 08-1]

- (1) No person shall possess or use fireworks in the Town of Genesee other than those fireworks listed in § **334-1C(1)** through **(8)** of this chapter without having first obtained a user's permit issued by the Town Chairman or an official or employee of the Town designated by the Town Chairman.
- (2) No person may use fireworks or a device listed under § 167.10(1)(e) to (g) or (i) to (n), Wis. Stats., while attending a fireworks display for which a permit has been issued to a person listed under § 167.10(3)(c)(1) to (5), Wis. Stats., if such display is open to the general public.

B. No person shall sell fireworks in the Town of Genesee to any person who does not provide proof of holding a use permit issued pursuant to § 167.10(3), Wis. Stats.

C. As provided in § 167.10(3), Wis. Stats., the Town Chairman or designee may issue fireworks use permits in compliance with the requirements of this chapter.

D. The Town Chairman or designee shall require a certificate of liability insurance or similar proof of insurance coverage in an amount the Town Chairman deems necessary. A copy of the permit and proof of insurance shall be filed with the Town Clerk.

E. A use permit may be cancelled by the Town Chairman, or by the Fire Chief if the Town Chairman is unavailable, if weather or other situations make it unsafe for the use to be conducted.

F. Pursuant to § 167.10(3)(c), Wis. Stats., use permits shall only be issued to the officers or directors of a public authority, a fair association, an amusement park, a park board, a civic organization, an individual or group of individuals, or to an agricultural producer for the protection of crops from predatory birds or animals.

[Amended 9-29-2008 by Ord. No. 08-1]

## § 334-4. Exceptions.

The use permit requirements of this chapter, and the fireworks sale license prohibition on selling only to holders of use permits, are subject to the following exceptions:

A. A use permit is not required for possession of fireworks in the Town of Genesee while the fireworks are being transported through the Town of Genesee to a city, town or village or county where the possession of the fireworks has been authorized by permit or ordinance. This exception is intended to exclude only those uses that are described in § 167.10(5)(e), Wis. Stats.

- B. A use permit is not required in order to possess or use explosives in accordance with rules or general orders of the Department of Safety and Professional Services. This exception is intended to exclude only those uses described in § 167.10(3)(b)2, Wis. Stats.
- C. A use permit is not required for the disposal of hazardous substances in accordance with rules adopted by the Department of Natural Resources. This exception is intended to exclude only those uses described in § 167.10(3)(b)3, Wis. Stats.
- D. A use permit is not required for the possession or use of explosive or combustible materials in any manufacturing process. This exception is intended to exclude only those uses described in § 167.10(3)(b)4, Wis. Stats.
- E. A use permit is not required for the possession or use of explosives or combustible materials in connection with classes conducted by educational institutions. This exception is intended to exclude only those uses described in § 167.10(3)(b)5, Wis. Stats.
- F. A use permit is not required for a possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. §§ 841 to 848 if the possession of the fireworks is authorized under the license or permit. This exception is intended to only exclude those uses described in § 167.10(3)(b)6, Wis. Stats.

## § 334-5. Limitation of liability.

Parties requesting a use permit and/or a fireworks sale license have the ultimate responsibility for their own safety and for the safety of all persons who may be affected by their activity. The issuance of a use permit or a fireworks sale license shall not be interpreted as endorsing or condoning the activity or as ensuring that the activity will be safe. An applicant for a use permit and/or a fireworks sale license individually and on behalf of any entity for which the applicant submits the application, and also on behalf of the property owner where the activity will be conducted, accepts all risks and agrees to indemnify, defend and hold harmless the Town of Genesee, its officers and agents from any and all claims arising out of the use, sale or possession of the fireworks.

## § 334-6. Violations and penalties.

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 356. Intoxicating Liquor and Fermented Malt Beverages

[HISTORY: Adopted by the Town Board of the Town of Genesee 7-8-1991 by Ord. No. 91-11. Amendments noted where applicable.]

### GENERAL REFERENCES

Adult-oriented establishments — See Ch. 212.

Peace and good order — See Ch. 435.

## § 356-1. State statutes adopted.

[Amended 2-9-2015 by Ord. No. 15-1]

The current and future provisions of Ch. 125, Wis. Stats., defining and regulating the types, sale, procurement, dispensing, and transfer of alcohol beverages, excluding provisions relating



to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made part of this chapter by reference. A violation of any such provision shall constitute a violation of this chapter. Any future amendments, revisions, modifications or additions of the statutes incorporated herein are intended to be made part of this chapter in order to secure uniform statewide regulation of alcohol beverages in this state.

## § 356-2. Basic requirements.

- A. Occupancy permit and/or approved plan of operation required. No person on any licensed premises, as defined in this chapter, shall conduct any transactions regulated by this chapter unless a licensee holds a valid occupancy permit and/or an approved plan of operation, as may be required, issued by the municipality. The occupancy permit and/or approved plan of operation shall be specific in detail as to what area of the premises shall be licensed for the sale of alcohol beverages. Any violation is grounds for suspension or revocation of any license or permit issued under this chapter.  
[Amended 2-9-2015 by Ord. No. 15-1]
- B. Seller's permit required. No person on any licensed premises, as defined in this chapter, shall conduct any transactions regulated under this chapter unless a licensee holds and maintains a valid seller's permit as required under § 77.52, Wis. Stats., issued to the premises and licensee described in the license during the period of licensing. Any violation is grounds for suspension or revocation of any license or permit issued under this chapter.

## § 356-3. Applications.

A written application for any license or permit required by the provisions of this chapter shall be on the form(s) provided by the Municipal Clerk.

- A. Content. All applications other than operator's license shall contain all the information required under § 125.04(3), Wis. Stats., and any other information required by the Municipal Clerk. Operator's license applications shall be on a form prescribed by the Municipal Clerk containing all information deemed necessary, including but not limited to name, residence, and age, plus a written request of the holder of the alcohol beverage license hiring the applicant.
- B. Filing. All applications for licenses and permits to sell alcohol beverages shall be filed with the Clerk of the municipality in which the premises is located as required by state law. Operator's licenses and licenses issued under § 125.26(6), Wis. Stats., for a picnic or other gathering lasting less than four days must be filed with the Clerk at least 24 hours prior to granting of the license or permit.

## § 356-4. Fees.

- A. Licenses and permits may be issued by the Municipal Clerk under the authority of the governing body after payment of the appropriate fees and satisfaction of all conditions, which when so issued shall permit the holder to sell, deal or traffic in alcohol beverages as provided in Ch. 125, Wis. Stats.  
[Amended 2-9-2015 by Ord. No. 15-1]
- B. Fees for the above-noted licenses and permits shall be in such amount as may be established by the governing body from time to time by separate resolution.
- C. Any applicable publication fee and/or application fee and/or investigation fee shall be submitted with the license or permit application as may be established by the governing body from time to time by separate resolution.

- D. The fees for licenses or permits which are not granted shall be refunded after deducting the application fee and all actual publication fees and investigation fees.
- E. Fees for partial licensing years may be prorated as required by Ch. 125, Wis. Stats. In all cases when an alcohol beverage license is issued for a partial year, a minimum fee of \$25 and all actual publication fees and investigation fees must be paid.  
[Amended 2-9-2015 by Ord. No. 15-1]
- F. Once any license or permit is issued, no return of any payment shall be made regardless of whether the license or permit is used for the entire year.

## § 356-5. Investigation.

Upon receipt of a license application under the provisions of this chapter, the Municipal Clerk shall forward a copy of the application to the appropriate persons to conduct an investigation of the applicant(s) as set forth below.

- A. All alcohol beverage licenses. The Waukesha County Sheriff's Department, Fire Department, Waukesha County Environmental Health Division, and Building Inspector and other persons authorized may conduct an investigation and inspection of the premises mentioned in the application to determine if the premises complies with all applicable regulations, ordinances and laws. The Waukesha County Sheriff's Department shall investigate all persons included in the application to determine the suitability and character of the applicants.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. Operator's licenses. The Waukesha County Sheriff's Department shall conduct an investigation of all applicants to determine the suitability and character of the applicant.<sup>[2]</sup>  
[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Reports. Upon completion of all investigations, written reports shall be submitted to the Municipal Clerk. The Clerk will then forward the application to the governing body for action.
- D. Review. The governing body may refer any and all licenses to the appropriate committee for review and recommendation prior to action by the governing body.

## § 356-6. Operator's license.

- A. Kinds of licenses and permits.
  - (1) Regular operator's license. Regular operator's licenses may be granted to individuals by the governing body and thereafter issued by the Municipal Clerk for the purposes of complying with §§ 125.32(2) and 125.68(2), Wis. Stats., and this chapter. The fee for said license shall be set by resolution.
  - (2) Provisional operator's license.
    - (a) The Municipal Clerk, upon authorization by the Town Chairman, may issue a provisional operator's license to an applicant in case of a bona fide emergency. An emergency shall be caused by such things as death, disability, absence of the regular operator on the premises and the like. The Town Chairman, before authorizing such issuance, shall determine that the applicant has a satisfactory record and probably would be issued a regular operator's license. The license shall be valid for a period of not to exceed 60 days unless sooner revoked by the governing body. The fee for said license shall be set by resolution.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (b) A municipal governing body or its authorized designee may issue a provisional operator's license to a person who is enrolled in a training course and has applied for a regular operator's license pursuant to § 125.17(6). The fee for said license shall be set by resolution.
- (3) Temporary operator's licenses. Temporary operator's licenses may be granted to individuals pursuant to § 125.17(4), Wis. Stats., by the governing body for the purpose of allowing said individuals to dispense and serve alcohol beverages under a license issued under § 125.26(6) or 125.51(10), Wis. Stats., to a nonprofit organization. No person may hold more than one license of this kind per year. Any temporary operator's license issued under this section shall be valid for any period from one day to 14 days, and the period for which it is valid shall be on the license. The fee for said license shall be set by resolution.
- B. The governing body may grant operator's licenses pursuant to this section as it deems fit.
- C. All operator's licenses issued under this section shall expire on June 30 of each year.
- D. All operator's licenses issued under this section entitle the holder thereof to be an operator in any licensed premises in the municipality.

## § 356-7. Restrictions on granting licenses.

- A. Statutory requirements. Licenses and permits shall be issued only to those persons eligible under Ch. 125, Wis. Stats. Licenses and permits granted in error shall be void.
- B. Health and sanitation requirements. No retail "Class A," Class "A," "Class B" or Class "B" alcohol beverage license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Safety and Professional Services pertaining to buildings, electrical and plumbing, to the rules and regulations of the State Department of Health Services applicable to restaurants, if the premises is licensed to serve food, and to all such rules and regulations as to building, health and sanitation adopted by the municipality, the county, the state or the federal government.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Delinquent taxes, assessments, forfeitures or claims.
  - (1) No initial or renewal alcohol beverage license shall be issued for any premises or property for which taxes, assessments, forfeitures, or claims of the municipality are delinquent and unpaid.
  - (2) No initial or renewal license or permit shall be issued under this chapter to any person:
    - (a) Who is delinquent in the payment of any taxes, assessments, or other claims owed the municipality.
    - (b) Who is delinquent in the payment of a forfeiture resulting from the violation of any ordinance of the municipality.
    - (c) Who is delinquent in the payment of any taxes to the state or county.
    - (d) Who has any outstanding warrant or capias from any other municipal, state or federal court.
- D. License quotas.

[Amended 11-11-1991 by Ord. No. 91-19; 7-10-1995 by Ord. No. 95-1; 6-25-2002 by Ord. No. 02-2; 5-10-2004 by Ord. No. 04-5]

- (1) Class "A" retail fermented malt beverage licenses. There shall be no more than one Class "A" retail fermented malt beverage license issued within any license year.
- (2) Class "B" retail fermented malt beverage licenses. There shall be no more than 10 Class "B" retail fermented malt beverage licenses issued within any license year.
- (3) "Class A" retail liquor licenses. There shall be no more than one "Class A" liquor license issued within any license year.
- (4) "Class B" retail liquor licenses. There shall be no more than nine "Class B" retail liquor licenses issued within any license year.
- (5) "Class C" retailer's license. There shall be no more than one "Class C" retail license issued within any license year.

## § 356-8. Conditions of license.

- A. Consent to inspection. Every applicant obtaining a license thereby consents to the entry of the police or other authorized representatives of the municipality or the state at any reasonable time for the purpose of inspection and search and consents to the removal from said premises of all things found in violation of municipal ordinances or state law and consents to the introduction of such things as evidence in any prosecution that may be brought for such offenses.
- B. Safety and sanitation requirements. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose being used.
- C. Sales on credit prohibited. No retail licensee shall sell or offer to sell any alcohol beverage to any person on credit except by a hotel to a resident guest, by a restaurant to a patron, a club to a bona fide member, and by grocers and pharmacists who maintain a credit system in connection with other purchases. No licensee shall sell alcohol beverages on a passbook or store order, or receive goods, wares, or merchandise in exchange for alcohol beverages.
- D. Orderly conduct required. Every licensed premises shall be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed.
- E. Gambling prohibited. Gambling shall not be permitted on a licensed premises, unless authorized by state law. Slot machines or other devices of chance are prohibited and shall not be kept on the premises, unless authorized by state law.
- F. Lewd, obscene performances, etc., prohibited. No licensee shall advertise, produce, perform or allow any lewd, obscene, or indecent performance of any kind on the premises.
- G. Sale to intoxicated persons prohibited. No licensee, agent, operator or server shall sell, give, procure or otherwise furnish any alcohol beverages to an intoxicated person.
- H. Underage persons. No licensee shall employ any underage person to serve, sell, dispense, or give away an alcohol beverage unless authorized by state law or the general codes of the municipality. The current and future provisions of § 125.10(2), Wis. Stats., and §§ 125.07(4)(a), (b) and (bm) and 125.09(2), Wis. Stats., are adopted and made a part of this section by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated herein are intended to be made part of this section in order to secure uniform statewide regulation of alcohol beverages in this state.

- I. Controlled substance use prohibited. The conviction of any licensee, partner, agent, authorized representative or employee of the use, possession, delivery or intent to deliver any controlled substance defined and regulated under Ch. 961, Wis. Stats., may be considered grounds for the revocation or suspension of any license provided for in this chapter.  
[Amended 2-9-2015 by Ord. No. 15-1]
- J. Regulation of entertainment and entertainers. No "Class B" or Class "B" licensee shall employ or permit to perform on the premises any entertainer, except a member of a band, a vocalist, a piano or organ player or a comedian. All such entertainers shall be fully clothed in such a manner as is acceptable in all public places. No licensee shall allow any entertainment which makes an appeal to prurient interests. Dancing among patrons, but not between patron and employee, is permitted upon permit and with the approval of location by the Fire Chief.  
[Amended 2-9-2015 by Ord. No. 15-1]
- K. Solicitation of drinks prohibited. No person shall solicit or be allowed to solicit drinks on a licensed premises.

## § 356-9. General provisions.

[Amended 1-9-2012 by Ord. No. 12-1; 2-9-2015 by Ord. No. 15-1; 11-11-2019 by Ord. No. 19-7]

- A. Transfer of licenses.
  - (1) The transfer of every alcohol beverage license shall be governed by § 125.04(12), Wis. Stats.
  - (2) No transfer of an operator's license is permitted.
  - (3) If the transfer is approved by the governing body pursuant to § 125.04(12)(b)4, Wis. Stats., all conditions set forth under this chapter shall be complied with.
  - (4) Failure to conform to the terms of license transfer shall be grounds for denial, suspension or revocation of the license.
- B. Nonuse of license. If a license or permit issued under this chapter is not used within 60 days after its issuance or its usage is discontinued for a period of 60 days or more, such nonuse shall be grounds for cancellation, suspension, revocation or nonrenewal of the license or permit in accordance with the provisions of this chapter and the laws of Wisconsin.
- C. Nonrenewal of licenses. Before renewal of any license or permit issued under this chapter is refused, the licensee or permittee shall be given written notice of any charges or violations or reasons proposed for nonrenewal and shall have an opportunity to be heard before the governing body.
- D. Violations by agents and employees. A violation of this chapter by an authorized agent or employee of the licensee shall constitute a violation by the licensee.
- E. Closing hours. Closing hours shall be as set by state statute with the following applicable local options:
  - (1) If a retail Class "A" fermented malt beverage license, between 9:00 p.m. and 6:00 a.m.
  - (2) If a retail "Class A" intoxicating liquor license, between 9:00 p.m. and 6:00 a.m.
- F. Local option. The holder of a retail "Class B" liquor license shall be permitted to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises and in the original packages or containers and to be consumed off the licensed premises. Off-

premises sales shall cease at 12:00 midnight of each day. It is intended by this subsection that the packaged sales from Class "B" licensed premises will not be permitted after 12:00 midnight under the option granted herein.

## § 356-10. Revocation and suspension of licenses.

- A. Whenever the holder of any alcohol beverage license under this chapter violates any portion of this chapter, proceedings for the revocation or suspension of the license may be instituted in the manner and under the provisions established under § 125.12, Wis. Stats. In addition, the governing body, by its own motion by adoption of a resolution, may begin proceedings for the revocation or suspension of such license.
- B. Whenever the governing body or the Municipal Clerk, as agent thereof, is made aware of an incompatibility in the operation of a licensed premises in relation to its surrounding or nearby environment or a licensed premises is in violation of any condition established or required at the issuance of the license or of this chapter or the state law, including all requirements regarding the duty to supervise employees, proceedings for the purpose of revoking, establishing new conditions, or continuing the license under previous conditions will be initiated under the same procedures as provided in Subsection A.
- C. Operator's licenses. Suspension or revocation of operator's licenses granted pursuant to this chapter shall be governed as follows:
- (1) Any committee as established by the governing body may revoke or suspend an operator's license following a hearing held by the committee. Notice shall be mailed to the licensee not less than eight days prior to the hearing or upon personal service of notice not less than two days prior to the hearing.
  - (2) Appeal from the decision of the committee may be made by the licensee upon filing a petition for review by the full governing body by presenting the petition and paying a fee set by the Town Board to the Municipal Clerk. The governing body shall schedule a hearing not more than 30 days from the date the appeal is filed.  
[Amended 2-9-2015 by Ord. No. 15-1]
- D. Automatic revocation. Any license or permit issued under this chapter may be revoked without further proceedings upon the conviction of the licensee, agent, employee or representative thereof, pursuant to § 125.11, Wis. Stats.

## § 356-11. (Reserved)

[1] *Editor's Note: Former § 356-11, Economic development grant for reserve "Class B" establishments, was repealed 5-13-2019 by Ord. No. 19-4.*

## § 356-12. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 375. Land Division and Development

[HISTORY: Adopted by the Town Board of the Town of Genesee 6-8-1992 by Ord. No. 92-2. Amendments noted where applicable.]

**GENERAL REFERENCES**

Plan Commission — See Ch. **148**.  
Address numbers — See Ch. **207**.  
Building construction — See Ch. **250**.  
Comprehensive Plan — See Ch. **272**.  
Streets and sidewalks — See Ch. **500**.

**ATTACHMENTS**

**Attachment 1 - Exhibit A - Collector Steet Map** 

**Attachment 2 - Exhibit B - Type B Intersection Details** 

## Article I. Introduction

### § 375-1. Authority.

These regulations are adopted under the authority granted by § 236.45 and Ch. 703, Wis. Stats.

### § 375-2. Purpose.

The purpose of this chapter is to regulate and control the division and development of land within the jurisdiction of the municipality in order to promote the public health, safety, morals, prosperity, aesthetics, and general welfare of the municipality and its environs.

### § 375-3. Intent.

It is the general intent of this chapter to regulate the division and development of land so as to:

- A. Obtain the wise use, conservation, protection, and proper development of the municipality's soil, water, wetland, woodland, and wildlife resources and attain a proper adjustment of land use and development to the supporting and sustaining natural resource base;
- B. Lessen congestion in the streets and highways;
- C. Further the orderly layout and appropriate use of land;
- D. Secure safety from fire, panic, and other dangers;
- E. Provide adequate light and air;
- F. Facilitate adequate provision for housing, transportation, water supply, stormwater, wastewater, schools, parks, playgrounds, and other public facilities and services;
- G. Secure safety from flooding, water pollution, disease, and other hazards;
- H. Prevent flood damage to persons and properties and minimize expenditures for flood relief and flood-control projects;
- I. Prevent and control erosion, sedimentation, and other pollution of surface and subsurface waters;
- J. Preserve natural vegetation and cover and promote the natural beauty of the municipality;
- K. Restrict building sites in areas covered by poor soils or in other areas poorly suited for development;
- L. Facilitate the further division of larger tracts into smaller parcels of land;

- M. Ensure adequate legal description and proper survey monumentation of subdivided land;
- N. Provide for the administration and enforcement of this chapter;
- O. Provide penalties for its violation; and
- P. Implement those municipal, county, watershed, or regional comprehensive plans or their components adopted by the municipality and in general to facilitate enforcement of municipal development standards as set forth in the adopted regional, county, and local comprehensive plans, adopted plan components, applicable zoning ordinance, and Chapter **250**, Building Construction, of this Code.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 375-4. Abrogation and greater restrictions.

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

## § 375-5. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

## § 375-6. Title.

This chapter shall be known as, referred to, or cited as the "Land Division and Development Ordinance."

## Article II. General Provisions

## § 375-7. Jurisdiction.

Jurisdiction of these regulations shall include all lands within the corporate limits of the municipality. The provisions of this chapter as it applies to divisions of tracts of land into fewer than five parcels shall not apply to:

- A. Transfers of interest in land by will or pursuant to court order, if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes and meet all specifications required by these regulations, the applicable zoning ordinance, or other applicable laws or ordinances.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Leases for a term not to exceed 10 years, mortgages, or easements.
- C. Sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes and meet all specifications required by these regulations, the applicable zoning ordinance, and other applicable laws or ordinances, subject to the review procedures described in § **375-21**.

[Amended 9-8-2014 by Ord. No. 14-1<sup>[2]</sup>



[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

D. Cemetery plats made under § 157.07, Wis. Stats.

## § 375-8. Compliance required.

[Amended 10-15-1997 by Ord. No. 97-6; 4-9-2001 by Ord. No. 01-3]

No person, firm, or corporation shall develop any land located within the jurisdictional limits of these regulations or divide any land located within the jurisdictional limits of these regulations so that such division results in a subdivision, minor land division, condominium plat, assessor's plat or replat as defined herein; no such subdivision, minor land division, condominium plat or assessor's plat or replat shall be entitled to recording; and no public street shall be laid out or public improvements made to land without compliance with all requirements of this chapter and the following documents:

- A. Chapter 236, Wis. Stats.
  - B. Rules of the Wisconsin Department of Safety and Professional Services regulating lot size and lot elevation.
  - C. Rules of the Wisconsin Department of Transportation establishing regulations for access to and work within state highway rights-of-way and for the preservation of the public interest and investment in the highway system, including all provisions of Ch. Trans 233, Wis. Adm. Code, where applicable.
  - D. Rules of the Wisconsin Department of Natural Resources setting water quality standards, preventing and abating pollution, and regulating development within floodland, wetland and shoreland areas.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. Duly approved Comprehensive Plan or Comprehensive Plan component of the municipality.
  - F. The Municipal Zoning Ordinance, if any, and all other applicable local and county ordinances.
  - G. A developer's agreement, satisfactory to the municipality, between the municipality and the developer, subdivider and/or owner.
  - H. Rules of the Waukesha County Department of Public Works establishing regulations for access to and work within county highway rights-of-way.
  - I. Rules of the Wisconsin Department of Administration.<sup>[2]</sup>
- [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- J. The Waukesha County Construction Site Erosion Control and Stormwater Management Ordinance.
  - K. The Waukesha County Code of Ordinances regarding regulation of private sewage systems, Ordinance No. 151-34, regulating all land to be divided by subdivision plat process which is not served by public sewer and where provision for such service have not been made.
  - L. The Town of Genesee Land Division Review Checklist, as adopted by the Town Board of the Town of Genesee by separate resolution, including any amendments that may be made thereto from time to time.

## § 375-9. Dedication and reservation of lands.

- A. Streets, highways, and drainageways and floodplain. Whenever a tract of land to be divided or developed within the jurisdiction of this chapter encompasses all or any part of a street, drainageway, floodplain or other public way which has been designated on a duly adopted municipal or regional comprehensive plan or comprehensive plan component or is in any way determined to be such by the Plan Commission or governing body, said public way shall be dedicated or reserved by the owner in the locations and dimensions indicated on said plan or component and as set forth in Article **VII** of this chapter.
- B. Parks, playgrounds and public sites. Whenever a tract of land to be divided or developed within the municipality encompasses all or any part of a park, playground, or public site which has been designated on a duly adopted municipal or regional comprehensive plan or comprehensive plan component or is in any way determined to be such by the Plan Commission or governing body, said park, playground, or public site shall be dedicated or reserved by the owner in the locations and dimensions indicated on said plan and in accordance with the procedures set forth in § **375-55** of this chapter.

## § 375-10. Improvements.

[Amended 9-8-2014 by Ord. No. 14-1]

Before final approval of any land division or development located within the jurisdictional limits of this chapter, the owner shall install all improvements as hereinafter provided, subject to the following exception: if the developer chooses to provide a letter of credit as a financial guarantee for the installation of the public improvements on a form approved by the Town Attorney and in an amount approved by the Town Engineer, the final plat may be approved prior to installation of the improvements. The owner shall, before commencing with any improvements, enter into a developer's agreement with the Town of Genesee agreeing to install the required improvements and shall file with said agreement cash or a letter of credit meeting the approval of the Town Attorney in an amount equal to the estimated construction cost of the improvements plus 20% of said cost and the fees, said estimate to be made by the Town of Genesee Engineer, as a guarantee that such improvements will be completed by the owner or its subcontractors not later than the date or dates provided in the agreement and as a further guarantee that all obligations for work on the development are satisfied. In addition:

- A. Contracts and contract specifications for the construction of improvements on dedicated street rights-of-way, as well as the contractors and subcontractors providing such work, shall be subject to the approval of the Town of Genesee Engineer.
- B. Survey monuments. Before final approval of any land division within the Town of Genesee, the owner shall install survey monuments placed in accordance with requirements of § 236.15, Wis. Stats., and as may be required by the Town of Genesee.

## § 375-11. Request for waiver, modification or deferral.

[Amended 7-12-1999 by Ord. No. 99-4]

- A. Waiver or modification of provisions. A petitioner may request that the municipality waive or modify enforcement of one or more provisions of this chapter, as follows:
  - (1) Written request. The petitioner shall submit a written request for a waiver or modification to the Municipal Clerk. In the written request for the waiver or modification, the petitioner shall specify the specific provision that the petitioner requests the municipality to waive or modify and petitioner's reasons for requesting the same.
  - (2) Referral to Plan Commission and governing body. Upon receipt of a written request for a waiver or modification, the Municipal Clerk shall, within a reasonable time, place the matter on a Plan Commission and a governing body agenda for review and action.

- (3) Considerations. The Plan Commission and governing body shall each make a determination which shall include consideration, but not necessarily an affirmative finding, of the following factors:
    - (a) Whether the request for a waiver or modification, if granted, would be consistent with the general intent of this chapter.
    - (b) Whether the request for a waiver or modification, if granted, would adversely affect property owners in the surrounding area.
    - (c) Whether the request for a waiver or modification, if granted, would benefit the petitioner's project in a way that is not inconsistent with the municipality's interests.
    - (d) Whether the petitioner is in full compliance with applicable ordinances and agreements with the municipality.
    - (e) Whether, instead of granting the request for a waiver or modification, this chapter itself should be changed to accommodate the kind of situation presented by the petitioner.
  - (4) Grant or denial of request for a waiver or modification. After considering the above-listed factors and any other factors that may be relevant to the matter, the Plan Commission and governing body shall then each independently determine whether it is objectively reasonable to grant the request for a waiver or modification. A waiver or modification may be granted without making an affirmative finding concerning any one or more of the above-listed factors if, on the whole, it is objectively reasonable to do so. If a majority vote of the entire membership of both the Plan Commission and governing body determines that it is objectively reasonable to grant the request, then the waiver or modification shall be deemed granted as of the date that the second of the two determinations is made. If a majority vote of the entire membership of either the Plan Commission or the governing body, or both of them, does not approve the request, then the request is denied.
  - (5) Past noncompliance not waived. A waiver or modification that is granted pursuant to a written request as described in this section shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of this chapter that took place prior to the date of the request being granted, unless specifically stated otherwise in the decision of the governing body.
- B. Monument deferral. The governing body may defer the placing of monuments, required under § 236.15(1)(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the owner provide the municipality with cash or a letter of credit, in an amount specified by the governing body, to ensure the placing of such monuments within the required time limits established by the municipality.

## § 375-12. Land suitability.

- A. No land shall be divided or developed which is determined to be unsuitable for the proposed use by the Plan Commission or governing body for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the municipality. In addition:
- (1) Lots. Each lot shall have at least 50% of its required area in the same zoning district as the zoning district where the building site is to be located.
  - (2) Floodlands. Each lot shall have at least 50% of its required lot area above an elevation at least two feet above the elevation of the one-hundred-year reoccurrence interval flood or, where such data is not available, five feet above the minimum flood of record.

- (3) Lands made, altered, or filled with nonearth materials within the preceding 20 years shall not be divided into building sites which are to be served by soil absorption sewage disposal systems.
- (4) Lands made, altered, or filled with earth within the preceding seven years shall not be divided or developed into building sites which are to be served by on-site soil absorption sewage disposal systems.
- (5) Steep slopes.  
[Amended 10-15-1997 by Ord. No. 97-6; 4-9-2001 by Ord. No. 01-3]
  - (a) Each lot shall have 50% of its minimum required lot area or 20,000 square feet, whichever is less, in slopes equal to or less than the applicable slope shown in Table 1 below.
  - (b) In addition, each lot shall have a minimum of 10,000 contiguous square feet within the building envelope of the lot in slopes equal to or less than the applicable slope shown in Table 1 below.

**Table 1: Steep Slopes**

<b>Lot Size</b>	<b>Slope</b>
Lots in excess of 2 acres*	20%
Lots in excess of 1 acre but less than or equal to 2 acres*	15%
Lots 1 acre or less	12%

\* Any lot, regardless of size, in which a portion of the lot contains a primary environmental corridor as identified by the Southeast Wisconsin Regional Planning Commission shall use the twelve-percent limit.

- (6) Required open space. Any portion of the lot area with slopes in excess of the limit set forth in Subsection **A(5)** is to be maintained as open space.  
[Amended 10-15-1997 by Ord. No. 97-6; 4-9-2001 by Ord. No. 01-3]
- (7) Soils tests required. Lands to be divided or developed into building sites to be served by soil absorption sewage disposal systems shall have a minimum of one soil test performed per lot, indicating that the lot(s) and building site(s) can support a conventional or mound type of soil absorption sewage disposal system in compliance with Department of Safety and Professional Services codes, including but not limited to Chs. SPS 383 and 385, Wis. Adm. Code, and all amendments thereto.  
[Amended 10-15-1997 by Ord. No. 97-6; 4-9-2001 by Ord. No. 01-3]
- (8) Lands drained by farm drainage tile or farm ditch systems shall not be divided or developed into building sites to be served by on-site soil absorption sewage disposal systems.
- (9) Spite strips may not be created by any division of land.
- (10) Remnants. All remnant parcels must be part of the plat or map unless specifically waived by the Plan Commission and governing body.  
[Amended 3-13-2006 by Ord. No. 06-2]
- (11) Access restrictions.  
[Added 10-15-1997 by Ord. No. 97-6; amended 3-13-2006 by Ord. No. 06-2]
  - (a) Lands being developed which abut the Town roads identified as collector streets will be limited to the number of accesses, whether driveways or intersections, as follows:
    - [1] Frontage of property up to 600 feet equals one access.

- [2] Frontage of property from 600 feet to 1,500 feet equals two accesses.
- [3] Frontage of property from 1,500 feet to 2,500 feet equals three accesses.
- [4] Frontage of property from 2,500 feet to one mile equals four accesses.

- (b) These collector streets are as set forth on Exhibit A attached hereto, as adopted by the Town Board and all amendments thereto. The Town Board reserves the right to amend Exhibit A without the necessity of a public hearing.<sup>[1]</sup>

[1] *Editor's Note: Exhibit A is included as an attachment to this chapter.*

- B. The Plan Commission or governing body, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for development or division and afford the owner an opportunity to present evidence in rebuttal to such finding of unsuitability if so desired. Thereafter the Plan Commission or governing body may affirm, modify, or withdraw its determination of unsuitability.

## § 375-13. Covenants.

The Plan Commission or governing body may require submission of a draft of protective covenants whereby the owner intends to regulate land use in the proposed division or development and otherwise protect the proposed development. The Municipal Attorney shall review all covenants and shall approve covenants as to form.

## § 375-14. Enforcement.

It shall be unlawful to build upon, divide, convey, record or place monuments on any land in violation of this chapter or the Wisconsin Statutes, and no person, firm or corporation shall be issued a building permit by the municipality authorizing the building on, or improvement of, any subdivision, minor land division, condominium plat, assessor's plat or replat within the jurisdiction of this chapter not of record as of the effective date of this chapter until the provisions and requirements of this chapter have been fully met. The municipality may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.

## § 375-15. Violations and penalties.

### A. Penalties.

- (1) In addition to, and not to the exclusion or prejudice of, the specific penalties provided in this chapter, each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (2) Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant penalties shall include and the same are hereby adopted:
  - (a) Recordation improperly made carries penalties as provided for in § 236.30, Wis. Stats.

- (b) Conveyance of lots in unrecorded plats carries penalties as provided for in § 236.31, Wis. Stats.
  - (c) Monuments disturbed or not placed carries penalties as provided for in § 236.32, Wis. Stats.
- B. An assessor's plat made under § 70.27, Wis. Stats., may be ordered as a remedy by the municipality, at the expense of the owner, when a subdivision as defined herein is created by successive divisions.
  - C. All penalties provided for herein shall be in addition to any penalties imposed by any other governmental body.
  - D. Any penalties not paid shall be special charges against the real estate involved and may be so assessed and collected by the municipality under § 66.0627, Wis. Stats.

## § 375-16. Appeals.

Any person aggrieved by an objection to a division or development or a failure to approve a division or development may appeal such objection or failure to approve as provided in § 236.13(5), Wis. Stats., within 30 days of notification of the rejection of the division or development. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall remand the matter back to the municipality for further review and action if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.

## Article III. Land Division Procedures

### § 375-17. Pre-filing conference.

[Amended 3-13-2006 by Ord. No. 06-2]

Prior to the filing of an application for the approval of a land division or development, the owner shall consult with the Town Planner in order to obtain his/her advice and assistance. This consultation is not formal but is intended to inform the owner of the purpose and objectives of these regulations, the Comprehensive Plan, Comprehensive Plan components, neighborhood plans, and duly adopted plan implementation devices of the municipality and to otherwise assist the owner in planning the development. After the owner has met with the Town Planner, the owner shall submit a conceptual plan and a yield plan for placement on the next available Plan Commission agenda. In considering the conceptual plan and/or yield plan, the owner, Town Planner and Town Plan Commission may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The owner will gain a better understanding of the subsequent required procedures.

### § 375-18. Subdivisions.

- A. Preliminary plat filing. Before submitting a final plat for approval, the owner shall prepare a preliminary plat and a letter of application. The preliminary plat shall be prepared and filed in accordance with this chapter and Ch. 236, Wis. Stats.
- B. Preliminary plat review.
  - (1) The Plan Commission shall review the preliminary plat for conformance with:<sup>[1]</sup>
    - (a) The provisions of Ch. 236, Wis. Stats.

- (b) This chapter.
  - (c) Any official map adopted under state statutes.
  - (d) Any local rules and regulations.
  - (e) Any comprehensive plans or comprehensive plan components.
  - (f) Any neighborhood plans.
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (2) The Plan Commission should within 75 days of the date of filing of a preliminary plat recommend approval, approval conditionally or rejection of such plat to the governing body, unless the time is extended by agreement in writing with the owner.
  - (3) The governing body should within 90 days of the date of the filing of a preliminary plat approve, approve conditionally or reject such plat, unless the time is extended by agreement in writing with the owner.
  - (4) Failure of the governing body to act within 90 days shall constitute an approval of the preliminary plat as filed.
  - (5) Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat, except that if the final plat is submitted within 36 months of the preliminary plat approval and conforms substantially to the preliminary plat layout as indicated in § 236.11(1)(b), Wis. Stats., and all conditions imposed as part of the preliminary plat approval have been satisfied, the final plat shall be entitled to approval with respect to such layout. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat which will be subject to further consideration by the Plan Commission and the governing body at the time of its submission.<sup>[2]</sup>
- [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (6) Objections must be satisfied. The preliminary plat shall not be finally approved or deemed finally approved until all objections of all objecting and approving authorities and all conditions of the Plan Commission and governing body have been satisfied.
  - (7) Erosion control and stormwater management. Prior to the Town Plan Commission and Town Board approving or conditionally approving a preliminary plat, the Waukesha County Department of Parks and Land Use, Land Resources Division, shall approve a preliminary stormwater plan for the proposed preliminary plat.  
[Added 3-13-2006 by Ord. No. 06-2]
- C. Final plat filing. The final plat shall be prepared and filed in accordance with this chapter and Ch. 236, Wis. Stats.
- D. Final plat review.
- (1) The Plan Commission shall review the final plat for conformance with:<sup>[3]</sup>
    - (a) The approved preliminary plat.
    - (b) Any conditions of approval of the preliminary plat.
    - (c) The provisions of Ch. 236, Wis. Stats.
    - (d) This chapter.
    - (e) Any official map adopted under state statutes.

- (f) Any local rules and regulations.
  - (g) Any comprehensive plans or comprehensive plan components.
  - (h) Any neighborhood plans.  
[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (2) The Plan Commission should within 45 days of the date of filing of a final plat recommend approval, approval conditionally or rejection of such plat to the governing body, unless the time is extended by agreement in writing with the owner.  
[Amended 3-13-2006 by Ord. No. 06-2]
- (3) The governing body should within 60 days of the date of filing of a final plat approve, approve conditionally or reject such final plat, unless the time is extended by agreement in writing with the owner. If the final plat is conditionally approved by the governing body, all conditions of approval shall be satisfied within one year of the governing body granting said approval unless expressly stated otherwise in the conditions of approval.  
[Amended 3-13-2006 by Ord. No. 06-2]
- (4) Upon failure of the governing body to take action on the final plat within 60 days, the time having not been extended and no unsatisfied objections having been filed and there being no unsatisfied conditions of the preliminary plat approval, the final plat shall be deemed approved. Failure of the owner/developer to comply with the conditions of approval of the final plat as set forth by the governing body within one year of the governing body granting said approval shall result in the conditional approval of the final plat being automatically rescinded and the owner/developer being required to resubmit the final plat for approval, subject to all applicable Town approval requirements then in effect, unless expressly stated otherwise in the conditions of approval or an extension is granted by the governing body.  
[Amended 3-13-2006 by Ord. No. 06-2]
- (5) Miscellaneous provisions.
- (a) Submission. If the final plat is not submitted within 36 months of the last required approval of the preliminary plat, the governing body may refuse to approve the final plat unless otherwise provided for in the developer's agreement by means of a phase development timetable.<sup>[4]</sup>  
[4] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (b) Partial platting. If permitted by the governing body, the approved preliminary plat may be finally platted in phases with each phase encompassing only that portion of the approved preliminary plat which the owner proposes to record at one time; however, it is required that each such phase be final platted and be designated as a "phase" of the approved preliminary plat. Subsequent phases of the final plat shall be filed in accordance with the schedule set forth in the developer's agreement as adopted or amended by the governing body.
  - (c) Recordation. After the final plat has been approved by the governing body and required improvements either installed or a contract and sureties insuring their installation are filed, the Clerk shall cause the certificate inscribed upon the final plat attesting to such approval to be duly executed and the final plat recorded with the County Register of Deeds.
  - (d) Duplicate plat. An identical reproducible copy of the plat (on stable drafting film at least four mils thick) along with the recording data shall be placed on file with the Town Clerk.  
[Amended 3-13-2006 by Ord. No. 06-2]



- (e) Final plats submitted for approval before all improvements are ready to be accepted by the municipality will only receive conditional approval from the governing body, and said approval will be conditioned upon all improvements being completed and accepted by the municipality in compliance with the terms of a developer's agreement duly approved and executed by the Town and the developer, and only if a duly approved financial guarantee has been granted to the Town and is on file with the Town Clerk.  
[Amended 3-13-2006 by Ord. No. 06-2]
- (6) Objections must be satisfied. The final plat shall not be finally approved or deemed finally approved until all objections of all objecting and approving authorities and all conditions of the Plan Commission and governing body have been satisfied.

## § 375-19. Certified survey maps.

### A. Certified survey map filing.

- (1) Any division of land other than a subdivision, condominium plat, replat, or assessor's plat as defined in this chapter shall be divided by the owner by use of a certified survey map. The certified survey map shall be prepared and filed in accordance with this chapter and Ch. 236, Wis. Stats.
- (2) The owner shall file 20 copies of the certified survey map and the letter of application with the Clerk at least 20 days prior to the meeting of the Plan Commission at which action is desired.
- (3) The Clerk shall as soon as practicable transmit the copies of the certified survey map and the letter of application to the Plan Commission and governing body.
- (4) The Clerk shall transmit a copy of the certified survey map to all affected boards, commissions or departments for their review and recommendation concerning matters within their jurisdiction. Their recommendation shall be transmitted to the Plan Commission as soon as practicable from the date the map is filed.

### B. Certified survey map review.

- (1) The Plan Commission shall review the certified survey map for conformance with:<sup>[1]</sup>
  - (a) The provisions of Ch. 236, Wis. Stats.
  - (b) This chapter.
  - (c) Any official map adopted under state statute.
  - (d) Any local rules and regulations.
  - (e) Any comprehensive plans or comprehensive plan components.
  - (f) Any neighborhood plans.
- (2) The Plan Commission should within 75 days of the date of filing of a certified survey map recommend approval, approval conditionally or rejection of such certified survey map to the governing body, unless the time is extended by agreement with the owner.

[2]

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (3) The governing body should within 90 days of the date of the filing of a certified survey map approve, approve conditionally or reject such certified survey map, unless the time is extended by agreement with the owner.<sup>[3]</sup>  
 [3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (4) If the certified survey map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the owner.
- (5) If the certified survey map is approved, the Board should cause the Clerk to so certify on the face of the original map and return the map to the owner at such time as all conditions are satisfied.
- (6) The owner shall record the map with the County Register of Deeds within 12 months after the date of the last approval of the map. If the owner fails to record the map within 12 months, the previously approved map is hereby rejected and the owner must recommence the entire procedure in this chapter, unless an extension of time to file has been granted by the governing body. If the governing body conditionally approves the certified survey map, all conditions of approval shall be satisfied within one year of the governing body granting conditional approval unless expressly stated otherwise in the conditions of approval. Failure to satisfy the conditions of approval within the required time shall result in the conditional approval of the map being automatically rescinded, and the owner must recommence the entire procedure in this chapter, unless an extension of time has been granted by the governing body.  
 [Amended 3-13-2006 by Ord. No. 06-2<sup>[4]</sup>  
 [4] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (7) Duplicate certified survey map. An identical reproduction copy of the certified survey map (on stable drafting film at least four mils thick) along with the recording data shall be placed on file with the Town Clerk.  
 [Amended 3-13-2006 by Ord. No. 06-2]

## § 375-20. Replat.

When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the owner or person wishing to replat shall vacate or alter the recorded plat as provided in §§ 236.40 through 236.44, Wis. Stats. The owner, or person wishing to replat, shall then proceed as specified in § 375-18. The Clerk shall schedule a public hearing before the Plan Commission when a preliminary plat of a replat of lands within the municipality is filed and shall cause notices of the proposed replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within 200 feet of the exterior boundaries of the proposed replat.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 375-21. Prior review of sales or exchanges of parcels between adjoining landowners.

[Added 9-8-2014 by Ord. No. 14-1<sup>[1]</sup>

In every situation, regardless of circumstances, that a property owner seeks to convey land in a manner that would adjust a lot line or create or eliminate a lot line, and that conveyance does not require a certified survey map or subdivision plat pursuant to this chapter, and where an adjacent property owner intends to acquire such interest in land, the proposed action shall be submitted to the Town of Genesee Plan Commission for prior review, before the conveyance

documents are signed and before the conveyance is recorded in the office of the Waukesha County Register of Deeds. Such application must be filed with the Town Clerk along with a fee payment to offset all or part of the cost of this limited review, in an amount to be determined from time to time by separate resolution of the Town Board. The Town Plan Commission review shall be limited to considering whether the conveyance is in compliance with § 236.45(2)(am)3, Wis. Stats., and the applicable laws cited therein, including these regulations, the applicable zoning ordinance, and other applicable laws and ordinances. Such conveyance can only be approved if the same number of lots exist prior to the conveyance as would exist after the conveyance. Such conveyance can only be approved if the resulting lots would all be both legal and conforming, even if any such lots are legal nonconforming prior to the conveyance, because the conveyance creates new lots which do not predate the ordinance and therefore have no legal nonconforming rights. Such conveyance must not be approved if the conveyance includes land that has a legal nonconforming use, because the legal nonconforming rights are limited to use of the preexisting lot. Such conveyance shall not be approved if any of the resulting lots and the existing improvements on the lots would be in violation of applicable open space requirements. Such conveyance shall not be approved if the conveyance would make an existing conforming structure illegal or nonconforming or would increase the extent of any preexisting legal nonconformity of an existing structure.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article IV. Preliminary Plat

### § 375-22. General requirements.

A preliminary plat shall be required for all subdivisions, shall be based upon a survey by a professional land surveyor, shall comply in all respects with the requirements of Ch. 236, Wis. Stats., and shall comply with the design standards and improvement requirements set forth in Articles VII and VIII of this chapter, and the plat shall be prepared on tracing cloth, reproducible drafting film, or paper of good quality at a map scale of not more than 100 feet to the inch and shall show correctly on its face the following information:

- A. Title or name under which the proposed subdivision is to be recorded. Such title shall not be the same as or similar to a previously approved and recorded plat in Waukesha County, unless it is an addition by the same owner to a previously recorded plat and is so stated on the plat.
- B. Property location of the proposed subdivision by government lot, quarter section, township, range, county and state.
- C. General location sketch showing the location of the subdivision within the U.S. Public Land Survey section oriented on the sheet in the same direction as the main drawing.
- D. Date, graphic scale and North arrow.
- E. Names and addresses of the owner, subdivider and land surveyor preparing the plat.
- F. Entire area contiguous to the proposed plat owned or controlled by the subdivider and/or owner shall be included on the preliminary plat even though only a portion of said area is proposed for immediate development. The Plan Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this chapter and severe hardship would result from strict application thereof.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 375-23. Plat data.

[Amended 4-9-2001 by Ord. No. 01-3; 3-13-2006 by Ord. No. 06-2]

All preliminary plats shall show the following:

- A. Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in U.S. Public Land Survey and the total acreage encompassed thereby.
- B. Existing and proposed contours at vertical intervals of not more than two feet where the slope of the ground surface is less than 10% and of not more than five feet where the slope of the ground surface is 10% or more. Elevations shall be marked on such contours based on National Geodetic Vertical Datum of 1929 (mean sea level).
- C. Water elevations of adjoining lakes and streams at the date of the survey and approximate high and low water elevations, all referred to mean sea level (1929) datum.
- D. Floodplain limits and the contour line lying a vertical distance of two feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, five feet above the elevation of the maximum flood of record.
- E. Location, right-of-way width and names of all proposed and existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
- F. Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto together with any legally established center-line elevations, all to mean sea level (1929 datum).
- G. Location and names of any adjacent subdivisions, parks and cemeteries, and owners of record of abutting unplatted lands.
- H. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drainpipes, the location of manholes, catch basins, hydrants, and power and telephone poles, and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sanitary or storm sewers or water mains are located on or immediately adjacent to the lands being platted, the nearest such sewers or water mains which might be extended to serve such lands shall be indicated by their direction and distance from the nearest exterior boundary of the plat and their size and invert elevations.
- I. Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks, drainage easements, natural drainage areas, landfills and other similar significant natural or man-made features within the tract being subdivided or immediately adjacent thereto.
- J. Approximate dimensions of all lots together with proposed lot and block numbers.
- K. Location and approximate dimensions and size of any sites to be reserved or dedicated for parks, playgrounds, drainageways, or other public use or which are to be used for group housing, shopping centers, church sites, or other private uses not requiring platting.
- L. Approximate radii of all curves.
- M. Existing zoning on and adjacent to the proposed subdivision.
- N. Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to the access.
- O. Any proposed lake and stream improvement or relocation.
- P. Soil type, slope, and boundaries as shown on the detailed operational soil survey maps prepared by the U.S. Natural Resources Conservation Service.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- Q. Location of soil tests shall be shown, where required by this chapter and the Waukesha County Code of Ordinances for on-site sewage disposal systems to portray the character of the soil and depths of bedrock and groundwater from the natural undisturbed surface. The results of the test must be furnished along with the preliminary plat/certified survey map.
- R. Delineations of natural resource areas, including the boundaries of primary/secondary environmental corridors and isolated natural resource areas as identified by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and the location and type of any rare or endangered species habitat.
- S. Historical, cultural and archaeological features, with a brief description of the historic character of buildings, structures, ruins and burial sites.
- T. Locations of all civil division boundary lines and U.S. Public Land Survey System section and one-quarter section lines within the plat and within 100 feet of the exterior boundaries of the plat.
- U. Surveyor's certificate signed, dated and sealed, and revision dates on all sheets.
- V. Sheet numbers.
- W. Additional information as requested by the Plan Commission or governing body to verify ownership, clarify questions raised during the approval procedure, address concerns raised by neighbors or members of the Plan Commission or governmental body and any other information the Plan Commission or governing body deems necessary to reach a decision on the preliminary plat. Failure to provide the requested additional information may be grounds for denial of the preliminary plat.

## § 375-24. Street plans and profiles.

The Plan Commission, upon recommendation of the Municipal Engineer, may require that the subdivider provide street plans and profiles showing existing ground surface, proposed and established street grades, storm sewer plans and profiles showing the location, grades, sizes, cross sections, elevations and materials of required facilities, where applicable, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested. All elevations shall be based upon mean sea level (1929) datum, and plans and profiles shall meet the approval of the Municipal Engineer.

## § 375-25. Testing.

The Plan Commission, upon recommendation of the Municipal Engineer, may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to groundwater table. Where the subdivision will not be served by public sanitary sewer service, the provisions of the Wisconsin Administrative Code shall be complied with and the appropriate data submitted with the preliminary plat.

## § 375-26. Soil and water conservation.

The Plan Commission, upon determining from a review of the preliminary plat by the Municipal Engineer that the soil, slope, vegetation, and drainage characteristics of the site are such as to require substantial cutting, clearing, grading, and other earthmoving operations in the development of the subdivision or otherwise entail a severe erosion hazard, may require the subdivider to provide soil erosion and sedimentation control plans and specifications. Such

plans shall generally follow the guidelines and standards set forth in any and all ordinances, rules, regulations and publications adopted by separate resolution by the Town Board.

## § 375-27. Affidavit.

The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this chapter.

## Article V. Final Plat

### § 375-28. General requirements.

A final plat prepared by a professional land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Ch. 236, Wis. Stats.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 375-29. Additional information.

[Amended 3-13-2006 by Ord. No. 06-2]

The plat shall show correctly on its face, in addition to the information required by Ch. 236, Wis. Stats., and Articles **VII** and **VIII** of this chapter, the following:

- A. Exact length and bearing of the center line of all streets.
- B. Exact street width along the line of any obliquely intersecting street.
- C. Railroad rights-of-way within and abutting the plat.
- D. Setbacks or building lines greater than those required by the municipal ordinances if deemed necessary by the Plan Commission or governing body.
- E. Utility and/or drainage easements.
- F. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat.
- G. Special restrictions required by the Plan Commission or governing body relating to access control along public ways, delineation of floodland limits or to the provision of planting strips.
- H. Blocks, if designated, shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively through the several additions. The exact length and bearing of the boundary lines of all blocks shall be shown.
- I. Lots in each block shall be consecutively numbered. Outlots, if approved, shall be numbered within each block. The square footage of each lot and outlot shall be shown on the plat and in addition thereto the plat shall show the exact acreage for each lot or outlot to the nearest 1/100 acre, such indicator to be located within the boundary of each lot or outlot on the plat.
- J. Meander lines by distance and bearings shall be shown with the distance between the point of intersection of such meander lines with lot lines and ordinary high-water mark also shown.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- K. Septic systems and driveways with preplanned location shall be shown on the plat.
- L. Lots to be served by joint wells, along with the easements providing for said service, shall be shown on the plat. A joint well agreement shall be recorded.

## § 375-30. Deed restrictions.

The Plan Commission or governing body may require that deed restrictions be filed with the final plat.

## § 375-31. Survey accuracy.

The Municipal Engineer shall examine all final plats within the municipality and may make, or cause to be made by a professional land surveyor under the supervision or direction of the Municipal Engineer, field checks for the accuracy and closure of survey, the proper kind and location of monuments and the legibility and completeness of the drawing. In addition:

- A. Maximum error of closure before adjustment of the survey of the exterior boundaries of the subdivision shall not exceed, in horizontal distance or position, the ratio of one part in 10,000, nor in azimuth, four seconds of arc per interior angle. If field measurements exceed this maximum, new field measurements shall be made until a satisfactory closure is obtained. When a satisfactory closure of the field measurements has been obtained, the survey of the exterior boundary shall be adjusted to form a closed geometric figure.
- B. All street, block and lot dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary survey. If field checks disclose an error for any interior line of the plat greater than the ratio of one part in 5,000, or an error in measured angle greater than one minute of arc for any angle where the shorter side forming the angle is 300 feet or longer, necessary corrections shall be made. Where the shorter side of a measured angle is less than 300 feet in length, the error shall not exceed the value of one minute multiplied by the quotient of 300 divided by the length of the shorter side; however, such error shall not in any case exceed five minutes of arc.
- C. The governing body shall receive the results of the Municipal Engineer's examination prior to approving the final plat.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 375-32. Surveying and monumenting.

All final plats shall meet the surveying and monumenting requirements of Ch. 236, Wis. Stats.

## § 375-33. State plane coordinate system.

Where the plat is located within a U.S. Public Land Survey quarter section the corners of which have been relocated, monumented and coordinated by the municipality, Waukesha County or the Southeastern Wisconsin Regional Planning Commission, the plat shall be tied directly to one or more of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the municipality's control survey.

## § 375-34. Certificates.

All final plats shall provide all the certificates required by Ch. 236, Wis. Stats., and, in addition, the surveyor shall certify that he has fully complied with all the provisions of this chapter.

## § 375-35. Recordation.

[Amended 3-13-2006 by Ord. No. 06-2<sup>[1]</sup>]

The final plat shall only be recorded with the County Register of Deeds after the certificates of the Wisconsin Department of Administration, of the Board, of the surveyor, and those certificates required by Ch. 236, Wis. Stats., are placed on the face of the plat. The plat shall be recorded within 12 months of its approval by the governing body. Failure to record said final plat within 12 months of the date of the last required approval or within 36 months of the date of the first approval shall require the subdivider to recommence the entire procedure in this chapter unless the governing body and affected approving and objecting authorities extend or renew their approvals of the final plat and the final plat is recorded within the time allowed by the extension or renewal. Documentation that the final plat has been recorded shall be submitted to the Town Clerk.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 375-36. Duplicate plat to be filed.

[Amended 3-13-2006 by Ord. No. 06-2]

An identical reproducible copy (on stable drafting film at least four mils thick) along with the recording data shall be placed on file with the Town Clerk.

## § 375-37. House numbers.

[Amended 3-13-2006 by Ord. No. 06-2]

The Town Clerk or his/her designee shall place upon a copy of the final plat on each lot shown on said plat the correct legal house number assigned to that lot in conformity with the grid system in effect in Waukesha County and any local ordinances.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 207, Address Numbers.*

## § 375-38. Culvert sizes.

[Added 3-13-2006 by Ord. No. 06-2]

The developer upon approval of the Town Engineer shall state on the identical reproducible copy of the final plat the culvert sizes for each lot for future driveways (if applicable).

## Article VI. Certified Survey Map

### § 375-39. General requirements.

A certified survey map prepared by a professional land surveyor shall be required for all minor land divisions. It shall comply in all respects with the requirements of § 236.34, Wis. Stats. The minor subdivision shall comply with the design standards and improvement requirements set forth in Articles VII and VIII of this chapter.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*



## § 375-40. Required information and documentation.

[Amended 4-9-2001 by Ord. No. 01-3; 3-13-2006 by Ord. No. 06-2]

A. Required information. The map shall show correctly on its face, in addition to the information required by § 236.34, Wis. Stats., all information required by §§ **375-22**, **375-23** and **375-29** of this chapter and all existing buildings, watercourses, drainage ditches and other features pertinent to proper land division, except the certified survey map may be at a map scale of greater than 100 feet to the inch, provided that all necessary information can be easily interpreted as determined by the Town Planner or Town Plan Commission.

[Amended 9-8-2014 by Ord. No. 14-1]

B. Deed restriction. Deed restrictions as required by the Plan Commission and/or governing body shall be filed with the certified survey map.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

C. Public improvement. Whenever a public improvement is necessitated by the certified survey map, the developer must satisfy the following additional requirements:

- (1) The developer must submit, subject to approval of the Town Attorney, Town Planner and Town Engineer, a developer's agreement and must enter the approved agreement with the Town, prior to commencing any construction of said improvements.
- (2) The developer must submit, subject to approval of the Town Attorney, Town Planner and Town Engineer, a letter of credit or cash to guarantee full and timely completion of the improvements, prior to commencing any construction of said improvements.
- (3) The developer must submit any plans or other documents relative to the construction of said improvements, as required in this chapter or as required by the Town Planner and/or Town Engineer.

## § 375-41. State plane coordinate system.

Where the map is located within a U.S. Public Land Survey quarter section the corners of which have been relocated, monumented and coordinated by the municipality, Waukesha County or the Southeastern Wisconsin Regional Planning Commission, the map shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the map is tied shall be indicated on the map. All distance and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the municipality's control survey.

## § 375-42. Certificates.

- A. The surveyor shall certify on the face of the map that he or she has fully complied with all the provisions of this chapter. The Board, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map.
- B. In addition, dedication of streets and other public areas shall require the owner's certificate and the mortgagee's certificate in substantially the same form as required by § 236.21(2)(a), Wis. Stats.

## § 375-43. Recordation.

The certified survey map shall only be recorded with the County Register of Deeds after the certificates of the governing body and the surveyor are placed on the face of the map.

## § 375-44. Duplicate certified survey map to be filed.

[Amended 3-13-2006 by Ord. No. 06-2]

An identical reproducible copy of the final certified survey map (on stable drafting film at least four mils thick) along with recording data shall be placed on file with the Town Clerk.

## § 375-45. House numbers.

[Amended 3-13-2006 by Ord. No. 06-2]

The Town Clerk or his/her designee shall place upon a copy of the map on each lot shown on said map the correct legal house numbers assigned to that lot in conformity with the grid system in effect in Waukesha County and any local ordinances.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 207, Address Numbers.*

## § 375-46. Culvert sizes.

[Added 3-13-2006 by Ord. No. 06-2]

The developer upon approval of the Town Engineer shall state on the identical reproducible copy of the final certified survey map the culvert sizes for each lot for future driveways (if applicable).

## Article VII. Design Standards

### § 375-47. Street arrangement.

[Amended 5-11-1998 by Ord. No. 98-2; 3-13-2006 by Ord. No. 06-2<sup>[1]</sup>]

In any division or development of land the street layout shall conform to the arrangement, width and location indicated on the Official Map, county jurisdictional highway system plan, Comprehensive Plan or plan component, or precise neighborhood unit development plan of the municipality. In areas for which such plans have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. All proposed roads and/or streets shall comply with the Town road standards as adopted by the governing body. The division or development shall be designed so as to provide each lot with satisfactory access to a public street. In addition:

- A. Arterial streets, as hereafter defined, shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation, and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
- B. Collector streets, as hereafter defined, shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to the mass transportation system, to special

traffic generators such as schools, churches and shopping centers and other concentrations of population and to the major streets to which they connect.

- C. Minor streets, as hereafter defined, shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide for safe and convenient access to abutting property.
- D. Proposed streets shall extend to the boundary lines of the tract being divided or developed unless prevented by topography or other physical conditions or unless, in the opinion of the Plan Commission and governing body, such extension is not necessary or desirable for the coordination of the layout of the development or for the advantageous development of the adjacent tracts.
- E. Arterial street and highway protection. Whenever the proposed development contains or is adjacent to a collector street or arterial street, adequate protection of residential properties, limitation of access and separation of through and local traffic shall be provided by reversed frontage, with screen planting contained in a nonaccess reservation along the rear property line, or by the use of frontage streets.
- F. Frontage streets. A frontage street shall be designed in relation to the street which it serves and to the existing topography to provide for safe traffic flow and property value preservation.
- G. Stream or lake shores shall have a minimum of 60 feet of public access platted to the low-water mark at intervals of not more than one-half mile as required by § 236.16(3), Wis. Stats.
- H. Street names shall not duplicate or be similar to existing street names elsewhere in the municipality, and existing street names shall be projected wherever possible. Street names and numbers shall comply with the Municipal Code of the municipality.<sup>[2]</sup>
- I. Reserve strips controlling access to streets shall be prohibited except where the access control has been placed under the governing body's control and such control has been accepted by the governing body.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: See Ch. 207, Address Numbers.*

## § 375-48. Limited access highway and railroad right-of-way treatment.

Whenever the proposed division or development contains or is adjacent to a limited access highway or railroad right-of-way, the design shall provide the following treatment:

- A. When lots within the proposed division or development back upon the right-of-way of an existing or proposed limited access highway or a railroad, a planting strip at least 30 feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be a part of the platted lots but shall have the following restriction lettered on the face of the plat: "This strip reserved for the planting of trees and shrubs, the building of structures hereon is prohibited."
- B. When lots within the proposed division or development front upon the right-of-way of an existing or proposed limited access highway or a railroad, said lots should be platted with extra depth to permit generous distances between the buildings and such trafficways.
- C. Commercial and industrial properties shall have provided, on each side of the limited access highway or railroad, streets approximately parallel to and at a suitable distance from

such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than 150 feet.

- D. Streets parallel to a limited access highway or railroad right-of-way, when intersecting a collector street or arterial street which crosses said railroad or highway, shall be located at a minimum distance of 250 feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.  
[Amended 5-11-1998 by Ord. No. 98-2]
- E. Minor streets immediately adjacent and parallel to railroad rights-of-way shall be avoided, and location of minor streets immediately adjacent to arterial streets and highways and to railroad rights-of-way shall be avoided in residential areas.

## § 375-49. Street and pedestrianway design standards.

The minimum right-of-way and roadway width of all proposed streets and alleys shall be as specified by the Comprehensive Plan, Comprehensive Plan component, Official Map, neighborhood development study, or jurisdictional highway system plan or, if no width is specified therein, the minimum widths shall be as set by the Town Board. Street sections are for standard arterial streets only. Cross sections for freeways, expressways and parkways should be based upon detailed engineering studies. In addition:

- A. All streets or systems of streets designed to have one end of any street in the system closed, whether temporarily or permanently, shall not exceed in any manner 1,200 feet in length.  
[Amended 3-13-2006 by Ord. No. 06-2]
- (1) The Town Plan Commission and Town Board may grant a special exception from the cul-de-sac length upon the property owner and/or the developer demonstrating that the proposed cul-de-sac is only temporary. The owner and/or developer may request that the Town Plan Commission and Town Board grant a special exception as follows:
- (a) Written request. The owner and/or developer shall submit a written request for a special exception to the Town Clerk. The request shall state the reasons for requesting the special exception. In addition, the application shall include the following:
- [1] An administrative fee in addition to any charge back fees. The administrative fee shall be established by the Town Board and may be periodically updated.
  - [2] An overall development plan of the property to be developed and the adjacent properties shall be submitted to the Town Plan Commission and governing body for review.
  - [3] Any additional information as may be required by the Town Plan Commission and/or Town Board in order to render an informed decision shall be submitted.
- (b) Referral to Plan Commission and governing body. Upon receipt of a written request for a special exception, the Town Clerk shall, within a reasonable time, place the matter on a Plan Commission and a governing body agenda for review and action.
- (c) Considerations. The Plan Commission and governing body shall each make a separate determination and may as deemed necessary by the Plan Commission and/or governing body establish conditions of approval. The most restrictive conditions of the Plan Commission and/or governing body shall govern. The Plan Commission and governing body shall consider of the following factors:

- [1] Whether the request for a special exception, if granted, would be consistent with the general intent of this chapter.
  - [2] Whether the proposed cul-de-sac street extends to the boundary lines of the tract being divided or developed.
  - [3] Whether the owner/developer demonstrated that the proposed location of the cul-de-sac termination will allow the neighboring property to develop in a reasonable manner.
  - [4] Whether the proposed street arrangement complies with the Official Town Map.
  - [5] Whether the proposed temporary cul-de-sac is intended to be extended at some point in the future.
  - [6] The proposed cul-de-sac shall not terminate at an environmentally sensitive area, including but not limited to a wetland/conservancy area, floodplain or an area of steep slopes.
  - [7] Whether the Plan Commission and/or governing body determined if such extension is necessary and desirable for the coordination of the layout of the development or for the advantageous development of the adjacent tracts.
- (2) All streets designed to have one end closed, whether temporarily or permanently, shall terminate in a circular turnaround having a minimum right-of-way radius of 66 feet.
  - (3) If a special exception is granted, a note shall be placed on the final plat indicating dates said special exception was granted by the Town Plan Commission and Town Board.
- B. Temporary termination of streets shown on the Official Map intended to be extended at a later date shall be accomplished with a temporary cul-de-sac in accordance with the standards set forth above. Notwithstanding the foregoing, a temporary "T" intersection may be approved by the governing body if the governing body finds that the temporary cul-de-sac does not serve more than one parcel on each side of the street that the temporary cul-de-sac ends. The road construction standards for a temporary "T" intersection shall be established by the governing body on consultation with the Town Engineer.  
[Amended 3-13-2006 by Ord. No. 06-2]
- C. Roadway elevations. Elevations of roadways passing through floodplain areas shall be designed in the following manner:
- (1) Arterial highways shall be designed so they will not be overtopped by the fifty-year recurrence interval flood.
  - (2) Collectors and local streets shall be designed so they will not be overtopped by the ten-year recurrence interval flood.
- D. New and replacement bridges and culverts. All new and replacement bridges and culverts over perennial waterways, including pedestrian and other minor bridges, in addition to meeting other applicable requirements, shall be designed so as to accommodate the one-hundred-year recurrence interval flood event without raising the peak stage, either upstream or downstream, more than 0.1 foot above the peak stage for the one-hundred-year recurrence interval flood, as established in the adopted comprehensive watershed plan or flood insurance study prepared by the Federal Emergency Management Agency. Larger permissible flood stage increases may be acceptable for reaches having topographic land use conditions which could accommodate the increased stage without creating additional flood damage potential upstream or downstream of the proposed structure. Such bridges and culverts shall be so designed and constructed as to facilitate the passage of ice floes and other debris. All new and replacement bridges shall be

constructed in accordance with all applicable state statutes and codes and shall be submitted to the Department of Natural Resources to assure compliance therewith.

E. Street grades.

(1) Minimum and maximum grades.

(a) Unless necessitated by exceptional topography, subject to the approval of the Plan Commission, the maximum center-line grade of any street or public way shall not exceed the following:

[1] Arterial streets: 6%.

[2] Collector streets: 8%.

[3] Minor streets, alleys and frontage roads: 10%.

(b) The grade of any street shall in no case exceed 10% or be less than 1/2 of 1%.

(2) Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and general leveling of the topography. All changes in street grades shall be connected by vertical parabolic curves of a minimum length equivalent in feet to 30 times the algebraic difference in the rates of grade for streets, provided that no curve less than 60 feet in length need be used.

F. Radii of curvature.

(1) When a continuous street center-line deflects at any one point by more than 10°, a circular curve shall be introduced having a radius of curvature on said center line of not less than the following:

(a) Arterial streets and highways: 500 feet.

(b) Collector streets: 300 feet.

(c) Minor streets: 100 feet.

(2) A tangent at least 100 feet in length shall be provided between reverse curves on arterial and collector streets.

G. Half streets. Where an existing dedicated or platted half street is adjacent to the tract being divided or developed, the other half of the street shall be dedicated by the owner. The platting of new half streets shall not be permitted.

H. Intersection design requirements. Intersection design requirements are hereby established as set forth on Exhibit B attached hereto, as adopted by the Town Board and all amendments thereto. The Town Board reserves the right to amend Exhibit B without the necessity of a public hearing.<sup>[1]</sup>

[Added 10-15-1997 by Ord. No. 97-6]

[1] *Editor's Note: Exhibit B is included as an attachment to this chapter.*

## § 375-50. Street intersections.

Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit. In addition:

A. The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two.

- B. The number of intersections along collector streets and arterial streets shall be held to a minimum. Whenever practicable the distance between such intersections shall not be less than 1,200 feet.  
[Amended 10-15-1997 by Ord. No. 97-6; 5-11-1998 by Ord. No. 98-2]
- C. Property lines at street intersections shall be rounded with a minimum radius of 15 feet or of a greater radius when required by the Plan Commission and governing body or shall be cut off by a straight line through the points of tangency of an arc having a radius of 15 feet.
- D. Minor streets shall not necessarily continue across arterial or collector streets, but if the center lines of such minor streets approach the major streets from opposite sides within 250 feet of each other, measured along the center line of the arterial or collector street, then the location shall be so adjusted that the adjoinment across the major or collector street is continuous and a jog is avoided.

## § 375-51. Blocks.

The widths, lengths, and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic, and the limitations and opportunities of topography. In addition:

- A. The length of blocks in residential areas shall not as general rule be less than 400 feet nor more than 2,000 feet in length unless otherwise dictated by exceptional topography or other limiting factors of good design.
- B. Pedestrianways of not less than 15 feet in width may be required near the center and entirely across any block over 900 feet in length where deemed essential by the Plan Commission and governing body to provide adequate pedestrian circulation or access to schools, parks, shopping centers, churches or transportation facilities.
- C. The width of blocks shall be wide enough to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.
- D. Utility easements for electric power and telephone service shall, where practical, be placed on mid-block easements along rear lot lines.

## § 375-52. Lots.

The size, shape, and orientation of lots shall be appropriate for the location of the division or development and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the building contemplated. In addition:

- A. Side lot lines shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
- B. Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography or orientation.
- C. Access. Every lot shall front or abut for a distance of at least 40 feet on a public street. Lots with access only to private drives shall be permitted only with the governing body's approval and subject to the conditions of said approval.

- D. Area and dimensions of all lots shall conform to the requirements of all applicable zoning ordinances. Those building sites not served by a public sanitary sewerage system or other approved system shall be sufficient to permit the use of an on-site soil absorption sewage disposal system designed in accordance with the Wisconsin Administrative Code. The width and area of lots located on soils suitable for the use of an on-site soil absorption sewage disposal system shall not be less than 150 feet in width and 40,000 square feet in area.<sup>[1]</sup>  
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. Depth of lots shall be a minimum of 125 feet. Excessive depth in relation to width shall be avoided and a proportion of 2 1/2 to one shall be considered a desirable ratio under normal conditions. Depth of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated. Lots shall be designed so the depth to width ratio does not exceed 2 1/2 to one unless a variance is granted by the Plan Commission and governing body.<sup>[2]</sup>  
 [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- F. Width of lots shall conform to the requirements of the applicable zoning ordinance, or other applicable ordinance, and in no case shall a lot be less than 60 feet in width at the building setback line. The width of lots on curves shall be measured at a point of tangency of the setback arc at the mid-point of the curve for the lot.<sup>[3]</sup>  
 [3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- G. Corner lots shall have an extra width of 10 feet to permit adequate building setbacks from side streets.
- H. Lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed division or development and the water's edge shall be included as part of lots, outlots or public dedications in any plat abutting a lake or stream.
- I. Oversized lots are allowed, but where lots are created of a size larger than normal for the area, the governing body may require that the division or development be so designed as to allow for the possible future redivision of such lots into normal sizes compatible with the immediate area.

## § 375-53. Building setback lines.

Building setback lines appropriate to the location and type of development contemplated, which are more restrictive than the regulation of the zoning district in which the plat is located, may be required by the Plan Commission and/or governing body.

## § 375-54. Utility easements.

The Plan Commission and/or governing body may require utility easements of widths deemed adequate for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for electric power, communication, and cable television lines, wires, conduits, storm and sanitary sewers, and gas, water and other utility lines. All easements for municipal utilities shall be dedicated to the municipality unless otherwise provided. Where a division or development is traversed by a watercourse, drainageway channel or stream, an adequate drainageway or easement shall be provided as may be required by the Plan Commission and/or governing body. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the Plan Commission and governing body, and parallel streets or parkways may be required in connection therewith. Where necessary, stormwater drainage shall be maintained by landscaped open channels of



adequate size and grade to hydraulically accommodate maximum potential volumes of flow. These design details are subject to review and approval by the Municipal Engineer.

## § 375-55. Public sites and open spaces.

[Amended 2-11-2002 by Ord. No. 02-1; 4-12-2004 by Ord. No. 04-3; 7-9-2007 by Ord. No. 07-1<sup>[1]</sup>]

In order that adequate land for public uses may be properly located, preserved, developed, and improved as the municipality develops, and in order that the cost of providing the public facilities necessary to serve the additional individuals brought into the municipality may be most equitably apportioned on the basis of the additional need created by the individual development of land, the following provisions are established:

### A. Dedication of land.

- (1) Where it is determined by the Park Board, Plan Commission and Town Board that a portion of the land is required for public use, the owner shall provide and dedicate to the municipality such land prior to the time the final land division is approved or, if no land division is proposed, prior to final approval of the development.
- (2) The amount of land to be provided shall be determined on the basis of an amount of land equal in value to \$755 in the year 2004 for each single-family dwelling unit approved and \$601 in the year 2004 for each multifamily dwelling unit approved. This fee shall be increased annually by 2.83%, which is based upon the annual change in rate of inflation since the year 1990, as determined by the U.S. Department of Labor Statistics.
- (3) In the event the owner and municipality cannot agree as to the price to be paid for such land, the value shall then be determined by the Municipal Assessor on the basis of full and fair market value of the land prior to division or, if no division, development. If the owner is not satisfied with the Municipal Assessor's value, an appraisal board shall be created consisting of one appraiser selected by the municipality at its expense, and that person may be the Town Assessor, one selected by the owner at his expense and a third selected by the two other appraisers with the expense divided equally between the owner and the municipality. The determination of the appraisal board as to the value of the land should determine the valuation of the land. The test of the value of the land to be dedicated shall be in its undeveloped condition immediately before sale to the developer, division or, if no division, development based on fair market value and not as improved.
- (4) Any lands dedicated under this provision shall be used for public purpose, including but not limited to public sites, park lands, recreation lands, or open spaces.

### B. Impact fees for parks, playgrounds and land for athletic fields.

- (1) Enactment of impact fee. If the Board determines that the dedication described in Subsection **A** above is not feasible or compatible with development of the municipality, the owner shall, in lieu thereof, pay to the municipality an impact fee as described in this Subsection **B**, to pay for the capital costs that are necessary to accommodate future land development with regard to parks, playgrounds and land for athletic fields.
- (2) Fee amount. The amount of the impact fee shall be as follows:
  - (a) Base impact fee amount.

[1] Studio or one-bedroom dwelling unit: \$379.

[2] Two-bedroom dwelling unit: \$506.

[3] Three- or more bedroom dwelling unit or single-family home: \$759.

- (b) In order to account for future increases in construction costs and interest costs, and in order to ensure that the fees are equitably distributed between current and future developers, the base impact fees described herein shall automatically adjust on an annual basis on January 1 of each year by the percentage increase or decrease in the United States Bureau of Labor Statistics Midwest Region All Items Consumer Price Index for All Urban Consumers from January 1 of the preceding year.
- (3) Accounting. Revenues collected pursuant to this Subsection **B** shall be placed in a segregated, interest-bearing account and shall be accounted for separately from the other funds of the Town of Genesee. Impact fee revenues and interest earned on impact fee revenues may be expended only for capital costs for which the impact fees were imposed.
- (4) Refund of impact fees. Impact fees that are imposed and collected by the Town of Genesee pursuant to this Subsection **B** must be spent or refunded as prescribed in § 66.0617(9), Wis. Stats. Refunds shall be made to the then-current owner of the property with respect to which the impact fees were imposed.
- (5) Payment.
- (a) Developers or owners of property subject to land development shall pay impact fees to the Town of Genesee in full upon the issuance of a building permit by the Town, unless the Town Board and the developer agree otherwise in writing.
- (b) The foregoing payment obligation applies only to such land development events that occur within the Town of Genesee from the effective date of this Subsection **B** until this Subsection **B** is repealed. If for any reason, intentional or unintentional, payment is not made when it first becomes due, the Town of Genesee, at its option, may enforce the obligation at the time of any succeeding land development event until payment is fully received. If more than one developer or property owner participates in a land development project, or if different developers or property owners participate at different times, the developers and all applicable property owners shall be deemed to have independently apportioned their payment obligation among themselves. The Town of Genesee shall be entitled to refuse to approve a land development event until payment is made and shall have no obligation to determine which developer or property owner is required to pay, even if payment from the then-current developer or property owner would not have been required but for the fact that a prior developer or property owner did not pay.
- (6) Appeal. Pursuant to § 66.0617(10), Wis. Stats., a developer upon whom an impact fee is imposed has the right to contest the amount, collection or use of the impact fee to the Town of Genesee Town Board. The procedures for such appeal shall be as follows. All appeals which challenge the Town authority granted by this Subsection **B**, or the procedures for adoption of this Subsection **B**, or otherwise challenge the validity of this Subsection **B**, must be filed in writing with the Town Clerk within 90 days of the effective date of this Subsection **B**, unless applicable state law specifically allows a longer time for such appeal, in which case the applicable state law limitation shall apply. All appeals which challenge the Town's actions in administering or enforcing this Subsection **B** must be filed in writing with the Town Clerk within 15 days of the date that the Town action that is to be appealed took place. In all cases, the appeal must be titled "Notice of Appeal of Impact Fee" and shall state the developer's name, address, telephone number, address (if available) and legal description of the land development upon which the impact fee is imposed, and a statement of the nature of and reasons for the appeal. The Town Clerk shall schedule the appeal for consideration by the Town Board at a regular or special meeting as soon as reasonably practicable under the circumstances and shall notify the developer of the time, date and place of such

meeting, in writing, by regular mail deposited in the mail no later than at least three days before the date of such meeting. Upon review of such appeal, the Town Board may adjust the amount, collection or use of the impact fee that applies to the appellant, upon just and reasonable cause shown.

- (7) Interpretation. The Town of Genesee exercises this authority pursuant to § 66.0617, Wis. Stats., and this Subsection **B** shall be interpreted in conjunction with said statute, including but not limited to the definitions set forth below, including any future revisions thereto:

**DEVELOPER**

A person that constructs or creates a land development.

**LAND DEVELOPMENT**

The construction or modification of improvements to real property that creates additional residential dwelling units within a municipality or that results in nonresidential uses that create a need for new, expanded or improved public facilities within a municipality.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article VIII. Required Improvements

### § 375-56. Survey monuments.

The owner shall install survey monuments placed in accordance with the requirements of the Wisconsin Statutes and as may be required by the Municipal Engineer.

### § 375-57. Grading.

- A. After the installation of temporary block corner monuments by the owner and establishment of street grades by the Municipal Engineer, the owner shall grade the full width of the right-of-way of all streets proposed to be dedicated in accordance with plans and standard specifications approved by the Municipal Engineer. The owner shall grade the roadbeds in the street rights-of-way to subgrade.
- B. Cut and filled lands shall be graded to a maximum slope of one on three or the soil's angle of repose, whichever is the lesser, and covered with permanent vegetation.

### § 375-58. Street and storm sewer construction.

The owner shall petition the municipality for the installation of storm sewer, road base, curb and gutter and road surfacing, pursuant to the provisions of § 66.0703, Wis. Stats., by special assessment. The petition shall include a waiver of public hearing as provided in § 66.0703(7)(b), Wis. Stats. The special assessments levied under this section shall be due and payable in one payment. No installment payments shall be allowed. The amount of said payment shall be included in the letter of credit for improvements required in this chapter.

### § 375-59. Rural street sections.

When permanent rural street sections have been approved by the Plan Commission and governing body for land divisions outside the municipality's limits, the owner shall finish grade all shoulders and road ditches, install all necessary culverts at intersections and, if required,

surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the Municipal Engineer and as set forth in this chapter.

## § 375-60. Sidewalks.

- A. The Plan Commission and/or governing body may require the owner to construct a concrete sidewalk on both sides of all arterial and collector streets and may require the construction of sidewalks on one or both sides of all other streets. The Plan Commission and/or governing body may also require the owner to construct a concrete sidewalk on one side of all frontage streets and on both sides of all other through and/or continuous streets within the subdivision. The Plan Commission and/or governing body may also require the owner to construct concrete sidewalks on one or both sides of all dead-end or cul-de-sac streets which are in excess of 600 feet in length or which serve two-family or multiple-family development. The construction of all sidewalks shall be in accordance with plans and standard specifications approved by the Municipal Engineer.
- B. In addition, wider than standard sidewalks may be required by the Plan Commission and/or governing body in the vicinity of schools, commercial areas, and other places of public assemblage, and the Plan Commission and/or governing body may require the construction of sidewalks in locations other than required under the preceding provisions of this chapter if such walks are necessary in its opinion for safe and adequate pedestrian circulation.

## § 375-61. Public sanitary sewerage.

When public sanitary sewerage facilities are available to the division or development, the owner shall construct sanitary sewerage facilities in such a manner as to make adequate sanitary sewerage service available to each lot within the subdivision. In addition:

- A. The Plan Commission and/or governing body may require the installation of sewer laterals to the street lot line.
- B. The size, type, and installation of all sanitary sewers and sanitary sewer laterals proposed to be constructed shall be in accordance with plans and standard specifications approved by the Municipal Engineer and the Master Sanitary Sewer Plan of the municipality.
- C. The owner shall assume the cost of installing all sanitary sewers, sewer laterals, and sewer appurtenances within the proposed division or development, except for the added cost of installing sewers greater than 10 inches in diameter which are necessary to serve tributary drainage areas lying outside the proposed division or development.
- D. Reserve capacity for sewage treatment dedication fee. The owner of all subdivisions, certified survey maps, and assessor's plats shall pay to the municipality a fee of \$1,000 for each residential, commercial or industrial unit legally established by said division or development as and for a reserve capacity assessment for the proportionate share of the total cost of the sewer facilities' total reserve capacity available for new uses. In the case of multifamily units the reserve capacity assessment will be based at the rate of 75% of the unit assessment established herein. The dedication fee for reserve capacity will increase by 8% per year commencing on January 1, 1979, and yearly thereafter. Said eight-percent yearly increase is to compensate the municipality for additional costs of handling administrative expenses and interest. Said increase of 8% will not be compounded but is to be recalculated every year on the original assessment. The reserve capacity dedication fee established herein shall be paid before final approval of the plat. Said reserve capacity assessment, when paid, shall be placed by the Municipal Treasurer in a nonlapsing account to be applied against the expenses of the municipality for the reserve capacity created.

## § 375-62. Stormwater drainage facilities.

The owner shall construct stormwater drainage facilities adequate to serve the division or development, which may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, open channels, water retention structures and settling basins. All such facilities shall be of adequate size and grade to hydraulically accommodate the maximum potential volumes of flow and shall be so designed as to prevent and control soil erosion and sedimentation and to present no hazards to life or property. In addition:

- A. Drainage facilities shall, if required, include water retention structures and settling basins so as to prevent erosion and sedimentation where such facilities discharge into streams or lakes. The design criteria, the size, type, grades and installation of all stormwater drains and sewers and other cross-section, invert and erosion control paving check dams, flumes or other energy-dissipating structures and seeding and/or sodding of open channels and unpaved road ditches proposed to be constructed shall be in accordance with the plans and standard specifications approved by the Municipal Engineer and the Master Stormwater Drainage Plan of the municipality. The design storm intervals shall be as set by separate resolution of the Town Board.
- B. The owner shall assume the cost of installing all storm sewers within the proposed division or development, except for the added cost of installing storm sewers greater than those which are necessary to serve tributary drainage areas lying outside the proposed division or development.

## § 375-63. Water supply facilities.

When public water supply and distribution facilities are available or when it is proposed to establish a private water supply and distribution system to serve two or more lots, the owner shall cause such water supply and distribution facilities to be installed in such a manner as to make adequate water service available to each lot. The owner shall make provision for adequate private water systems as required by the municipality in accordance with the standards of the Wisconsin Department of Safety and Professional Services. In addition:

- A. The Plan Commission and/or governing body may require the installation of water laterals to the street lot line.
- B. The size, type, and installation of all public water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the Municipal Engineer and the Master Water System Plan of the municipality.
- C. The owner shall assume the cost of installing all water mains, water laterals, and water system within the proposed division or development, except for the added cost of installing water mains greater than six inches in diameter in areas zoned single-family or two-family residential and greater than eight inches in diameter in areas zoned multiple-family residential, business or industrial.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. Reserve capacity for water distribution. A reserve capacity fee for water distribution shall be collected as required by the Town Board.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 375-64. Other utilities.

The owner shall cause appropriate utilities such as gas, electrical power, cable television, and telephone facilities to be installed in such a manner as to make adequate service available to

each lot. No such electrical, cable television, or telephone service shall be located on overhead poles unless approved by the Plan Commission and governing body. In addition, plans indicating the proposed location of all gas, electrical power and telephone distribution and transmission lines required to service the plat shall be approved by the Municipal Engineer.

## § 375-65. Streetlamps.

The Plan Commission and/or governing body shall require the owner to pay for the installation of streetlamps, if they are required, along all streets proposed to be dedicated of a design compatible with the neighborhood and type of development proposed. Such lamps shall be placed at each street intersection and at such interior block spacing as may be required by the Plan Commission and/or governing body.

## § 375-66. Street signs.

[Amended 3-13-2006 by Ord. No. 06-2]

The owner shall pay the cost of the acquisition and installation of street signs of a design as approved by the governing body and/or its designee at the intersections of all streets proposed to be dedicated and other necessary locations.

## § 375-67. Street trees.

In all urban subdivisions, the owner shall plant at least one tree of an approved species each 60 feet of frontage on all streets proposed to be dedicated. The tree shall be at least six feet in height and 1 1/2 inches in diameter at breast height (dbh). Tree planting shall be completed in accordance with plans and specifications approved by and at such time as directed by the Board. The placement and selection of street trees, however, should not hamper or interfere with solar access to natural light and air for nearby lots. Such tree planting may be deferred until after construction of the building on each parcel or lot.

## § 375-68. Sediment control.

The owner shall plant those grasses, trees, and vines, a species and size specified by the Plan Commission or governing body, necessary to prevent soil erosion and sedimentation. In addition:

- A. The Plan Commission or governing body may require the owner to provide or install certain protection and rehabilitation measures, such as fencing, sloping, seeding, riprap, revetments, jetties, clearing, dredging, snagging, drop structures, brush mats, willow poles, and grade stabilization structures.
- B. Tree cutting and shrubbery clearing shall not exceed 30% of the lot or tract and shall be conducted as to prevent erosion and sedimentation, preserve and improve scenic qualities, and, during foliage, substantially screen any development from stream or lake users.
- C. Paths and trails in wooded and wetland areas shall not exceed 10 feet in width unless otherwise approved by the Plan Commission or governing body and shall be so designed and constructed as to result in the least removal and disruption of trees and shrubs and the minimum impairment of natural beauty.
- D. Earthmoving, such as grading, topsoil removal, mineral extraction, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channel clearing, ditching, drain tile laying, dredging, and lagooning,

shall be so conducted as to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen, and topography (see §§ **375-72** and **375-73** of this chapter). No topsoil may be removed from the site without permission of the Plan Commission.

- E. Review of the conduct of such cutting, clearing, and moving may be requested of the County Soil and Water Conservation District Supervisors, the State District Fish and Game Managers, and the State District Forester by the Municipal Engineer or Plan Commission or governing body as it deems appropriate.

## Article IX. Construction

### § 375-69. Commencement of construction.

[Amended 4-9-2001 by Ord. No. 01-3]

No construction or installation of improvements shall commence in a proposed division or development until the preliminary plat or certified survey map has been approved and all pertinent conditions of said approval have been satisfied, a developer's agreement has been entered into between the developer and the Town to the satisfaction of the Town Attorney and the Town Engineer, and the Town Engineer has given written authorization to commence construction.

### § 375-70. Permits.

No building, zoning, or sanitary permits shall be issued for erection of a structure on any lot not of record until all the requirements of this chapter have been met unless otherwise provided for in the developer's agreement.

### § 375-71. Plans and specifications.

The following plans and accompanying construction specifications may be required by the Municipal Engineer before authorization of construction or installation of improvements:

- A. Grading plans for the entire division or development and such areas surrounding the division or development showing existing and proposed grades at no less than a two-foot interval contour.
- B. Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- C. Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities, when located within the existing or proposed sanitary sewer service area.
- D. Storm sewer plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
- E. Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities, when located within the existing or proposed water service area.<sup>[1]</sup>
- F. Erosion and sedimentation control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation and the time span that soil will be exposed. Plans to protect existing vegetation (fences, tree wells, etc.) shall be prepared, and such plans shall generally follow

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

the guidelines and standards set forth in any and all ordinances, rules, regulations, and publications adopted by separate resolution by the Town Board.

- G. Planting plans showing the locations, age, caliper, and species of any required grasses, vines, shrubs, and trees.
- H. Plans for curbs, sidewalks, gutters and street sewers if required by the Plan Commission and/or governing body.
- I. Additional special plans or information as required.

## § 375-72. Erosion control.

The owner shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected that erosion, siltation, sedimentation, and washing are prevented, in accordance with the plans and specifications approved by the Municipal Engineer. In addition:

- A. Sod shall be laid in strips at those intervals necessary to prevent erosion and at right angles to the direction of drainage.
- B. Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.
- C. Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.
- D. Sediment basins shall be installed and maintained at all drainageways to trap, remove, and prevent sediment and debris from being washed outside the area being developed.
- E. Construction practices shall follow the guidelines outlined in any and all ordinances, rules, regulations, and publications adopted by separate resolution by the Town Board.

## § 375-73. Existing flora.

The owner shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such flora are to be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by well islands or retaining walls whenever abutting grades are altered. The Plan Commission and/or governing body may require mapping, as it deems necessary, of the existing flora.

## § 375-74. Inspection.

The owner, prior to commencing any work within the division or development, shall make arrangements with the Municipal Engineer to provide for adequate inspection. The Municipal Engineer shall inspect and approve all completed work prior to approval of the final plat or release of the sureties.

## § 375-75. Installation of improvements.

All improvements in divisions or developments shall be installed by the owner according to the following procedure:



- A. The owner shall cause all construction plans, specifications and cost estimates to be prepared. The plans shall be prepared by a professional engineer registered in Wisconsin.
- B. The Municipal Engineer shall review or have reviewed the construction plans, specifications and cost estimates for conformance with the requirements of the municipality and shall approve, reject, or conditionally approve in writing the proposed construction plans, specifications and cost estimates for conformance with the requirements of the municipality.
- C. The owner shall supply the municipality with cash or an irrevocable letter of credit approved by the Municipal Attorney and the governing body in the amount of the estimated cost of improvements and other fees as approved by the Municipal Engineer. The Municipal Engineer may from time to time raise the amount of the estimated costs of said improvements. Within 30 days of written notice of said change, the owner shall increase the financial security by that amount or any other amount acceptable to the governing body. Reduction of the financial security for any purpose shall be made only after written approval of the Municipal Engineer and the governing body. As the required improvements are installed and accepted, the governing body may authorize reduction of the financial security in the amount deemed appropriate. No surety bonds will be accepted as financial security.
- D. The owner shall supply the municipality with a list of contractors from whom the owner proposes to solicit proposals for the installation of the improvements. The list shall include prequalification statements from each proposed contractor. The governing body shall have the right to review said information and discuss it with the owner.
- E. The owner shall enter into a contract with those contractors it may wish after submitting the information required in Subsection **D** above in a form satisfactory to the Municipal Engineer and after discussion of said information with the governing body.
- F. After completion of all public improvements and prior to final acceptance of said improvements, the owner shall make or cause to be made a map showing the actual location of all valves, manholes, stubs, catch basins, sanitary sewer mains, storm sewer mains, water mains, and such other facilities as the Municipal Engineer shall require. This map shall be prepared in black ink on reproducible drafting film 0.007 inch thick and shall bear the signature and seal of a professional engineer registered in Wisconsin. In addition to the above-described map, the owner shall provide the municipality with "valve cards" showing the locations of water main valves and hydrants and as-built working drawings of sewage lift stations, water pump house facilities and such other facilities as the Municipal Engineer may require. Manufacturers' guarantees on equipment shall be furnished where in force. The presentation of the map, other as-built drawings, operating and maintenance manuals, and manufacturers' guarantees shall be a condition of final acceptance of the improvements and release of the final payment.

## § 375-76. Street and storm sewer installation.

Streets and storm sewers may be installed by special assessment as provided in § **375-58** of this chapter.

## § 375-77. Final inspection and acceptance.

Prior to the final road inspection, the owner shall provide the Municipal Engineer with a written certification from the owner's engineer or surveyor to the effect that the improvements conform to all municipal specifications and all plans previously filed and approved. Final inspection of road improvements shall be made a minimum of seven days after the surface course has been applied. Final acceptance of the improvements will be made only between May 1 and December 15 of any year.

## Article X. Fees

### § 375-78. Payment of fees.

The owner shall pay the municipality all fees as hereinafter required and at the times specified.

### § 375-79. Preliminary review fee.

[Amended 2-11-2002 by Ord. No. 02-1]

The owner shall pay a fee in an amount established by separate resolution of the Town Board from time to time for each lot or parcel within the preliminary plat, replat, or certified survey map to the Municipal Clerk at the time of first application for approval of any preliminary plat, replat or certified survey map to assist in defraying the cost of review by the Plan Commission and governing body. A reapplication fee in an amount established by separate resolution of the Town Board from time to time shall be paid to the Municipal Clerk at the time of reapplication for approval of any preliminary plat, replat or certified survey map which has previously been reviewed.

### § 375-80. Plat review fee.

[Amended 2-11-2002 by Ord. No. 02-1]

The owner shall pay a fee in an amount established by separate resolution of the Town Board from time to time, which shall include a base fee amount plus a specific fee amount for each lot or parcel within the final plat, to the Clerk at the time of first application for final plat approval of said plat to assist in defraying the cost of review by the Plan Commission and application for final plat approval of said plat to assist in defraying the cost of review by the Plan Commission and governing body. A reapplication fee in an amount established by separate resolution of the Town Board from time to time shall be paid to the Municipal Clerk at the time of reapplication for approval of any final plat which has previously been reviewed.

### § 375-81. Public site fee.

If the plat or certified survey map does not contain lands to be dedicated as required in §§ **375-9** and **375-55**, the municipality shall require a fee for the acquisition and development of public sites to serve the future owners of the proposed land division and/or development. Said fee shall be paid to the Municipal Clerk at the time of the approval of the land division and/or development in the amount as outlined in § **375-55**. Public site fees shall be placed in a separate nonlapsing special fund by the Municipal Clerk to be used only for the acquisition and development of public sites.

### § 375-82. Engineering fee.

The owner shall pay a fee equal to the actual cost to the municipality for all engineering work incurred by the municipality in connection with a plat, replat, certified survey map or development, including but not limited to all costs incurred by the municipality for review of plans and documents, inspections, field surveys, etc., within 30 days of notice of the same, prior to being entitled to recording of a plat, replat, or certified survey map or acceptance of any improvement or final approval of a development, whichever is earliest.

### § 375-83. Administrative fee.

The owner shall pay a fee equal to the actual cost of any legal, planning, administrative or fiscal work which may be undertaken by the municipality in connection with the plat, replat, certified survey map or development. In the event any special meetings are called, either by the governing body or the Plan Commission, for the benefit of the plat, replat, certified survey map or development, the owner may be required to pay to the municipality all expenses for such a special meeting, including any extra salaries paid to municipal officials. All such fees shall be paid by the owner within 30 days of notice of the same.

## § 375-84. Streetlamps and street signs.

The owner shall pay the actual cost of acquiring and installing streetlamps and street signs pursuant to the policy set forth in §§ 375-65 and 375-66 of this chapter within 30 days of notice of the same.

## § 375-85. Drainage easement fees.

[Amended 2-11-2002 by Ord. No. 02-1]

The owner shall pay a drainage easement fee prior to the recording of a final plat or certified survey map in an amount established by separate resolution of the Town Board from time to time. Said resolution shall describe a fee amount per linear foot for easements up to 50 feet wide and a fee amount per square foot for easements over 50 feet wide and irregular-shaped areas.

## Article XI. Word Usage and Definitions

### § 375-86. Word usage.

Words used in the present tense include the future, the singular number includes the plural number, and the plural number includes the singular number. The word "person" includes associations, copartnerships, or corporations. The word "shall" is mandatory and not directory. The word "may" is permissive. All terms used which are defined in Ch. 236, Wis. Stats., shall have the same meaning as ascribed thereto in that chapter, and as that chapter may hereafter be amended, unless otherwise defined in this chapter or unless the context and subject matter clearly indicate otherwise.

### § 375-87. Definitions.

For the purpose of this chapter, the following definitions shall be used:

#### **ALLEY**

A special public way affording only secondary access to abutting properties.

#### **ARTERIAL STREET**

A street used or intended to be used primarily for fast or heavy through traffic. "Arterial street" shall include freeways and expressways as well as standard arterial streets, highways and parkways.

#### **ASSESSOR'S PLAT**

Plats developed under § 70.27, Wis. Stats.

#### **BLOCK**

A tract of land bounded by streets or a combination of streets, public parks, cemeteries, railroad rights-of-way, shorelines of navigable waters, and municipal boundaries.

### **BUILDING LINE**

A line parallel to a lot line and at a distance from the lot line to comply with the terms of this chapter and the applicable zoning ordinance. A building line may also be referred to as a setback line, street yard line, side yard line, a rear yard line, or an offset line.<sup>[1]</sup>

### **CERTIFIED SURVEY MAP**

Any division of land other than a subdivision, assessor's plat, condominium plat, or replat.

### **COLLECTOR STREET**

[Amended 10-15-1997 by Ord. No. 97-6]

- A. A street used or intended to be used to carry traffic from minor streets to the major system of arterial streets, including the principal entrance streets to residential development.
- B. Certain streets within the Town have been identified as collector streets. These streets are as shown on Exhibit A attached hereto, as adopted by the Town Board and all amendments thereto. The Town Board reserves the right to amend Exhibit A without the necessity of a public hearing.<sup>[2]</sup>

### **COMMUNITY**

A town, municipality, or a group of adjacent towns and/or municipalities having common social, economic or physical interests.

### **COMPREHENSIVE PLAN**

The extensively developed plan, also called a "master plan," adopted by the Plan Commission and certified pursuant to §§ 61.35 and 62.23, Wis. Stats., including detailed neighborhood plans, proposals for future land use, transportation, urban redevelopment and public facilities. Devices for the implementation of these plans, such as zoning, official map, land division, and building line ordinances and capital improvement programs, shall also be considered a part of the comprehensive plan.

### **CONDOMINIUM PLAT**

Any development proposal presented to the municipality designed under Ch. 703, Wis. Stats.

### **COUNTY**

Waukesha County, Wisconsin.<sup>[3]</sup>

### **CUL-DE-SAC**

Any street with one end closed either permanently or temporarily.

### **DEVELOPMENT (RURAL)**

Agricultural, residential, recreational and other open space development at such concentrations and densities not requiring traditional urban services and facilities. Such rural development may be expected to result in minimum disturbance of the land and land cover and, therefore, less impact on the natural environment. Rural development is deemed to occur when residential development is concentrated in densities not in excess of one dwelling unit per five acres.

### **DEVELOPMENT (URBAN)**

Residential, commercial, industrial, governmental and institutional development in sufficient concentrations or densities to require consideration, whether available or not, of a variety and level of traditional urban services and facilities, including but not limited to full-time, part-time or contracted municipal police and fire protection; additional public streets and

highways; neighborhood parks and playgrounds; sanitary sewer facilities, water supply facilities, and solid waste removal; storm sewers; continual street maintenance; curbs, gutters, and sidewalks; and streetlighting. Such development may be expected to alter or require the altering of land and land cover and have a detrimental impact on the groundwater and surface water. Urban development is deemed to occur when residential development is concentrated in densities in excess of one dwelling unit per five acres.

### **DRAINAGE EASEMENT**

Any area lying outside of a public street right-of-way which through design may require construction for the channeling, swaling, restricting or controlling of the movement, disbursement or collection of surface water.

### **FINAL PLAT**

A map of a subdivision which has been accurately surveyed, clearly and definitely showing the streets, alleys, blocks, lots and other divisions thereof, in such manner that the same can be clearly and distinctly identified.

### **FLOODLANDS**

Those lands, including the floodplains, floodways, and channels, subject to inundation by the one-hundred-year recurrence interval flood or, where such data is not available, the maximum flood of record.

### **FRONTAGE STREET**

A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

### **HIGH GROUNDWATER ELEVATION**

The highest elevation to which subsurface water rises. This may be evidenced by the actual presence of water during wet periods of the year or by soil mottling during drier periods. "Mottling" is a mixture or variation of soil colors. In soils with restricted internal drainage, gray, yellow, red, and brown colors are intermingled, giving a multicolored effect.

### **HIGH-WATER ELEVATION (SURFACE WATER)**

The average annual high-water level of a pond, stream, lake, flowage, or wetland referred to an established datum plane or, where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distinct mark by erosion, change in or destruction of vegetation or other easily recognized topographic, geologic, or vegetative characteristic.

### **IMPROVEMENT**

Any modification to the land which could ultimately result in streets or affects a drainageway, floodplain or wetlands or systems intended to be dedicated to the municipality.

### **LETTER OF CREDIT**

An irrevocable letter from a chartered federal or state lending institution addressed to the municipality, guaranteeing to the municipality payment of legal money if certain conditions required by the municipality are not met.

### **LOT**

A parcel of land of at least sufficient size to meet minimum zoning requirements for use, width, and area as set forth in the applicable zoning ordinance.<sup>[4]</sup>

### **LOT, BUTT**

A lot with the rear lot line abutting the side lot line of another lot platted in the same block and not separated by an alley or other space.

### **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° or less, measured on the lot side.

### **LOT, DOUBLE FRONTAGE**

A lot, other than a corner lot, with frontage on more than one street. Double frontage lots shall normally be deemed to have two front yards and two side yards and no rear yard. Double frontage lots shall not generally be permitted unless the lot abuts an arterial highway. Double frontage lots abutting arterial highways are often used to restrict direct access to an arterial highway by means of a planting buffer or some other acceptable access buffering measure.

### **LOT WIDTH, MINIMUM AVERAGE**

Horizontal distance measured between side lot lines, perpendicular to the lot depth and at a point in relation to the depth where the product of the two would produce the minimum required lot area.

### **MINOR LAND DIVISION**

Any division of land not defined as a subdivision, condominium plat, assessor's plat or replat.

### **MINOR STREET**

A street used or intended to be used primarily for access to abutting properties.

### **MUNICIPALITY**

The Town of Genesee, Waukesha County, Wisconsin.<sup>[5]</sup>

### **NATIONAL MAP ACCURACY STANDARDS**

Standards governing the horizontal and vertical accuracy of topographic maps and specifying the means for testing and determining such accuracy, endorsed by all federal agencies having surveying and mapping functions and responsibilities. These standards have been fully reproduced in Appendix D of SEWRPC Technical Report No. 7, Horizontal and Vertical Survey Control in Southeastern Wisconsin, and any additions, corrections, or modifications thereto.

### **NATURAL DRAINAGE AREA**

Any area lying outside of the public street right-of-way which, in its natural, undisturbed state, channels, swales, restricts or controls the movement, disbursement or collection of surface water. A natural drainage area is essentially an area which utilizes the natural contours and once established will, if allowed to remain undisturbed, require little or no upkeep.<sup>[6]</sup>

### **NAVIGABLE STREAM**

Any watercourse so delineated by the Department of Natural Resources or meeting the standards for the same as set by the Department of Natural Resources.

### **OFFICIAL MAP**

The map indicating the location and size of existing and proposed streets, highways, pathways, parks and playgrounds as adopted and amended by the municipality.

### **OUTLOT**

A parcel of land, other than a lot or block, so designated on the plat, but not of standard lot size, which can be either redivided into lots or combined with one or more other adjacent outlots or lots in adjacent subdivisions or minor land divisions in the future for the purpose of creating buildable lots. No outlot shall be permitted unless the ultimate disposition is delineated in advance, documented in the records and approved by the municipality.

### **OWNER**

The record title owner or owners of the subject property or properties or his or her authorized designee, the developer of the property, the subdivider of the property, or anyone having control over the property.

**PLAT**

A map of a subdivision or condominium development.

**PRELIMINARY PLAT**

A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.

**PUBLIC WAY**

Any public road, street, highway, walkway, drainageway, or part thereof.

**RECORDING A PLAT**

The filing of the original of a final plat with the Register of Deeds for recordation.

**REGISTER OF DEEDS**

The Register of Deeds for Waukesha County.

**REMNANT**

Any land contiguous to but not included in the proposed division or development under the control of the owner.

**REPLAT**

The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat, certified survey map, or part thereof. The division of a large block or redivision of a lot or outlot within a recorded subdivision plat or certified survey map without changing the exterior boundaries of said block, lot, or outlot is not a replat.

**SOIL MAPPING UNIT**

Soil type, slope, and erosion factor boundaries as shown on the operational soil survey maps prepared by the U.S. Natural Resources Conservation Service.<sup>[7]</sup>

**SPECIAL EXCEPTION**

A use that would not be appropriate generally or without restriction throughout a district but which if controlled as to number, area, location or relation to the neighborhood would protect the public interest.

[Added 3-13-2006 by Ord. No. 06-2<sup>[8]</sup>

**SPITE STRIP**

Any land which would prohibit or interfere with the orderly extension of streets, roads, pedestrianways, sanitary sewer, water mains, stormwater facilities or other utilities or other improvements between two abutting properties.

**STREET**

A improvement or area which serves as vehicular and pedestrian access to abutting lands or to other streets other than an alley.

**SUBDIVIDER**

Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision, condominium plat or replat or proposing to develop land.

**SUBDIVISION**

A division of a lot, parcel or tract of land by the owner thereof or the owner's agent or a subdivider for the purpose of sale or of building development where the act of division

creates:

[Amended 5-11-1998 by Ord. No. 98-2; 4-9-2001 by Ord. No. 01-3]

- A. Five or more parcels or building sites inclusive of the original remnant parcel of 1 1/2 acres each or less in area.
- B. Five or more parcels or building sites inclusive of the original remnant parcel of 1 1/2 acres each or less in area by successive divisions of any part of the original property by any person within a period of five years.
- C. Six or more parcels or building sites for residential development inclusive of the original remnant parcel of any size by successive divisions of any part of the original property by any person within a period of five years.

## WETLANDS

An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

## WISCONSIN ADMINISTRATIVE CODE

The rules of administrative agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system as directed by § 35.93 and Ch. 227, Wis. Stats., including subsequent amendments to those rules.

- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [2] *Editor's Note: Exhibit A is **included as an attachment to this chapter**.*
- [3] *Editor's Note: The definition of "County Park and Planning Agency" which immediately followed this definition was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [4] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [5] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [6] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [7] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [8] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 387. Lighting, Exterior

[HISTORY: Adopted by the Town Board of the Town of Genesee 2-8-1999 by Ord. No. 99-1. Amendments noted where applicable.]

### § 387-1. Restrictions.

Exterior lighting in any business, public, institutional, quarrying, or industrial district, and on any property in the Town of Genesee that is engaged in any business, public, institutional, quarrying or industrial use, shall be designed, directed, and shielded as necessary so that no direct light rays from the light source shall be visible, and no indirect light rays shall produce an intensity of light exceeding one footcandle, at or beyond the property line of the property from which the light originates.

### § 387-2. Violations and penalties.

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

- [1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 400. Mining, Nonmetallic



[HISTORY: Adopted by the Town Board of the Town of Genesee 6-4-2001 by Ord. No. 01-4. Amendments noted where applicable.]

## Article I. General Provisions

### § 400-1. Title.

This chapter shall be known as the "Nonmetallic Mining Reclamation Ordinance for the Town of Genesee."

### § 400-2. Purpose.

The purpose of this chapter is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the Town of Genesee after the effective date of this chapter, in compliance with Ch. NR 135, Wis. Adm. Code, and Subchapter I of Ch. 295, Wis. Stats.

### § 400-3. Statutory authority.

This chapter is adopted under authority of § 295.14(1), Wis. Stats., § NR 135.32, Wis. Adm. Code, and § 60.22, Wis. Stats.

### § 400-4. Effect on other regulations and permits.

The purpose of this chapter is to adopt and implement the uniform statewide standards for nonmetallic mining required by § 295.12(1)(a), Wis. Stats., and contained in Ch. NR 135, Wis. Adm. Code. It is not intended that this chapter repeal, abrogate, annual, impair or interfere with any existing rules, regulations, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.

### § 400-5. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by Subchapter I of Ch. 295, Wis. Stats., and Ch. NR 135, Wis. Adm. Code. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Ch. NR 135, Wis. Adm. Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Ch. NR 135, Wis. Adm. Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 400-6. Applicability.

- A. Overall applicability. The requirements of this chapter apply to all operators of nonmetallic mining sites within the Town of Genesee operating on or commencing to operate after August 1, 2001, and as provided in § NR 135.02(1) and (2), Wis. Adm. Code, except where exempted in Subsection **B** of this section.

- B. Exemptions. This chapter does not apply to the exempt activities listed in § NR 135.02(3), Wis. Adm. Code.

## § 400-7. Administration.

The provisions of this chapter shall be administered by the Town of Genesee Town Board or its designee.

## § 400-8. Definitions.

All definitions for the purposes of this chapter are those contained in § NR 135.03, Wis. Adm. Code.

## Article II. Standards

### § 400-9. Reclamation standards.

All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained in Subchapter II of Ch. NR 135, Wis. Adm. Code.

## Article III. Permitting

### § 400-10. Reclamation permit.

- A. Required submittal. The operators of all nonmetallic mining sites that operate on or after August 1, 2001, shall apply for a reclamation permit from the Town of Genesee Town Board or its designee. All reclamation permit applications under this section shall be accompanied by the information required by § NR 135.18, Wis. Adm. Code.

[Amended 12-10-2007 by Ord. No. 07-5<sup>[1]</sup>]

[1] *Editor's Note: This ordinance also repealed original § 11.20, Existing mines, which immediately followed this subsection.*

- B. New mines. The operator of any nonmetallic mine site that engages in or plans to engage in nonmetallic mining that will begin operations after August 1, 2001, shall submit an application that meets the requirements of § NR 135.18(2), Wis. Adm. Code, and the submittals required under Subsection **A** of this section to the Town of Genesee Town Board or its designee prior to beginning operations. This application shall be accompanied by a plan review fee as specified in § **400-24**.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 400-11. Reclamation plan.

- A. Reclamation plan requirements. All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a reclamation plan that meets the requirements of § NR 135.19, Wis. Adm. Code.<sup>[1]</sup>

[1] *Editor's Note: Original § 12.20, Existing mines, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. New mines. The operator of any nonmetallic mining site that applies for a permit in conformance with § **400-10B** shall submit the reclamation plan required by Subsection **A**

with its application for a reclamation permit.<sup>[2]</sup>

[2] *Editor's Note: Original § 12.40, Existing plans and approvals, which immediately followed this subsection, was repealed 12-10-2007 by Ord. No. 07-5.*

- C. Approval of reclamation plan. The Town of Genesee shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing as part of permit issuance pursuant to § **400-14B** for new mines. Conditional approvals of reclamation plans shall be made according to § **400-14E** and denials of reclamation plans made according to § **400-15**. The operator shall keep a copy of the reclamation plan required by this section, once approved by the Town of Genesee under this chapter, at the mine site or, if not practicable, at the operator's nearest office or place of business.<sup>[3]</sup>

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 400-12. Financial assurance.

- A. Financial assurance requirements. All operators of nonmetallic mining sites in the Town of Genesee shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirement of § NR 135.40, Wis. Adm. Code.<sup>[1]</sup>

[1] *Editor's Note: Original § 13.20, Existing mines, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. New mines. The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with § **400-10B** shall submit the proof of financial assurance required by Subsection **A** as specified in the reclamation permit issued to it under this chapter.
- C. Public nonmetallic mining. The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.

## § 400-13. Public notice and hearing.

- A. New mines. The Town of Genesee Town Board shall provide public notice and the opportunity for a public information hearing as set forth in § NR 135.20(1) and (2), Wis. Adm. Code, for any nonmetallic mining site for which a complete reclamation permit application that satisfies § **400-10B** is received.<sup>[1]</sup>

[1] *Editor's Note: Original § 14.20, Existing mines, which immediately followed this subsection, was repealed 12-10-2007 by Ord. No. 07-5.*

- B. Local transportation-related mines. No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to § **400-14C**.

## § 400-14. Issuance of permit.

- A. Permit required. Every operator of a nonmetallic mining site in the Town of Genesee which engages in or plans to engage in nonmetallic mining after August 1, 2001, shall obtain a reclamation permit issued under this section, except nonmetallic mining sites exempt from this chapter as provided in § **400-6B**. No person may engage in nonmetallic mining or nonmetallic mining reclamation after August 1, 2001, without a reclamation permit issued pursuant to this chapter.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Original § 15.20, Automatic permit for existing mines, and § 15.30, Evaluation of follow-up*

*submittals for existing mines, which immediately followed this subsection, were repealed 12-10-2007 by Ord. No. 07-5.*

- B. Permit issuance for new mines. Applications for reclamation permits for nonmetallic mining sites that satisfy § **400-10B** shall be issued a reclamation permit or otherwise acted on as provided in § NR 135.21(1), Wis. Adm. Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms to § **400-11B** and provision by the applicant of financial assurance that conforms to § **400-12B** payable to the Town of Genesee prior to beginning mining.

[Amended 12-10-2007 by Ord. No. 07-5<sup>[2]</sup>]

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- C. Automatic permit for local transportation-related mines. The Town of Genesee Board or its designee shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally administered transportation project that meets the criteria in § NR 135.23(1)(a), Wis. Adm. Code. This automatic permit shall be issued according to the provisions of § NR 135.23(1)(b) through (j), Wis. Adm. Code.
- D. Expedited review. Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in § **400-23B**. The expedited review shall be carried out according to the provisions of § NR 135.23(2), Wis. Adm. Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to § **400-13**.
- E. Permit conditions. Permits issued under this section may include conditions as provided in § NR 135.21(2), Wis. Adm. Code. One required condition shall be that new mines shall obtain financial assurance prior to beginning mining pursuant to § NR 135.40, Wis. Adm. Code.
- [Amended 12-10-2007 by Ord. No. 07-5]

## § 400-15. Permit denial.

An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in § NR 135.22, Wis. Adm. Code, exist.

## § 400-16. Alternative requirements.

- A. Scope of alternative requirements approvable. An operator of a nonmetallic mining site may request an alternative requirement to any reclamation standard established in § **400-9**. Such a request may be made only on the basis of the criteria set forth in § NR 135.26(1), Wis. Adm. Code.
- B. Procedures. The operator of a nonmetallic mining site requesting an alternate requirement in Subsection **A** shall demonstrate all the criteria in § NR 135.26(1), Wis. Adm. Code. This shall be submitted in writing to the Town of Genesee, Town Board, P.O. Box 242, Genesee Depot, WI 53127.
- C. Transmittal of decision on request for alternate requirements. The decision on a request for alternative requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. Notice to Wisconsin Department of Natural Resources. The Town of Genesee Town Board or its designee shall provide notice to the Wisconsin Department of Natural Resources as provided in § NR 135.26(3)(a), Wis. Adm. Code.

## § 400-17. Permit duration.

A nonmetallic mining reclamation permit issued under this chapter shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to § **400-21**, or as limited under § NR 135.27, Wis. Adm. Code, where the mine operator is not the landowner.

## § 400-18. Permit transfer.

A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the conditions in § NR 135.28, Wis. Adm. Code.

## § 400-19. Review of permit decision.

Any permitting decision or action made by the Town of Genesee Town Board or its designee under this chapter may be reviewed as set forth in § NR 135.30, Wis. Adm. Code.

## Article IV. Administration

### § 400-20. Permit modification.

- A. By the Town of Genesee. A nonmetallic mining reclamation permit issued under this chapter may be modified by the Town of Genesee Board or its designee if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this chapter. Such modification shall be by an order conforming to the procedures in § **400-29** and as provided in § NR 135.24(1), Wis. Adm. Code.
- B. At the operator's option. If the operator of any nonmetallic mine that holds a reclamation permit issued under this chapter desires to modify such permit or reclamation plan approved under this chapter, it may request such modification by submitting a written application for such modification to the Town of Genesee Town Board or its designee. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.
- C. Required by the operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this chapter shall request a modification of such permit if required under the circumstances set out in § NR 135.27, Wis. Adm. Code. Such application for permit modification shall be acted on using the standards and procedures of this chapter.
- D. Review. All actions on permit modifications requested or initiated under this section are subject to review under § **400-19**.

### § 400-21. Permit suspension or revocation.

- A. Grounds. The Town of Genesee Town Board or its designee may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this chapter if it finds any of the grounds listed in § NR 135.25(1), Wis. Adm. Code.
- B. Procedures. If the Town of Genesee Town Board or its designee finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in Subsection **A**, it may issue a special order suspending or revoking such permit as set forth in § **400-29B**.

- C. Consequences. The consequences of a reclamation permit suspension or revocation order under Subsection **B** shall be as set forth in § NR 135.25(2) and (3), Wis. Adm. Code.

## § 400-22. Annual operator reporting.

- A. Contents and deadline. Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of § NR 135.36, Wis. Adm. Code. These reports shall be for reclamation during a calendar year and submitted in writing within 60 days of the end of each calendar year to the Town of Genesee Town Board or its designee. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under § **400-26C**.
- B. Inspection in lieu of report. The Town of Genesee or its designee may, at its discretion, obtain the information required in Subsection **A** by written documentation of an inspection it completes during a calendar year, as set forth in § NR 135.36(4), Wis. Adm. Code.
- C. Retention of annual reports. Annual reports submitted under this section or inspection records that replace them shall be retained by the Town of Genesee Town Board or its designee for at least 10 years after the calendar year to which they apply. These records, or accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Ch. NR 135, Wis. Adm. Code.

## § 400-23. Plan review fees.

- A. Amount and applicability. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under § **400-10B** shall submit a nonrefundable plan review fee set by the Town Board. No plan review fee may be assessed under this section for any local transportation-related mine issued an automatic permit under § **400-14C**. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to § **400-20**.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. Expedited plan review fee. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under § **400-10B** may obtain expedited reclamation plan review by paying a fee set by the Town Board. Such fee shall be in addition to that required in Subsection **A**.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Relation to annual fee. Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under § **400-24**.

## § 400-24. Annual fees.

- A. Areas subject to fees; procedures and deadlines. Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall submit fees as required under this chapter to the Town of Genesee Town Board. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under Subsection **B** and a share for the Town of Genesee under Subsection **C** that equals as closely as possible the costs of examination and approval on nonmetallic mining reclamation plans and the inspection of nonmetallic mining reclamation sites. These fees shall be calculated based on amount of unreclaimed acres of each site as defined in § NR 135.39(1), Wis. Adm. Code, and according to its provisions. Such fees apply to a calendar year or any part

of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under § **400-26**. Fees shall be paid no later than December 31 before the year for which they apply.

- B. Wisconsin Department of Natural Resources share of fee. Fees paid under this section shall include a share for the Wisconsin Department of Natural Resources equal to the amount specified in § NR 135.39(3), Wis. Adm. Code. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be set by the Town Board.<sup>[1]</sup>  
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Town of Genesee's share of fee. Fees paid under this section shall also include an annual fee due to the Town of Genesee which shall be set by the Town Board, to be established on an unreclaimed acre basis and equal as closely as possible the county or municipal cost of administering the reclamation program.<sup>[2]</sup>  
 [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. Reduced fee for inactive mines. Any site on which nonmetallic mining activity has not taken place in a calendar year shall be assessed a fee for the following calendar year set by the Town Board.<sup>[3]</sup>  
 [3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. Documentation of the Town of Genesee's share of fee. If the annual fee in Subsection **C** is greater than that established in § NR 135.39(4)(c), Wis. Adm. Code, the Town of Genesee shall document in writing its estimated program costs and the need for its annual fees established in Subsection **C** on or before June 1, 2001. This documentation shall be available for public inspection.

## § 400-25. Regulatory reporting and documentation.

- A. Reporting. The Town of Genesee Town Board or its designee shall send an annual report to the Wisconsin Department of Natural Resources including the information required by § NR 135.37, Wis. Adm. Code.
- B. Documentation. The Town of Genesee Town Board or its designee shall, to the best of its ability, maintain the information set forth in § 135.47(3), Wis. Adm. Code, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of the Town of Genesee's reclamation program pursuant to § NR 135.47, Wis. Adm. Code.

## § 400-26. Completed reclamation; reporting, certification and effect.

- A. Reporting. The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this chapter and Ch. NR 135, Wis. Adm. Code.
- B. Reporting of interim reclamation. The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this chapter and Ch. NR 135, Wis. Adm. Code. Reporting of interim reclamation shall be done according to the procedures in Subsection **A**.
- C. Certification of completed reclamation. The Town of Genesee Town Board or its designee shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this section within 60 days of receipt and make a determination in writing in accordance with § NR 135.40(7)(c), Wis. Adm. Code. If it is determined that interim or final reclamation is complete, including revegetation as specified

in a plan that conforms to § **400-11**, the Town of Genesee Town Board or its designee shall issue the mine operator a written certification of completion.

D. Effect of completed reclamation.

(1) If reclamation is certified by the Town of Genesee or its designee as completed under Subsection **C** for part or all of a nonmetallic mining site, then:

(a) No fee shall be assessed under § **400-24** for the area so certified.

(b) The financial assurance required by § **400-12** shall be released.

(2) For sites which are reported as interim reclaimed under Subsection **B** and so certified under Subsection **C**, financial assurance for reclaiming the certified area shall be reduced.

E. Effect of inaction following report of completed reclamations. If no written response as required by Subsection **C** for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to the Town of Genesee for it under § **400-24** shall be refunded.

## § 400-27. Permit termination.

When all final reclamation required by a reclamation plan conforming to § **400-11** and required by this chapter is certified as complete pursuant to § **400-26**, the Town of Genesee Town Board or its designee shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

## Article V. Enforcement

### § 400-28. Right of entry and inspection.

For the purpose of ascertaining compliance with the provisions of Subchapter I of Ch. 295, Wis. Stats., or this chapter, any authorized officer, agent, employee or representative of the Town of Genesee may inspect any nonmetallic mining site subject to this chapter as provided in § 295.17(1), Wis. Stats., and § NR 135.42, Wis. Adm. Code.

### § 400-29. Enforcement; orders and citations.

A. Enforcement orders. The Town of Genesee Town Board or its designee may issue orders as set forth in § 295.19(1)(a), Wis. Stats., to enforce Subchapter I of Ch. 295, Wis. Stats., Ch. NR 135, Wis. Adm. Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by § **400-11** and a permit issued under this chapter. A violation of this chapter, an order or permit issued pursuant to this chapter or a reclamation plan required by § **400-11** and a permit issued under this chapter shall be considered a violation of Subchapter I of Ch. 295, Wis. Stats., and Ch. NR 135, Wis. Adm. Code.

B. Special orders. The Town of Genesee Town Board or its designee may issue a special order as set forth in § 295.19(1)(b) and (c), Wis. Stats., suspending or revoking a nonmetallic mining reclamation permit pursuant to § **400-21** or directing an operator to immediately cease an activity regulated under Subchapter I of Ch. 295, Wis. Stats., Ch. NR 135, Wis. Adm. Code, or this chapter until the necessary plan approval is obtained.

C. Review of orders. An order issued under Subsection **A** or **B** may be reviewed as provided in § NR 135.43(2), Wis. Adm. Code.



- D. Citations. The Town of Genesee Town Board or its designee may issue a citation under § 66.0113, Wis. Stats., to collect forfeitures or require any action needed to enforce Subchapter I of Ch. 295, Wis. Stats., Ch. NR 135, Wis. Adm. Code, this chapter and Chapter **37**, Citations, of this Code, a permit issued pursuant to this chapter or a reclamation plan required by § **400-11** and a permit issued under this chapter. This issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.
- E. Enforcement. The Town of Genesee Town Board or its designee may submit any order issued under this section to the District Attorney, the Corporation Counsel, the Municipal Attorney or the Attorney General for enforcement as provided in § 295.19(1)(d), Wis. Stats.

## § 400-30. Violations and penalties.

In addition to, and not to the exclusion or prejudice of, the specific penalties provided in this chapter, each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter **1**, General Provisions, Article **I**, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 428. Parks and Recreation

[HISTORY: Adopted by the Town Board of the Town of Genesee 10-10-2011 by Ord. No. 11-3. Amendments noted where applicable.]

### GENERAL REFERENCES

Park Board — See Ch. **136**.

Firearms and hunting — See Ch. **326**.

Fireworks — See Ch. **334**.

Intoxicating liquor and fermented malt beverages — See Ch. **356**.

Roller skates, skateboards and play vehicles — See Ch. **457**.

## § 428-1. Park rules and regulations.

The Town parks of the Town of Genesee, Waukesha County, Wisconsin, shall have the following rules and regulations governing the use of said parks by any person or organization and these rules and regulations are hereby adopted as the rules and regulations governing the use of the parks:

- A. Rules and regulations regarding private use of the Town parks.
- (1) General.
    - (a) Private use is available only for nonprofit organizations and individuals.
    - (b) Applications for use shall be made in writing through a Park Reservation Form available at the Town Hall. Use of recreation facilities and/or buildings for special occasions or events will not be permitted unless the application is approved by the Town Clerk. In the event the Town Clerk has any questions or concerns regarding approval of the Park Reservation Form, the Town Clerk may refer the matter to the Park Board which shall then have the authority to determine whether the Park Reservation Form will be approved. No Park Reservation Form which requests the use of the soccer fields and/or ball diamonds shall be approved until it is first approved by the Recreation Director.

- (c) The Park Board reserves the right to govern the use of the buildings and facilities within the parks and may accept/reject any request or cancel any function at any time with or without prior notice. In the event of rejection or cancellation, the Park Board shall notify the Town Chairman within 24 hours.
- (d) Applications for use will be on a first come, first served basis.
- (e) Certificates of insurance may be required at the discretion of the Town Clerk or recommendation of the Park Board, reflecting the coverages and amounts as may be required by the Town Clerk or Park Board.
- (f) The responsible person signing the application does, by so doing, agree to be bound by all of the following obligations, personally and on behalf the organization for which the reservation is made (if any), and if on behalf of an organization, the responsible person's and organization's obligations shall be joint and several: The responsible person and the organization for which the reservation is made (if any) shall indemnify and save harmless and agree to tender of defense and to defend and pay any and all legal, accounting, consulting, engineering and other expenses relating to the defense of any claim asserted or imposed upon the Town of Genesee, its officers, agents, employees and independent contractors growing out of this use of the Town park and will be financially responsible for any and all damages to park facilities that arise from this use of the Town park.
- (g) Private users must complete an application form with the Town and abide by all of the terms and conditions thereof. Among other requirements, the private user shall agree to indemnify the Town, and the Town Board may require that insurance be provided to protect the Town.
- (h) Town facilities and grounds available for private use are limited to the Town parks, park shelters and/or grounds within the park that must be clearly described in the application.
- (i) Town functions will take priority. Private use of the facilities and/or grounds shall not be to the exclusion of Town uses. Town officials and employees may enter the premises at any time, even during the private use, for any purpose.
- (j) Reservations for private use of the Town facilities and/or grounds shall be made with the Town Clerk by executing the approved application form and paying the fee and security deposit (if required) in advance.
- (k) The amount of the reservation fee and security deposit shall be set from time to time by separate resolution of the Town Board. In such resolution, the Town Board may establish different fee and deposit amounts for different portions of the facilities and/or grounds requested and for the following classes of private users: individuals and nonprofit organizations. The security deposit will be held to cover damage and improper care and necessary cleaning, if any. Any portion of the deposit that remains after all of the Town's costs to fully correct any such damage and cleaning are deducted shall be returned to the user as authorized by the Town Department of Public Works Superintendent. The user shall reimburse the Town for any costs of repair or cleaning that exceed the amount of the deposit within 30 days of being invoiced by the Town.
- (l) In the event the reservation is canceled prior to the event (whether by being withdrawn or for lack of Town Board approval), the security deposit (if applicable) shall be refunded. The reservation fee will not be refunded, however, unless the private user withdraws the request for private use prior to the request coming before the Town Board.
- (m) The Town shall not be responsible for anything left, lost, or stolen on the premises.

- (n) Private use of the Town facilities is subject to all of the rules, regulations, resolutions and ordinances of the Town of Genesee and upon strict compliance with the terms of the Town.
  - (o) The private user shall reimburse the Town of Genesee for any costs the Town of Genesee incurs related to the private use activity, including but not limited to the costs that the Town of Genesee may incur in providing police protection or security in excess of the personnel ordinarily on duty during the time of use and the cost of cleaning up or repairing the park facilities and/or grounds following the private use activity.
- (2) Supervision.
- (a) The applicant and all named persons responsible for supervision must be present from the time the event begins and while the event is in progress and must wait until all users of the facilities have vacated the premises. If the application includes the use of a building, the applicant and all named persons responsible for supervision must be present from the time the building is opened and remain until they have closed and locked the building according to the instructions of park personnel.
  - (b) The applicant and the individuals supervising the function shall be responsible for the conduct and control of both patrons and participants of each function.
  - (c) The applicant and individuals supervising are responsible for seeing that no equipment or other portions of the facilities are used except those specifically stated in the application.
  - (d) The applicant and the persons responsible for supervising shall see that the facility is left in the same condition as when the organization entered the building or facility.
  - (e) No vehicles are allowed beyond the designated parking areas except for delivery purposes, and they must be returned to the designated parking areas as soon as delivery is completed. The applicant and persons responsible for supervision shall see that no unauthorized vehicles are beyond the main parking lot.
- (3) Responsibilities.
- (a) It shall be the responsibility of the organization jointly and severally with the responsible person signing the application to pay for all damages that are a result of the improper use or supervision of the equipment, buildings, or grounds. Any group failing to report damage and pay for it may be denied subsequent use of the facilities, in addition to such other remedies as may apply.
  - (b) The organization using the facilities along with the responsible person signing the application assume all responsibilities for injuries that may occur to persons or participants.
  - (c) It shall be the responsibility of the applicant and the persons responsible to vacate the premises, after cleanup, within the time scheduled.
- (4) Rules and regulations.
- (a) Alcohol beverages. No alcohol beverages shall be consumed, sold, given or delivered in the building or on the grounds rented without the applicant, on behalf of the organization, having first obtained all necessary approvals and/or alcohol beverage licenses when required. The applicant and responsible persons shall assure that minors are not served alcohol beverages.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

(b) Shelter use regulations.

- [1] Decorating will be permitted provided it does not damage park structures and must be removed at the conclusion of the event.
- [2] In consideration of the neighbors, persons using the buildings should refrain from loud talk, boisterous conduct, or loud music when using the park. After proper warning, should conduct of the group continue out of control, individuals or the entire group may be required to vacate the park prior to the scheduled conclusion of the event without refund of any portion of the fees paid or owing.
- [3] The park must be vacated in accordance with hours of operation.

(c) Parks and baseball diamonds regulations.

- [1] An approved Park Reservation Form gives the group or organization permission to use certain reserved areas but it does not grant exclusive use of the park.
- [2] The erection of tents or other temporary structures is prohibited, unless specifically permitted by the Park Board.

(d) Vending.

- [1] Vendors are permitted to conduct sales within the Town park only if approved and conducted in compliance with the requirements and limitations of this subsection. To the extent that this subsection allows sales within the Town park that are prohibited by Subsections **A(1)** and **B(1)(h)**, this subsection shall control.
- [2] All vending shall be under strict control of the Park Board.
- [3] Concessionaires must comply with all state and county statutes for restaurant sales.
- [4] Advertising is prohibited as described in Section B(1)(i) and (j); however, upon application to and approval of the Park Board, advertising may be allowed on the concessionaire's napkins or small articles for sale. In addition, upon application to and approval of the Park Board, signage is permissible during vending activity, provided that the signage shall not exceed 12 square feet in size and must be removed when the concessionaire leaves the park.
- [5] The number of concessionaires will be determined by the Park Board. The location in the park, size/type of operation and concession products will be controlled and subject to the approval of the Park Board. Vending shall not interfere with any sales conducted by approved tournaments, local nonprofit organizations or approved events of the Park Board.
- [6] Vending is limited to the park hours of operation.
- [7] Concessionaires shall clean all debris and keep a neat and sanitary vending area during and upon completion of all operations.
- [8] The fee for conducting concessions within the Town of Genesee Town park is as follows; payment shall be made to the Town Clerk no later than November 1 of the year in which vending activity occurs:
  - [a] Organizations that exist within the Town of Genesee and pay taxes within the Town of Genesee shall pay to the Town 5% of gross revenues less Wisconsin sales tax on all sales derived from the operations granted.

[b] All other concessionaires (non-Town of Genesee taxpaying operations) shall pay to the Town Clerk 12% of gross revenues less Wisconsin sales tax on all sales derived from operations granted.

[9] The concessionaire agrees to maintain a bookkeeping system supported by invoices where necessary to accurately reflect gross receipts from the operation of concessions granted by the Park Board which shall be presented to the Town by November 15 of each year and may be audited by Town officials.

[10] The Park Board may furnish utilities where applicable but will not be held responsible for adding utilities for vendor sales. An alternate energy source can be used with Park Board approval.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[11] In addition to, and not to the exclusion or prejudice of, any provisions of these rules or documents incorporated herein by reference, the owner shall indemnify and save harmless and agrees to accept tender of defense and to defend and pay any and all legal, accounting, consulting, engineering and other expenses relating to the defense of any claim asserted or imposed upon the Town, its officers, agents, employees and independent contractors growing out of any vending activities conducted pursuant to this chapter by any party or parties. Prior to commencement of any vending activities, the concessionaire must provide to the Town Clerk a certificate of insurance demonstrating liability coverage of at least \$1,000,000 with the Town of Genesee named as an additional insured party on the policy.

[12] A concessionaire's ability to vend can be revoked at any time at the discretion of the Park Board for rules violations or upon complaint.

[13] Any approval granted by the Park Board shall be for one calendar year only, or less, if the dates of approval are limited by the Park Board. Separate approval is required for each calendar year. Applications for concessions approvals may be submitted no earlier than November preceding the calendar year requested and will be considered on a first come, first served basis.

B. General regulations for all users of the Town parks.

(1) Individual conduct.

- (a) No boisterous or disorderly conduct on premises.
- (b) No willful disfigurement of buildings or equipment.
- (c) All persons will use the rest room designated for that person's sex.
- (d) No glass bottles or containers are permitted in any area of the park.
- (e) No littering in any form.
- (f) No picnicking or meals are permitted in areas other than those designated.
- (g) No dogs or domestic animals are allowed in the park at any time.
- (h) No hawking, merchandising or selling of any articles without prior approval of the Town Clerk/Park Board.
- (i) No advertising of any nature will be permitted in the park except as allowed in Subsection **A(4)(d)[4]**.

- (j) No placing or posting of signs, placards or advertisements whatsoever, except official Town/park signs.
  - (k) No golfing.
  - (l) No hunting.
  - (m) No starting of fires in other than specified locations (fireplaces and grills).
  - (n) No fireworks of any kind except with the Town's approval.
  - (o) Model rockets, model airplanes and drone flying are prohibited. For purposes of the subsection, a "drone" is defined as a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift and can fly autonomously or be piloted remotely, whether expendable or recoverable.  
[Amended 9-12-2016 by Ord. No. 16-4]
- (2) Vehicles.
- (a) Rate of speed is limited to 15 miles per hour.
  - (b) Town park: no parking beyond main parking lot without special permission.
  - (c) No operation of motorized vehicles other than on designated lots and roadways.
  - (d) No overnight parking.
- (3) Hours of operation.
- (a) Parks open April 1 and close October 31.
  - (b) Hours:
    - [1] April 1 to Memorial Day, 7:00 a.m. to sunset.
    - [2] Memorial Day to Labor Day, 7:00 a.m. to 10:00 p.m.
    - [3] Labor Day to October 31, 7:00 a.m. to sunset.

## § 428-2. Willful damage to park property; restitution.

Section 943.01, Damage to property, and § 800.093, Restitution, Wis. Stats., are incorporated herein by reference, with the exception of the penalties described therein. All future amendments, renumbering, and recodification of said statutes shall apply, to allow for uniform application of laws applicable to damage to property.

## § 428-3. Violations and penalties.

[Amended 2-9-2015 by Ord. No. 15-1]

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

## Chapter 435. Peace and Good Order and Nuisances

[HISTORY: Adopted by the Town Board of the Town of Genesee 11-14-1988. Amendments noted where applicable.]

### GENERAL REFERENCES

Adult-oriented establishments — See Ch. 212.

Animals — See Ch. **233**.  
Drug paraphernalia — See Ch. **293**.  
Explosives — See Ch. **310**.  
Firearms and hunting — See Ch. **326**.  
Fires and fire prevention — See Ch. **330**.  
Fireworks — See Ch. **334**.  
Intoxicating liquor and fermented malt beverages — See Ch. **356**.  
Exterior lighting — See Ch. **387**.  
Smoking — See Ch. **482**.

## § 435-1. Throwing or shooting of arrows, stones and other missiles.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Town.

## § 435-2. Obstructing streets and sidewalks.

No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Town in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.

## § 435-3. Disorderly conduct.

No person shall within the Town:

- A. In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or other disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.
- B. Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

## § 435-4. Loud and unnecessary noise.

- A. No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley or park or any private residence.
- B. Operation of motor vehicles. No person shall operate a motor vehicle so as to cause the tires thereof to squeal or to unnecessarily throw stones or gravel, the horn to blow excessively or the motor to race excessively.

## § 435-5. Loitering.

- A. Loitering or prowling. No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in

determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a law enforcement or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impracticable, a law enforcement or peace officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the law enforcement or peace officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the person was true and, if believed by the law enforcement or peace officer at the time, would have dispelled the alarm.

- B. Obstruction of highway by loitering. No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any law enforcement officer.
- C. Obstruction of traffic by loitering. No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the Town in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, sidewalks, streets, street crossings and bridges or other public places by persons passing along and over the same.
- D. Loitering after being requested to move. No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move by any law enforcement officer or by any person in authority at such places.
- E. Loitering in public places. No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot, or other place of assembly or public use after being requested to move by any law enforcement officer, proprietor of the place of business, or by any person in authority at such place. Upon being requested to move, a person must immediately comply with such request by leaving the premises or area thereof at the time of the request.

## § 435-6. Indecent conduct and language.

No person shall use any indecent, vile, profane or obscene language or conduct himself in any indecent, lewd, lascivious or obscene manner within the Town.<sup>[1]</sup>

[1] *Editor's Note: Original § 7, Obscene literature, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 435-7. Littering.

No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Town or upon any private property or upon the surface of any body of water within the Town.

## § 435-8. Accumulation and storage of junk and trash; junk vehicles.

- A. Permitted storage. No person shall store or allow to remain in the open upon any public or private property within the Town any disassembled or wrecked motor vehicles, or parts thereof, unless it is in connection with the operation of an authorized junkyard. The storage of any wrecked or damaged motor vehicle upon premises operated as an automobile sales



or repair business enterprise located in a properly zoned area shall be permitted for a period not to exceed 30 days.

- B. Nuisance prohibited. No person shall allow to accumulate or store or permit the accumulation or storage of any junk or trash to a point where said accumulation or storage shall become a nuisance upon any property in the Town unless it is in connection with the operation of an authorized junkyard.
- C. Definitions. Whenever the following terms are used in this section, they shall be construed as follows:

### **JUNK**

Old iron, chain, brass, copper, tin, lead, other base metals, trailers, farm machinery, and equipment or any parts thereof to be junked or demolished, taken apart or destroyed for salvage materials, paper waste, used lumber or building material, paper clippings, rags, rubber, glass or bottles, and all articles and things discarded as manufactured articles composed of or consisting of any one or more of the articles mentioned, including industrial metal or scrap or other material commonly included within the term "junk."

### **TRASH**

Any rubbish, ashes, paper, dirt, stones, bricks, tin cans, boxes, barrels or other substances whatsoever, oil, kerosene, benzine or other similar oil or oily substance or liquid, wood, brush and any form of discarded vegetation, foundry sand and industrial waste of any kind or description, and sewage material removed from septic tanks and dry wells used in connection with sewage disposal systems.

- D. Junk vehicles on private or public property.
- (1) No disassembled, dismantled, junked, wrecked or inoperable and/or unlicensed motor vehicle shall be stored or allowed to remain in the open upon public or private property within the Town for more than three days unless it is in connection with an automotive sales and repair business enterprise located in a properly zoned area.
  - (2) Whenever the Waukesha County Sheriff's Department shall find any such vehicle placed or stored in the open upon public property within the Town, the Sheriff's Department shall cause such vehicle to be removed or stored in a junk or salvage yard or other suitable place for a period of 30 days. The Sheriff's Department shall notify the owner thereof of its actions, if the name and whereabouts of the owner of the vehicle can be readily ascertained. At the end of such time such vehicle shall be disposed of unless previously claimed by the owner. If such vehicle is claimed by the owner, all reasonable charges for handling and storage shall be paid by the owner.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (3) Whenever the Sheriff's Department shall find any such vehicle placed or stored in the open upon private property within the Town, it shall notify the owner of the property upon which said vehicle is placed or stored of the intention of said Town to remove such vehicle. If any such vehicle is not removed within 10 days after such notice, the Sheriff's Department shall cause such vehicle to be removed, the cost of such removal to be charged to the owner of the property from which it is removed, and the charges shall be entered as a special charge on the tax roll. Upon removal, the vehicle shall be stored in a junk or salvage yard or other suitable place for 30 days, and the owner thereof shall be notified of its whereabouts, if the name and whereabouts of the owner of the automobile can be readily ascertained. At the end of such time, such vehicle shall be disposed of unless previously claimed by the owner. If such vehicle is claimed by the owner, all reasonable charges for handling and storage shall be paid by the owner.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 435-9. Animals and poultry not to run at large.

No person having in his possession or under his control any animal or fowl shall allow the same to run at large within the Town.

## § 435-10. Open cisterns, wells, basements or other dangerous excavations.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person, and any cover shall be of a design, size and weight that the same cannot be removed by small children.

## § 435-11. Abandoned or unattended iceboxes, refrigerators and containers.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock, or other locking device which may not be released from the inside without first removing such door or lid, snap lock or other locking device from such icebox, refrigerator or container unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

## § 435-12. Public nuisances.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- B. In any way render the public insecure in life or in the use of property.
- C. Greatly offend the public morals or decency.
- D. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

## § 435-13. Public nuisances affecting health.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of § 435-12:

- A. Adulterated food. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. Unburied carcasses. Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- C. Breeding places for vermin, etc. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- D. Stagnant water. All stagnant water in which mosquitoes, flies or other insects can multiply.
- E. Privy vaults and garbage cans. Privy vaults and garbage cans which are not flytight.
- F. Noxious weeds. All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed one foot.
- G. Water pollution. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- H. Noxious odors, etc. Any use of property, substances or things within the Town emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Town.
- I. Street pollution. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.
- J. Air pollution. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Town or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Town.
- K. Surface waters prohibited in the sewage disposal system. The discharge of any stormwater, surface water, groundwater, roof runoff, subsurface drainage which is not contaminated, unpolluted cooling water or unpolluted industrial process waters into the sewage disposal system.

## § 435-14. Public nuisances affecting peace and safety.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of § 435-12:

- A. Signs, billboards, etc. All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- B. Illegal buildings. All buildings erected, repaired or altered in violation of the provisions of the ordinances of the Town relating to materials and manner of construction of buildings and structures within the Town.
- C. Traffic signs. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any

such device, sign or signal. Any person who causes damage to, removes, vandalizes, or affects in any manner an authorized traffic sign in the Town of Genesee to such an extent that said sign no longer effectively describes its import shall be guilty of a violation of this section.

- D. Obstruction of intersections. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- E. Tree limbs. All limbs of trees which project over and less than 10 feet above any public sidewalk, street or other public place.
- F. Dangerous trees. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- G. Fireworks. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Town.
- H. Wires and cables over streets. All wires and cables over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- I. Noisy animals or fowl. The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.
- J. Obstructions of streets; excavations. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.
- K. Open excavations (see also Subsection J above). All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- L. Unlawful assemblies. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

## § 435-15. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

In addition to, and not to the exclusion or prejudice of, the specific penalties provided in this chapter, each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 435-16. Abatement of nuisances.

In addition to the penalties provided herein, the Town of Genesee, the Waukesha County Sheriff's Department, Fire Department, Building Inspector, Town Engineer or any other public officer shall have the right to maintain an action to abate any nuisance as described in this chapter.

- A. Summary abatement. If the inspecting officer shall determine that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Chairman may direct the proper officer to cause the same to

be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

- B. Abatement after notice. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within 10 days. If such nuisance is not removed within such 10 days, the proper officer shall cause the nuisance to be removed as provided in Subsection **A** above.
- C. Cost of abatement procedure. In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 457. Roller Skates, Skateboards and Play Vehicles

[HISTORY: Adopted by the Town Board of the Town of Genesee 6-14-1993 by Ord. No. 93-2. Amendments noted where applicable.]

### § 457-1. Compliance required; definition.

No person shall roller-skate or ride a skateboard, tricycle or scooter anywhere in the Town without complying with the terms of this chapter. As used herein, to roller-skate shall mean to skate on any type of roller skates, street skates, roller blades, or ski skates.

### § 457-2. Use of streets.

- A. No person shall roller-skate, ride a tricycle or ride a scooter on any street except for the purpose of crossing the street. The state laws and Town ordinances related to pedestrians crossing streets shall apply to persons crossing a street on roller skates or on a tricycle or on a scooter. No person crossing a street on roller skates or on a tricycle or on a scooter shall travel too fast for safety under conditions existing or in a reckless manner.
- B. No person shall ride a skateboard on any street for any purpose.

### § 457-3. General regulations.

- A. No person shall roller-skate or ride a skateboard, tricycle or scooter in a reckless manner.
- B. No person shall ride a skateboard, tricycle or scooter or roller-skate without exercising due care for the safety of other persons and without yielding to pedestrians.
- C. No person shall roller-skate or ride a skateboard, tricycle or scooter in the Town between the hours of 10:00 p.m. and 7:00 a.m. except those play vehicles which are equipped with rubber tires upon each roller or wheel thereof.

### § 457-4. Private and public property.

No person shall roller-skate or ride a skateboard, tricycle or scooter on any private property without express permission of the owner and occupant of said property, and no person shall roller-skate or ride a skateboard or scooter on any public property, including property owned by any local school board, the Town of Genesee, Waukesha County, or the State of Wisconsin.

## § 457-5. Responsibility for minors.

- A. No parent, spouse, guardian or other person having care and custody of a child under the age of 18 years shall permit or, by inefficient control, allow such child to roller-skate or ride a skateboard, tricycle or scooter anywhere in the Town without complying with the terms of this chapter.
- B. Parents in violation of this section shall be liable to the injured person for any damages resulting from vandalism or damages caused by their ward or child in addition to any penalty imposed by the court under this chapter.

## § 457-6. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 470. Sewage Disposal

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. Application of Sludge

[Adopted 11-9-1981]

#### § 470-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

##### **SITE or PROPERTY SITE**

The property on which the applicant intends to apply sludge. Each real estate tax parcel as found on the tax rolls of the Town of Genesee shall constitute a separate site or property site.

##### **SLUDGE**

The accumulated residual solids (usually in liquid) resulting from the treatment of municipal or private wastewaters.

#### § 470-2. Permit required.

No person, firm or corporation shall apply, or allow to be applied to lands under his or its ownership, lease or control, sludge to any land located within the limits of the Town of Genesee without first having obtained a permit from the Town Board. This shall apply to both existing and proposed sludge disposal operations.

## § 470-3. Application for permit.

Written application for a permit to apply sludge on any lands located within the Town shall be made to the Town Clerk. The application shall state:

- A. The applicant shall be the owner of the treatment facility generating the sludge.
- B. The name and address of the applicant, and if the applicant is a corporation, the name, address and registered agent of the corporation.
- C. The post office and legal description of the site to be used.
- D. The names and addresses of the landowners and haulers involved with the proposed disposal of the sludge. A copy of any contract related to the proposed disposal shall be appended to the application.
- E. The length of time the applicant intends to apply sludge on the site or sites described in the application.
- F. The name or names and address of the owner of any other site or sites upon which the applicant is presently applying sludge, whether or not such site or sites are within or without the corporate limits of the Town.
- G. Names and addresses of all property owners within 300 yards of the boundaries of the proposed application site.

## § 470-4. Referral to Plan Commission.

The Town Clerk shall refer all applications for a permit under this article to the Plan Commission for its recommendation to the Town Board. The recommendation of the Plan Commission shall be presented to the Town Board within 60 days after such application for a permit is referred to the Plan Commission by the Town Clerk. Upon receipt of such recommendation from the Plan Commission, the Town Board shall set a date for hearing on the application for such permit and the Clerk shall notify the applicant of the date of such hearing. The applicant may present such evidence as it deems necessary to the Town Board at such hearing in support of its application for a permit under this article.

## § 470-5. Permit fee.

The applicant shall accompany its application with a nonrefundable annual permit fee set by the Town Board.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 470-6. Grant or denial of permit.

- A. The Town Board shall, after receiving the recommendations of the Plan Commission and after hearing thereon as herein provided, issue a permit hereunder if it finds the following:
  - (1) That the sludge will be immediately incorporated with the soil.
  - (2) That the sludge will be applied in accordance with the appropriate regulations of the Department of Natural Resources (DNR) and that approval has been obtained by the applicant from the DNR to apply sludge to the real estate described in the application.

- (3) That no sludge will be applied at a distance less than 200 feet from the nearest residence.
- (4) That the sludge will not be applied at a distance less than 400 feet from the nearest private water supply well and that the application of the sludge shall not constitute a possible contamination source for any water supply, irrespective of the distance of the water supply from the disposal site.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (5) That the sludge will not be applied at a distance less than 300 feet from any stream, pond or other channelized waterway.
- (6) That the sludge will not be applied to any soil which, because of its composition, would tend to create a health hazard.
- (7) That the applicant has applied for and received all appropriate licenses from county or state licensing authorities.
- (8) That a copy of all reports required by the county or state will be sent to the Town Clerk at the same time as sent to the county or state.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (9) That the application of sludge will not constitute a nuisance as that term is defined in Town, county or state ordinances or statutes.

B. If the Town Board does not find affirmatively with reference to any of Subsection **A(1)** through **(9)** inclusive, the application for such permit shall be denied.

## § 470-7. Term of permit.

A permit issued hereunder shall be for a period commencing on April 1 in the year of application and ending on December 1 in the year of application. This term may be temporarily extended if an acceptable plan for providing storage capacity is presented.

## § 470-8. Testing.

The Town Board may require the applicant to conduct soil testing to determine the ability of the soil upon the premises described in the application to absorb sludge. The Town Board may also require a sludge analysis at any time deemed necessary. The manner and type of such soil test and sludge analysis shall be determined by the Town Board and all costs and expenses for such soil test and sludge analysis shall be paid by the applicant.

## § 470-9. Bond.

Before such permit shall be issued, the applicant shall file with the Town Clerk a surety bond in the amount of \$10,000 and proof of liability insurance conditioned upon and as a guarantee that the applicant will fully abide by all of the terms and provisions of this article and any other ordinance of the Town of Genesee applicable thereto and any rules and regulations imposed by the Town Board as conditions for granting of such permit.

## § 470-10. Violations and penalties.



[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.<sup>[2]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: Original Sec. (k), Separate violations, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article II. Holding Tanks

[Adopted 4-9-1984]

### § 470-11. Permit required.

No person, corporation or organization shall install, operate, repair, maintain or reconstruct any device designed for the holding of sewage wastes in the Town of Genesee unless a permit therefor has been obtained under the following conditions.

### § 470-12. Permitted tanks.

Holding tanks will be permitted to be installed, operated, repaired, maintained, or reconstructed in the Town of Genesee only in those instances described as follows:

- A. Residential. Residential holding tanks will be permitted only to replace an existing failing system. No new residential construction will be serviced by a holding tank.
- B. Commercial and industrial. Holding tanks will be permitted for the replacement of existing septic or sewage systems and for new construction of commercial and industrial projects.

### § 470-13. Agreement.

An agreement as provided by the Town of Genesee in form according to Exhibit A attached shall be executed by the applicant/owner for a holding tank.<sup>[1]</sup>

A. Said agreement shall provide as follows:

- (1) Applicant/owner shall agree with the Town to install a holding tank of adequate size for the use proposed as approved by the Town Engineer.
- (2) Applicant/owner shall agree to conform to all rules and regulations, ordinances and codes of the Town of Genesee, as well as all regulations and statutes of the State of Wisconsin or Waukesha County, both in the installation and the maintenance of said holding tank.
- (3) Applicant/owner shall agree to submit to the Town a copy of a contract or agreement signed by a State of Wisconsin approved or licensed tank pumping firm which provides for the periodic pumping of said holding tank whenever necessary at applicant/owner expense. Further, applicant/owner agrees to, when necessary, have the holding tank pumped out by a state-approved wastewater holding tank pumping firm and otherwise maintain the tank at applicant/owner expense.
- (4) Applicant/owner shall agree that at any time said holding tank is not pumped as necessary, the Town of Genesee or any designated officer thereof shall have the right, on 24 hours' written notice, to hire or otherwise accomplish the emptying of said tank at the expense of the owner. The Town shall add to said cost a fifteen-percent additional

charge for the administration of this section. The total amount owed to the Town, if said amount remains unpaid for 30 days, shall be charged against the cash bond deposited by the owner with the Town and the owner shall thereupon replenish said cash bond by the same amount. In addition to all other methods of collecting the expenses incurred herein, the Town Treasurer may place said charge as a special charge against the real estate taxes of the owner and it may be collected as such according to statute, including the right by the Town to replenish said cash bond if the owner refuses.

- (5) Owner will agree in said agreement to grant to the Town of Genesee full right, license and authority to enter upon his property for inspection, pumping and transportation from said holding tank.
- (6) As a further condition for the granting of said holding tank permit, the owner agrees that he will pay all special assessments due if and when an alternate septic system becomes available and that he will grant all necessary easements for the installation of the same. The holding tank agreement, required herein, when signed by the owner shall constitute a waiver of all special assessment procedures and amounts. Applicant/owner further shall agree that at the time an alternate septic system shall become available, he will connect up to the same within 60 days of the date the same becomes available. In addition, when the same is available, applicant/owner agrees to properly abandon the holding tank and appurtenances as required by law and the Town Engineer.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Applicant/owner shall simultaneously with the agreement referred to herein deposit with the Town a cash bond in an amount as determined by the Town Board from time to time to guarantee to the Town reimbursement for any and all expenses incurred by the Town in alleviating any nuisance occurring as a result of this holding tank. The cash bond shall at all times be maintained constantly at the amount originally deposited. Said bond shall be returned to applicant/owner upon proper connection to an alternate sanitary septic system and abandonment of said holding tank. Interest earned, if any, by said cash deposit shall be the property of the Town of Genesee as an administrative charge by the Town for administering said cash bond.
- C. The agreement referred to herein shall be made a part of this article and shall be executed in recordable form, shall contain the legal description of the owner's property benefitted, and shall be recorded with the Register of Deeds for Waukesha County. All parties in interest to the owner's property shall execute and be parties to the agreement.
- D. The agreement shall continue so long as the holding tank is maintained and shall terminate upon connection to an alternate sanitary septic system and abandonment of said holding tank.
- E. The agreement, upon execution by applicant/owner, shall thereupon become a part of this article and enforceable as a part of this article as if it were contained herein.

[1] *Editor's Note: Exhibit A is on file at the office of the Town Clerk.*

## § 470-14. Inspection.

In the event a violation ever occurs causing a nuisance, the Town may inspect said holding tank on a monthly basis to ensure that future violations do not occur. The fee for these inspections shall be the responsibility of the applicant/owner, and in the event the applicant/owner does not pay said inspection fees, the cost may then be added to the tax roll as a special real estate charge. The amount of the inspection fee shall be as determined from time to time by the Town Board.

## § 470-15. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 470-16. Variances.

[Added 1-13-1986]

- A. In that the Town of Genesee prohibits the installation of holding tanks for new residential construction, any person denied permission to install and operate a residential holding tank for new construction by the Town Board may petition the Town Board for reconsideration of the Town Board's denial and a variance to the prohibition.
  - B. The Town Board shall upon receipt of any said petition as soon as practical call a public hearing thereon. Notice of the time and place of the hearing shall be given pursuant to the Open Meeting Law.<sup>[1]</sup>
- [1] *Editor's Note: See §§ 19.81 to 19.98, Wis. Stats.*
- C. As soon as possible after such public hearing, the Town Board shall act on said petition either granting, denying, or conditionally granting the variance. In determining whether to grant, deny or conditionally grant the variance the Town Board shall look to the standards as set forth in Ch SPS 383, Wis. Adm. Code, and to the guidelines and past practice of Waukesha County.
  - D. The Town of Genesee shall inform the Department of Safety and Professional Services in writing of each variance granted.

## Chapter 474. Sex Offenders

[HISTORY: Adopted by the Town Board of the Town of Genesee 2-13-2023 by Ord. No. 23-1.<sup>[1]</sup> Amendments noted where applicable.]

[1] *Editor's Note: This local law also repealed former Ch. 474, Sex Offenders, adopted 6-10-2013 by Ord. No. 13-1, as amended.*

### § 474-1. Findings and intent.

- A. This chapter is a regulatory measure aimed at protecting the health and safety of children from the risk that convicted sex offenders may reoffend in locations close to their residences. The governing body has closely considered this question and had made numerous findings and expressions of intent within the preamble to the ordinance which adopts this code section which are incorporated herein by reference. The governing body finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new sexual assault. The governing body further finds that, given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places, in addition to the protections afforded by state law near schools, and other places children frequent. The governing body finds and recognizes that, in addition to schools, there are other areas where children congregate or play.

- B. This chapter is not intended to impose a criminal penalty or punishment on sexual offenders but rather to serve the municipality's compelling interest to promote, protect, and improve the health, safety, and welfare of children in the municipality by creating areas around locations where children regularly congregate in concentrated numbers where sexual offenders and sexual predators are prohibited from loitering and/or establishing temporary or permanent residence and by regulating certain activities that may be used by sexual offenders to prey upon children.

## § 474-2. Definitions.

For purposes of this chapter, the following terms shall have the following meanings unless the context otherwise requires:

### **CHILD**

A person under the age of 18.

### **CHILDREN**

Two or more persons under the age of 18.

### **CHILD SAFETY LOCATION**

The site upon which any of the following are located without regard to whether such site is located within the geographic limits of the Town of Genesee:

- A. Facility for children;
- B. Group home, as defined in § 48.02(7), Wis. Stats.;
- C. Library that is held open for use by the public where such library includes a collection of material specifically intended for use by children;
- D. Licensed day-care center as defined in § 48.65, Wis. Stats.;
- E. Public or private elementary or secondary school;
- F. Recreational trail, playground or park where children regularly gather;
- G. Specialized school for children, including, without limitation, a gymnastics academy, dance academy, or music school;
- H. Swimming pool, wading pool, or aquatic facility held open for use by the public; and
- I. A public or private golf course or range.

### **CHILD SAFETY ZONE**

Any place within the municipality that is physically located within 1,000 feet of any child safety location.

### **DOMICILE**

An individual's fixed and permanent home where the individual intends to remain permanently and indefinitely and to which whenever absent the individual intends to return; provided, however, that no individual may have more than one domicile at any time. "Domicile" does not include a residence for any special or temporary purpose.

### **FACILITY FOR CHILDREN**

A public or private school, a group home, as defined in § 48.02(7), Wis. Stats., a residential care center for children and youth, as defined in § 48.02(15d), Wis. Stats., a shelter care facility, as defined in § 48.02(17), Wis. Stats., a day-care center licensed under § 48.65, Wis. Stats., a day-care program established under § 120.13(14), Wis. Stats., a day-care

provider certified under § 48:651, Wis. Stats., or a youth center, as defined in § 961.01(22), Wis. Stats.

#### **MINOR**

A person under the age of 17.

#### **PERMANENT RESIDENCE**

A place where the person abides, lodges, or resides for 14 or more consecutive days.

#### **SEX OFFENDER**

- A. Any person who is required to register under § 301.45, Wis. Stats., for any offense against a child or any person who is required to register under § 301.45, Wis. Stats., and who is subject to the special bulletin notification process set forth in § 301.46(2) and (2m), Wis. Stats.;
- B. Any person subject to the sex crimes commitment provisions of § 975.06, Wis. Stats.;  
or
- C. Any person found not guilty by reason of disease or mental defect placed on lifetime supervision under § 971.17(1j), Wis. Stats.

#### **SEXUALLY VIOLENT OFFENSE**

Has the meaning set forth in § 980.01(6), Wis. Stats., as amended from time to time.

#### **TEMPORARY RESIDENCE**

A place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent residence or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

### **§ 474-3. Residency restrictions for sex offenders; exceptions.**

- A. **Child safety zone restriction.** Subject to the original domicile restrictions in Subsection **B** and the exceptions in Subsection **C**, no sex offender shall establish a permanent residence or temporary residence within the Town of Genesee that is within a child safety zone, as determined by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of any child safety location.
- B. **Original domicile restriction.** In addition to Subsection **A**, but subject to the exceptions in Subsection **C**, no sex offender shall establish a permanent or temporary residence within the Town of Genesee and no supervised release of a sex offender shall be established in Town of Genesee unless such person was domiciled in the Town of Genesee at the time of the offense resulting in the person's most recent conviction. The original domicile restriction shall only apply to sex offenders whose applicable crimes or offenses were committed after June 13, 2013 when Chapter **474** of the Town Code was first enacted.
- C. **Exceptions.** A sex offender may not be found to be in violation of the residency restrictions in Subsection **A** if the sex offender establishes that any of the following apply:
  - (1) The person was domiciled in the Town of Genesee prior to June 13, 2013; provided, however, that if the person was then subject to § 301.45, Wis. Stats., the person must have also reported and registered the residence pursuant to § 301.45, Wis. Stats., prior to such date to take advantage of the exception.

- (2) The person is a minor and is not required to register under §§ 301.45 and 301.46, Wis. Stats.
- (3) The child safety location began after the sex offender had established the permanent residence or temporary residence and reported and registered the residence if required pursuant to § 301.45, Wis. Stats.
- (4) The sex offender is subject to an active court order to serve a sentence or is otherwise involuntarily required to reside in a jail, prison, juvenile facility, or other correctional institution or mental facility within the child safety zone.

## § 474-4. Renting real property to sex offenders.

No person shall let or rent any place, structure, or part thereof, trailer or other conveyance with the knowledge that it will be used as a permanent residence or temporary residence by a sex offender contrary to the provisions of § 474-3 of this chapter.

## § 474-5. Prohibited activities by sex offenders; exceptions.

- A. Prohibited activities by sex offenders. Except as provided in Subsection **B**, no sex offender shall participate in a holiday event in the Town of Genesee involving one or more children by means of distributing candy or other items to such child or children in relationship to Halloween, wearing a Santa Claus costume in a public place in relationship to Christmas, or wearing an Easter bunny costume in a public place in relationship to Easter, or other similar activities that may, under the circumstances then present, tend to entice a child to have contact with a sex offender.
- B. Exception. Events in which the sex offender is a parent or legal guardian of the child or children involved are exempt from the provisions of Subsection **A** of this section, provided that no child or children other than a child or children of the sex offender are present at the event.

## § 474-6. Loitering by sex offenders; exceptions.

- A. Loitering by sex offender. No sex offender shall loiter or prowl on or within 200 feet of any child safety location, at a time or in a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of the persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a law enforcement officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances make it impractical, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted by requesting him or her to identify himself or herself or explain his or her presence and conduct at the aforementioned locations. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the actor was true and, if believed by the law enforcement officer at the time, would have dispelled the alarm.
- B. Exceptions. The prohibitions set forth in Subsection **A** of this section shall not apply where the sex offender is a minor who is with one or both of his or her parents or guardian at the time of the offense or the actor was exercising First Amendment rights protected by the United States Constitution, including freedom of speech, free exercise of religion and the right of assembly.

## § 474-7. Child safety zone map.

The Town Clerk's office shall maintain an official map showing child safety zones within the Town. The Town Clerk's office shall update the map at least annually to reflect any changes in the location of child safety zones. The map is to be displayed in the office of the Genesee Town Clerk. In the event of a conflict, the terms of this chapter shall control. In no event shall a failure to update the map in compliance with this chapter preclude the prosecution or conviction of any sex offender under this chapter.

## § 474-8. Violations and penalties.

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code. Each day a person maintains a residence in violation of this chapter constitutes a separate violation. The Town may also seek equitable relief to gain compliance.

## § 474-9. Petition for exemption.

- A. A sex offender may seek an exemption from § 474-3A by petitioning to the Town Board.
- B. A quorum of the Town Board shall be sufficient to hold a hearing on each petition.
- C. The Town Board shall approve an official petition form. The sex offender seeking an exemption must complete the petition and submit it to the Town Clerk who shall forward it to the Town Board. The Town Board shall hold a hearing on each petition, during which the Town Board may review any pertinent information and accept oral or written statements from any person. The Town Board shall base its decision on factors related to the Town's interest in promoting, protecting and improving the health, safety and welfare of the community. Applicable factors for the Town Board's consideration shall include, but are not limited to:
  - (1) Nature of the offense that resulted in sex offender status.
  - (2) Date of offense.
  - (3) Age at time of offense.
  - (4) Recommendation of probation or parole officer.
  - (5) Recommendation of Police Department.
  - (6) Recommendation of any treating practitioner.
  - (7) Counseling, treatment and rehabilitation status of sex offender.
  - (8) Remorse of sex offender.
  - (9) Duration of time since sex offender's incarceration.
  - (10) Support network of sex offender.
  - (11) Relationship of sex offender and victim(s).
  - (12) Presence or use of force in offense(s).
  - (13) Adherence to terms of probation or parole.
  - (14) Proposals for safety assurances of sex offender.

(15) Conditions to be placed on any exception from the requirements of this chapter.

- D. The Town Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address or time, or subject to other reasonable conditions. The Town Board's decision shall be final for purposes of any appeal. A written copy of the decision shall be provided to the sex offender and the Town of Genesee Police Department.

## § 474-10. Exception for placements under Chapter 980 of the Wisconsin Statutes.

- A. To the extent required by § 980.135 of the Wisconsin Statutes, and notwithstanding the foregoing provisions of this chapter, the Town of Genesee hereby exempts and may not enforce any portion thereof that restricts or prohibits a sex offender from residing at a certain location or that restricts or prohibits a person from providing housing to a sex offender against an individual who is released under Wisconsin Statutes, § 980.08, or against a person who provides housing to such individual, so long as the individual is subject to supervised release under Chapter 980 of the Wisconsin Statutes, the individual is residing where he or she is ordered to reside under § 980.08 of the Wisconsin Statutes, and the individual is in compliance with all court orders issued under Chapter 980 of the Wisconsin Statutes.

## Chapter 478. Signs

[Adopted by the Town Board of the Town of Genesee 7-13-2015 by Ord. No. 15-9. Amendments noted where applicable.]

### § 478-1. Purpose.

The Town of Genesee regulates the type, number, size, height, placement/location and lighting of signs to ensure a balance of the visual environment of the Town. While the Town recognizes that the purpose of signs is to identify businesses and/or promote products and services to generate business, the Town of Genesee also knows that traffic safety, economic welfare, and aesthetic harmony must be considered. The Town of Genesee also promotes the public health, safety, welfare and comfort of the general public. All applications for sign permits are, therefore, reviewed for compliance with this chapter as well as the applicable Building Code.

### § 478-2. Use restricted.

Signs are regulated in the Town as follows:

- A. One or more signs may be specifically authorized by a duly issued conditional use permit.
- B. One or more signs are permitted to the extent specifically authorized by the applicable regulations below.

### § 478-3. Definitions.

The types of signs, words, terms, and phrases when used in this section will have the meanings ascribed to them, except where the context clearly indicates a different meaning.

#### **AWNING/CANOPY SIGN**



A nonilluminated projecting identification sign painted on or affixed flat to the surface of an awning or canopy and which does not extend vertically or horizontally from the awning or canopy.

**BANNER**

A nonilluminated, elongated sign intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentation applied to paper, plastic, or fabric of any kind, usually used for temporary display for the special announcement of a coming event or occasion.

**BILLBOARD**

Any sign at least 200 square feet but not more than 432 square feet in area per one side, no more than 28 feet in height and generally used to advertise a place of business or product.

**BULLETIN BOARD**

Any sign used by governmental and institutional agencies to publicly display notices of meetings, services, regulations and announcements. Such signs are not necessarily designed to be read from a distance or by the traveling public.

**COMMUNITY SIGN**

A temporary sign that conveys information to the public to promote not-for-profit, civic, and community events or functions and to create a sense of community and character.

**CONSTRUCTION SIGN**

A temporary sign that identifies individuals or companies involved in design, construction, wrecking, financing, or development of a building and/or road and to identify these future uses.

**DIRECTIONAL SIGN**

A sign which advertises or directs patrons to an establishment off the main traveled highway.

**ELECTRONIC MESSAGE CENTER**

A sign that conveys text and/or graphic information that is capable of being changed or manipulated electronically.

**FLAGS AND PENNANTS**

Devices generally made of flexible materials such as cloth, paper, or plastic, and displayed on strings or wires. Such devices may or may not include words, letters, or numbers. This definition does not include the flag of any country or state.

**FLASHING SIGN**

A sign whose illumination is not kept constant in intensity at all times when in use and/or which exhibits changes in light, color, direction, animation, and word/text changes. Illumination signs, which indicate the date, time and temperature, will not be considered as part of a flashing sign.

**GROUND SIGN**

A freestanding sign affixed to or placed on the ground and independent of any buildings or other permanent structure.

**MARQUEE**

See "awning/canopy sign."

**MEMORIAL SIGN**

Any sign which is cut into any masonry surface or when constructed of metal is affixed flat against a structure and not illuminated.

**MONUMENT SIGN**

A freestanding sign supported by a solid foundation on one base that is as least as wide as the sign's display area.

**OFF-PREMISES DIRECTION/SALES SIGNS**

Signs which are intended to advertise places of business not located on the same parcel or land ownership as the off-premises sign.

**POLE SIGN**

A freestanding sign supported by one or more poles, except a monument sign.

**PORTABLE SIGN**

Any sign that is mounted on wheels or can be readily moved from place to place on the premises. Such signs are generally not permanently attached to the ground or to a permanent structure on the premises.

**PRODUCT SIGN**

A sign which offers for sale perishable products produced on the premises.

**PROJECTING SIGN**

Any sign that is not attached to the ground and projects more than 12 inches from the face of a building or other permanent structure.

**REAL ESTATE SIGN**

Any sign primarily used for advertising the sale, lease or transfer of real estate.

**ROOF SIGN**

Any sign erected on or over the roof of a building.

**SANDWICH SIGN**

See "ground sign."

**SIGN**

Any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to goods, products, services, promotions, events, occasions, facilities, persons, property interest, or business either on the lot or on any other premises.

**SIGN AREA**

That part of a total sign structure which encompasses the sign message exclusive of a structure upon which the sign area is affixed or which supports the sign area. However, for the purpose of computing square footage of a sign area, any exposed structure which supports a sign may not comprise more than one-third of the visible or exposed surface of one side of a total sign structure.

**SIGN STRUCTURE, TOTAL**

The sign area, plus any exposed area or members of the supporting structure on or to which the sign, or sign message, is affixed. Decorative, landscaped earthen berms or structures which are composed principally of exposed earth and/or landscape (plant) materials are not included as part of the total sign structure.

**SIGNABLE AREA**

The area of the facade of the building facing or abutting upon a street right-of-way up to the ceiling line of the top floor which is free of windows and doors or major architectural detail on which signs may be displayed.

**TEMPORARY SIGN**

Any sign not permanently attached to the ground, wall or building, designed to advertise a commodity or event for a specific amount of time.

### **WALL SIGN**

A sign which is attached to a wall of a building or structure and projects not more than 12 inches from such a wall.

### **WINDOW SIGN**

A sign painted on or affixed to a window. Materials affixed to a window shall be affixed to the inside surface of the window.

## **§ 478-4. Signs permitted without permit.**

The following signs are permitted without a permit, subject to the following regulations:

- A. Product signs not exceeding 10 square feet in sign area for any one premises that pertain to the seasonal sale of perishable products produced on the premises.
- B. Residential real estate signs not exceeding 10 square feet in sign area that advertise the sale, rental or lease of the premises upon which such signs are temporarily located.
- C. Commercial real estate signs shall not exceed 32 square feet.
- D. Bulletin boards for public, charitable or religious institutions shall not exceed 32 square feet in sign area. Such signs shall be set back from the property line at least 1/4 of the building setback requirements of the zoning district in which they are located and may be illuminated only to the extent necessary to permit reading of the sign.
- E. Memorial signs, tables, name of building, and date of erection signs when cut into any masonry surface or when constructed of metal and affixed flat against a structure and not illuminated.
- F. Parking lot signs shall include signs which are placed or displayed in parking lots to supply information to people using lots, including such information in respect to liability, entry, exit and directional information as necessary to facilitate the safe movement of vehicles served by the parking area. Handicap parking provision signs are also covered under this subsection. Such signs are not intended to be advertising signs and shall not display any advertising matter. Parking lot signs shall conform to the following specifications:
  - (1) Location. Parking lot signs shall be permitted in all business, commercial, industrial, and institutional zones.
  - (2) Maximum area. Incidental parking lot signs shall not exceed four square feet in area.
  - (3) Maximum height. Incidental parking lot signs shall not exceed six feet in height, provided that signs identifying handicapped stall locations are mounted high enough to permit visibility of such signs while a vehicle is parking in the space.
  - (4) Setbacks. Parking lot signs shall be subject to a five-foot setback from the right-of-way and adjacent property lines. These signs shall be installed so as not to present a hazard to traffic entering or leaving the premises.
  - (5) Illumination. Parking lot signs may be internally illuminated in accordance with provisions of this chapter.
- G. Rummage, estate or neighborhood sale signs must not be erected on or off the premises for more than three days, and be removed by sundown on the last day of the sale. Such signs must not exceed six square feet in size.

- H. Home occupation and professional home office, where allowed, wall or window signs not exceeding six square feet in sign area, mounted flush against the dwelling and only internally illuminated.
- I. Metal or masonry nameplates attached to a building and not exceeding four square feet in sign area.
- J. The display of any political sign shall be permitted without a permit, subject to the following restrictions:
  - (1) The sign area of political signs in other than residential areas shall not exceed 32 square feet unless otherwise permitted under § 12.03, Wis. Stats., and approved by the Town Board. The sign area of such signs displayed in residential areas shall not exceed 16 square feet. Campaign or political signs shall not be displayed earlier than 30 days before a primary, general or special election. No such sign shall have an electrical, mechanical or audio auxiliary component.
  - (2) Political campaign signs shall not be displayed on any building or grounds that are owned, operated, or maintained by any public agency, or on any Town-owned post or traffic control device or on any pole, post or appurtenance owned or operated by any utility. Such signs shall be located only on private property or a privately maintained Town right-of-way adjacent to the private property and only with the property owner's or prior consent. Such signs shall be located so as not to constitute a danger to the traveling public.
  - (3) The candidate or entity responsible for the erection or distribution of any political campaign sign shall be jointly and severally liable for the removal of such signs. All political signs must be removed within 48 hours of said election.
  - (4) The Clerk, Election Inspector, Building Inspector, Public Works Superintendent and law enforcement officers of the Town may remove signs or posters and other advertising which is placed in violation of this article or the laws governing elections.
- K. Community signage to promote periodic not-for-profit, civic, or community events and functions is permitted. Said signage must comply with all other conditions as stated in this chapter.
- L. Address signs that display address numbers shall not exceed two square feet.
- M. Flags. Flags shall not exceed 60 square feet. Flagpoles accompanying such flags shall meet all setback requirements and shall be limited to a height of 30 feet in residential areas and 40 feet in nonresidential areas. Any flag not meeting the criteria of this subsection shall be subject to height and area regulations as a ground pole sign and shall be included when figuring the amount of signage on a lot.
- N. Signs for property designated by a federal, state or local government as an historic location, site or landmark, provided such sign does not exceed 24 square feet, unless approved by the Town Plan Commission.
- O. Signs established by, or by order of, any governmental agency with Town Plan Commission approval.
- P. Signs of a noncommercial nature and in the public interest erected by or on the order of public officers in performance of the officers' public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs directing the traveling public to public and quasi-public facilities, or signs on public buildings or structures and the like are permitted.
- Q. No-trespassing signs, warning signs, and other such signs regulating the use of property when such signs do not exceed two square feet in area.

- R. Off-premises signs indicating the names and locations of churches, charitable organizations, and community service organizations are permitted, provided that the sign area shall not exceed four square feet, shall be located off of the street right-of-way, and shall in no way obstruct the view of pedestrians or vehicular traffic. The signs must have a minimum spacing of 500 feet between any two signs in this category, except where there is a community service central display, unless approved by the Town Plan Commission.
- S. Signs suspended above a walkway to identify a business, profession or industry conducted on the premises, provided:
  - (1) Such signs shall not exceed 12 square feet in sign area per face.
  - (2) Such sign shall extend no lower than eight feet above the area over which it is suspended.
  - (3) Such signs shall identify only a building, business, profession or industry and bear no commercial message. Only one such sign shall be displayed per building entrance.
- T. Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with construction taking place on the premises, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended. Such signs shall be permitted during the construction period to a maximum of 32 square feet. The minimum setback shall be 10 feet from any street right-of-way. The sign shall be confined to the site of construction and shall be removed within 30 days after the end of construction or issuance of an occupancy permit, whichever occurs first. No more than two such signs shall be permitted.
- U. Incidental signs, if they do not exceed two square feet in surface area, and if such sign is a sign, emblem or decal designated to inform the public of goods, facilities or services available on the premises, and includes, but is not limited to, restrooms, hours of operation, acceptable credit cards, property ownership or management, phone booths, and recycling containers.

## § 478-5. Signs permitted with Town Plan Commission approval.

- A. Signs permitted in commercial retail or customer service establishments shall be reviewed and approved by the Town Plan Commission and subject to the following conditions:
  - (1) No sign shall exceed 40 square feet in area.
  - (2) Illuminated signs shall not exceed 20 square feet.
  - (3) Signs shall be limited to one sign per store side of building.
  - (4) No freestanding sign shall exceed 20 feet in height from the ground.
- B. Public and institutional, community business (shopping center), business park, or industrial signs shall be subject to review and approval by the Town Plan Commission.

## § 478-6. Prohibited signs.

- A. Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices.
- B. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices.

- C. 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.
- D. Signs shall be placed so as not to obstruct or interfere with traffic visibility and shall not be lighted in a way which causes glare or impairs driver visibility upon public ways.
- E. Outdoor decorative or wall art shall only be allowed with approval by the Town Plan Commission.
- F. Banners, pennants, streamers, balloons, inflatable signs, and other gas-filled figures are not permitted, except as a temporary sign, as may be permitted by the Town Plan Commission.
- G. Billboard signs are not permitted, unless otherwise stated in this chapter.
- H. All signage promoting products and/or services integral to the use of a business or service, located off the premises of said business, is not permitted, unless otherwise specified by this chapter.
- I. No sign shall be permitted which is animated by means of intermittent, scintillating, scrolling or traveling lights or any other device or means not providing constant illumination. Public service information signs and other electronic message center signs are permitted under special provisions of this chapter.
- J. Unprofessional hand-painted signs erected as permanent outdoor advertising signs are not permitted.
- K. The tacking, pasting, or otherwise affixing of signs of a miscellaneous character, visible from a roadway, located on the walls of buildings, barns, sheds, trees, poles, posts, fences or other structures, is prohibited unless otherwise permitted by this chapter.
- L. No portable signs shall be permitted, including but not limited to A-frame or T-frame signs and signs on trailer frames, whether or not the trailer wheels or the typeface have been removed, except where permitted as temporary signs set forth in this chapter.
- M. Any sign on top of a roof is prohibited.
- N. Overhead swinging signs, except those meeting the requirements for suspended signs, are prohibited.
- O. No sign shall be placed on any communication, radio, or cell tower without the approval of the Town Plan Commission.
- P. Signs placed on parked vehicles, boats, trucks or utility trailers which are visible from the public right-of-way for which the apparent purpose is to advertise a product or to direct the public to a business or activity are prohibited. This subsection is not intended to apply to standard advertising or identification practices where signs or advertising is painted on or permanently attached to business or commercial vehicles which are used in the daily operation of the business and parking in designated parking spaces designed for their particular vehicle type.
- Q. No signs are allowed which operate or employ any stereopticon or motion picture projection or media in conjunction with any advertisements, have visible moving parts, or give the illusion of movements, except as permitted by this chapter.
- R. No signs which emit audible sound, odor, or visible matter are permitted.

## § 478-7. Nonconforming signs.

- A. Signs which were lawful prior to the time this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter, shall be deemed legal nonconforming signs. Such signs shall be permitted to continue until such time as major change is made to the sign. Major changes include the changing the name or size, adding lights, or relocation.
- B. All nonconforming signs shall be kept in good repair and in safe, neat, clean, and attractive condition. In the event signs are not kept in good condition or are demolished by any force whatsoever to the extent of 50% or more of their replacement cost at the time of the damage, any replacement signs shall then conform to this chapter, except in circumstances where rebuilding is allowed by state statute. Nothing herein shall prevent maintenance, repainting or normal repair of legally established nonconforming signs.
- C. For any sign existing on the date of adoption of this chapter that does not comply with the provisions of this chapter, such sign and any supporting structures may be maintained in their existing conditions. Nonconforming signs can be repainted or refaced, provided the height and landscaping requirements are met. Nonconforming signs may not be enlarged, extended, moved, modified, reconstructed or structurally altered except in accordance with this section and without first obtaining the necessary permits from the Town.
- D. A nonconforming sign must be removed if the structure, building, or use to which it is accessory is destroyed or demolished to an extent exceeding 50% of the appraised value of the principal structure, building, or use, except in circumstances where rebuilding is allowed per state statute.
- E. Supporting structures for nonconforming signs may continue in use for a conforming sign if said supporting structures comply in all respects to the applicable requirements.

## § 478-8. Setbacks and offsets.

No sign other than those permitted for a residential use or agricultural use shall be permitted closer than 20 feet to the base setback line or to any other lot line, and any sign not directly related to the use of the premises on which it is located shall conform to the setback and offset requirements as would apply to a building in that district, unless otherwise approved by the Town Plan Commission.

## § 478-9. Hazards or nuisances prohibited.

No sign or other advertising media which creates a hazard or dangerous distraction to vehicular traffic, or a nuisance to adjoining residential property, shall be permitted.

## § 478-10. Directional signs.

A sign, not to exceed 12 square feet in area, for the purpose of advertising and directing patrons to an establishment off the main traveled highway may be permitted, except in a residential area, upon approval of the Town Plan Commission.

## § 478-11. Height.

No freestanding sign shall exceed 20 feet in height from the ground, and no sign shall in any case exceed the maximum height limit for the district in which it is located.

## § 478-12. Temporary signs.

All portable signs used for commercial purposes shall conform to the standards of this chapter and receive Town Planner approval. If installed for a continuous period of at least 14 days but less than six months, the Town Plan Commission shall review and approve said sign.

## § 478-13. Savings clause.

This chapter is not intended to regulate signs in a manner that conflicts with preemptive provisions of state law, or to impose unlawful restrictions on constitutionally protected speech, and therefore:

- A. If any provision set forth in this chapter prohibits a sign in a manner that is expressly permitted by preemptive Wisconsin state law, such provision is waived and the applicable requirements of Wisconsin state law shall apply.
- B. Notwithstanding any other provision contained herein to the contrary, noncommercial messages may be contained on any authorized sign.

## Chapter 482. Smoking

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. Smoking on School Property

[Adopted 9-10-1990 by Ord. No. 90-1]

#### § 482-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

##### **EDUCATIONAL FACILITY**

Any buildings and lands owned and used by the school district located in the Town.

##### **SMOKING**

The carrying or possession of a lighted cigar, pipe, cigarette or any other lighted smoking material or equipment.

#### § 482-2. Smoking in educational facilities.

Smoking in all educational facilities is strictly prohibited.

#### § 482-3. Smoking on school district grounds.

Smoking on all school district grounds, including administrative offices and all other buildings and lands owned by the school district, within the Town is prohibited. Included in this prohibition are parking lots, athletic fields, campuses and any other lands owned by the school district.

#### § 482-4. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]



Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 493. Solid Waste

[HISTORY: Adopted by the Town Board of the Town of Genesee 3-14-1994 by Ord. No. 94-1. Amendments noted where applicable.]

### § 493-1. Town contract for garbage and recyclables pickup.

The Town Board shall contract for the weekly removal of garbage, refuse and recyclables from single-family and two- to four-family dwellings. There is hereby established a fee for the removal of garbage/refuse/recyclables from single-family and two- to four-family properties. Said fee shall be the per-unit charge made to the Town by the firm providing said removal to the Town by contract and shall be paid monthly by the Town. The Town Clerk is hereby authorized and directed to bill the owners of each single-family and two- to four-family dwelling on an annual basis for this service. The fee shall be for the year January 1 to December 31 and shall be due in advance by October 15. In the event this fee is not paid by October 15 of each year, the Town Board elects to charge any unpaid balance as a special charge under authority granted by § 66.0627, Wis. Stats. The unpaid balance shall be entered on the tax bill as a special charge and shall be due on the date the first installment of real estate taxes is due.

### § 493-2. Purpose.

The purpose of this chapter is to promote recycling, composting and resource recovery through the administration of an effective recycling program as provided in § 287.11, Wis. Stats., and Ch. NR 544, Wis. Adm. Code.

### § 493-3. Statutory authority.

This chapter is adopted as authorized under § 287.09(3)(b), Wis. Stats.

### § 493-4. Abrogation and greater restrictions.

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law, other than Ordinance No. 91-10.<sup>[1]</sup> However, whenever this chapter imposes greater restrictions, the provisions of this chapter shall apply.

[1] *Editor's Note: Ordinance No. 91-10 was specifically repealed by this chapter (Ordinance No. 94-1).*

### § 493-5. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Ch. NR 544, Wis. Adm. Code, and where the chapter provision is unclear, the provision shall be interpreted in light of

the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this chapter, or in effect on the date of the most recent text amendment to this chapter.

## § 493-6. Applicability.

The requirements of this chapter apply to all persons within the Town of Genesee, Wisconsin.

## § 493-7. Administration.

The provisions of this chapter shall be administered by the Town Board of the Town of Genesee.

## § 493-8. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated:

### **BIMETAL CONTAINER**

A container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

### **CONTAINER BOARD**

Corrugated paperboard used in the manufacture of shipping containers and related products.

### **FOAM POLYSTYRENE PACKAGING**

Packaging made primarily from foam polystyrene that satisfies one of the following criteria:

- A. Is designed for serving food or beverages.
- B. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
- C. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

### **HDPE**

High-density polyethylene, labeled by the SPI Code No. 2.

### **LDPE**

Low-density polyethylene, labeled by the SPI Code No. 4.

### **MAGAZINES**

Magazines and other materials printed on similar paper.

### **MAJOR APPLIANCE**

A residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven from which the capacitor has not been removed, oven, refrigerator, stove, hot water heater, furnace, boiler and dehumidifier. "Major appliance" does not mean a microwave oven from which the capacitor has been removed.

[Amended 10-10-1994 by Ord. No. 94-9]

### **MULTIPLE-FAMILY DWELLING**

A property containing five or more residential units, including those which are occupied seasonally.

### **NEWSPAPER**

Newspaper and other materials printed on newsprint.

### **NONRESIDENTIAL FACILITIES AND PROPERTIES**

Commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

### **OFFICE PAPER**

High-grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

### **OTHER RESINS or MULTIPLE RESINS**

Plastic resins labeled by the SPI Code No. 7.

### **PERSON**

Includes any individual, corporation, partnership, association, local governmental unit, as defined in § 66.0131(1)(a), Wis. Stats., state agency or authority or federal agency.

### **PETE**

Polyethylene terephthalate, labeled by the SPI Code No. 1.

### **PLASTIC CONTAINER**

An individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

### **POSTCONSUMER WASTE**

Solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in § 291.01(7), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in § 289.01(17), Wis. Stats.

### **PP**

Polypropylene, labeled by the SPI Code No. 5.

### **PS**

Polystyrene, labeled by the SPI Code No. 6.

### **PVC**

Polyvinyl chloride, labeled by the SPI Code No. 3.

### **RECYCLABLE MATERIALS**

Includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins; steel containers; waste tires; and bimetal containers.

### **SOLID WASTE**

Has the meaning specified in § 289.01(33), Wis. Stats.

### **SOLID WASTE FACILITY**

Has the meaning specified in § 289.01(35), Wis. Stats.

### **SOLID WASTE TREATMENT**

Any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.

### **WASTE TIRE**

A tire that is no longer suitable for its original purpose because of wear, damage or defect.

## YARD WASTE

Leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than four inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

## § 493-9. Separation of recyclable materials.

Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall separate the following materials from postconsumer waste:

- A. Lead acid batteries.
- B. Major appliances.
- C. Waste oil.
- D. Yard waste.
- E. Aluminum containers.
- F. Bimetal containers.
- G. Corrugated paper or other container board.
- H. Foam polystyrene packaging.
- I. Glass containers.
- J. Magazines.
- K. Newspaper.
- L. Office paper.
- M. Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins.
- N. Steel containers.
- O. Waste tires.

## § 493-10. Separation requirements exempted.

The separation requirements of § **493-9** do not apply to the following:

- A. Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in § **493-9** from solid waste in as pure a form as is technically feasible.
- B. Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from solid waste burned as supplemental fuel.
- C. A recyclable material specified in § **493-9E** through **O** for which a variance has been granted by the Department of Natural Resources under § 287.11(2m), Wis. Stats., or § NR 544.14, Wis. Adm. Code.

## § 493-11. Care of separated recyclable materials.

To the greatest extent practicable, the recyclable materials separated in accordance with § **493-9** shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other nonrecyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain and other inclement weather conditions.

## § 493-12. Management of lead acid batteries, major appliances, waste oil and yard waste.

Occupants of single-family and two- to four-unit residences shall manage these items as follows:

- A. Lead acid batteries shall be placed curbside separate from other refuse and recyclables.
- B. Major appliances shall be placed curbside.
- C. Waste oil shall be placed curbside in tightly capped containers clearly labeled as oil.
- D. Yard waste shall be placed curbside periodically upon notice to occupants. Acceptable yard waste consists of leaves, grass clippings and debris in clear plastic bags and tree limbs or brush not to exceed four inches in diameter and to be cut in four-foot lengths and tied in bundles.

## § 493-13. Preparation and collection of recyclable materials.

- A. Except as otherwise directed by the Town of Genesee, occupants of single-family and two- to four-unit residences shall do the following for the preparation and collection of the separated materials specified in § **493-9E** through **O**:<sup>[1]</sup>
  - (1) Aluminum containers, bimetal containers, glass containers, foam polystyrene packaging, plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins and steel containers shall be cleaned of debris and placed in the yellow recycling bins.
  - (2) Dry paper shall be placed in clear plastic bags. Dry paper includes magazines, office paper, newspapers, phone books, cardboard boxes and mixed paper.
  - (3) Waste tires shall be set curbside. Each household is limited to disposal of two tires per week.
  - (4) Large corrugated cardboard boxes and sections (appliance/furniture boxes, etc.) shall be set out empty and free of wood, Styrofoam and plastic packing materials. Other corrugated cardboard boxes shall be flattened and tied.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. All recyclables are to be set curbside, separated from other refuse, by 6:00 a.m. of the day designated by the Town for collection, but no earlier than 24 hours prior to the scheduled pickup.

## § 493-14. Responsibilities of owners or designated agents of multiple-family dwellings.

- A. Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in § **493-9E** through **O**:

- (1) Provide adequate, separate containers for the recyclable materials.
  - (2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established recycling program.
  - (3) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
  - (4) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- B. The requirements specified in Subsection **A** do not apply to the owners or designated agents of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in § **493-9E** through **O** from solid waste in as pure a form as is technically feasible.

## § 493-15. Responsibilities of owners or designated agents of nonresidential facilities and properties.

- A. Owners or designated agents of nonresidential facilities and properties shall do all of the following to recycle the materials specified in § **493-9E** through **O**:
- (1) Provide adequate, separate containers for the recyclable materials.
  - (2) Notify in writing, at least semiannually, all users, tenants and occupants of the properties about the established recycling program.
  - (3) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
  - (4) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- B. The requirements specified in Subsection **A** do not apply to the owners or designated agents of nonresidential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in § **493-9E** through **O** from solid waste in as pure a form as is technically feasible.

## § 493-16. Prohibitions on disposal of separated recyclable materials.

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in § **493-9E** through **O** which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

## § 493-17. Nonrecyclable materials.

All nonrecyclable materials shall be grouped together and placed in one or more plastic garbage bags or covered garbage cans weighing not more than 70 pounds for garbage collection purposes. Nonrecyclable materials shall include the following:

- A. Glass. All Pyrex glass, window glass, light bulb glass, mirrors, broken glass and china shall be considered nonrecyclable glass.
- B. Paper. All waxed paper, waxed cardboard, envelopes with gummed labels and envelopes with plastic windows shall be considered nonrecyclable paper.
- C. All other garbage and refuse not qualifying as recyclable material.

## § 493-18. Items not accepted.

Items which will not be collected are as follows:

- A. Earth, rocks, concrete, construction and demolition materials, and trees or parts thereof, except stated in § **493-12D** above.
- B. Hazardous, toxic or infectious materials, including any items recognized as special waste by the State of Wisconsin.

## § 493-19. Collection by unauthorized person.

From the time of placement at the curb by anyone of the categories described herein for collection by the Town of Genesee in accordance with the terms hereof, items shall be and become the property of the Town of Genesee or its authorized agent. It shall be a violation of this chapter for any person unauthorized by the Town of Genesee to collect or pick up or cause to be collected or picked up any such items during the twenty-four-hour period commencing at 6:00 p.m. on any day preceding a day designated for collection. Any and each such collection in violation hereof shall constitute a separate and distinct offense.

## § 493-20. Enforcement; violations and penalties.

- A. Refusal to separate recyclables in compliance with the terms of this chapter shall be cause for the Town's refuse collector to refuse to pick up such garbage or refuse. It shall be the responsibility of the property owner to properly dispose of any garbage or refuse not collected by the Town's refuse collector due to failure to separate recyclables.
- B. For purposes of ascertaining compliance with the provisions of this chapter, any authorized officer, employee or representative of the Town of Genesee may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Town of Genesee who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.
- C. Any person who violates a provision of this chapter may be issued a citation by local law enforcement officers or other designated person(s) to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

D. In addition to, and not to the exclusion or prejudice of, the specific penalties provided in this chapter, each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 500. Streets and Sidewalks

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Address numbers — See Ch. 207.

Comprehensive Plan — See Ch. 272.

Land division and development — See Ch. 375.

Roller skates, skateboards and play vehicles — See Ch. 457.

Vehicles and traffic — See Ch. 535.

### ATTACHMENTS

Attachment 1 - Exhibits A through D 

## Article I. Road Names

[Adopted 10-12-1981]

### § 500-1. Designation of official names.

[Amended 2-9-2015 by Ord. No. 15-1]

The names and locations of Town roads are shown in the Waukesha County Street Atlas, the latest version of which is on file in the Town Clerk's office. Appropriate signs designating these Town roads will be permanently constructed and maintained by the Town of Genesee.

## Article II. Snow and Ice

[Adopted 11-11-1985]

### § 500-2. Prohibited deposits.

[Amended 8-12-2013 by Ord. No. 13-8]

No person, corporation or organization shall cause, allow or permit snow or ice to be deposited from premises owned, controlled, leased, rented or maintained by said person, corporation or organization onto any streets or right-of-way in the Town of Genesee. No person, corporation or organization shall cause snow or ice to be deposited from his/her/its private or public driveway or parking lot or extension thereof onto any traveled portion of any public or private street or driveway that is not solely owned by such person, corporation or organization. No snow or ice shall be pushed, pulled or blown across a public street or road.

#### § 500-2.1. Sidewalks to be kept clear.

[Added 3-9-2015 by Ord. No. 15-4]



The owner or occupant of any lot or parcel shall promptly, each day, remove all snow and ice which may have fallen or accumulated upon the sidewalk on or abutting such lot or parcel. The owner of property abutting sidewalks on two intersecting streets shall remove all snow and ice from the sidewalks of both streets, including that portion of the sidewalks bordering the crosswalk, including the curb ramp, if any, regardless of the source of the snow accumulation. Notwithstanding the foregoing, when ice has so formed that it cannot be removed, the owner or occupant shall keep the same sprinkled with sand, salt or other suitable material which will prevent the sidewalk from being dangerous to pedestrians, until such time as it can be removed, and then it shall be promptly removed. If the owner or occupant fails to comply with this section, the Public Works Superintendent shall cause the snow or ice to be removed or sprinkled as required in this article, and the cost thereof shall be assessed against the property as a special charge. The imposition of such a special charge shall not bar the Town from pursuing prosecution or other penalties or remedies that may apply, and, conversely, prosecution for a violation or pursuit of other penalties or remedies as may apply shall not bar the Town from conducting this work and assessing a special charge for the costs incurred.

### § 500-3. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6; 2-9-2015 by Ord. No. 15-1]

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code. In addition to any penalty imposed for violation of this article, the Town may charge the violator the actual costs and expenses of correcting the violation, and if the violator does not pay such charge, the same may then be added to the tax roll as a special real estate charge pursuant to § 66.0627, Wis. Stats.

## Article III. Road Construction Standards

[Adopted 3-13-2006 by Ord. No. 06-3]

### § 500-4. Construction plans; required approvals.

The developer or owner desiring acceptance of a road by the Town shall first submit detailed construction plans prepared by a competent registered professional engineer. All roadway design, site grading and stormwater management facilities shall be shown on the plans and are subject to the approval of the Town Engineer and the Waukesha County and State of Wisconsin reviewing authorities. All approvals shall be obtained prior to proceeding with any grading.

### § 500-5. Development agreement; financial guarantee.

Before any road or street is approved, the applicant/developer shall enter into a development agreement with the Town wherein the applicant agrees to construct the road or street in accordance with the approved plans within a certain time frame as mutually agreed upon between the applicant/developer and the Town Board. At the time the development agreement is executed, the applicant/developer shall file a letter of credit or cash financial guarantee in a form acceptable to the Town Attorney in an amount equal to 115% of the estimated cost of the required improvements as submitted by the applicant/developer and approved by the Town Engineer. Upon the Town Board accepting the road a minimum of 15% of the total cost of constructing the road shall be kept for a period of at least one year to ensure the quality of the road is in compliance with the Town road standards.

### § 500-6. Typical sections and details; ditches.

All roadways shall be constructed according to the typical sections and details as depicted in Exhibits A through D attached hereto.<sup>[1]</sup> Road center-line gradients shall not be less than 0.6% nor greater than 10% unless approved by the Town Board. Ditch depths and gradients shall be designed to accommodate placement of driveway culverts such that the crown of the culverts is at least eight inches below the finished elevation of the adjacent edge of roadway pavement. Profiles for roadway ditches shall be shown on the construction plans. Unless otherwise approved by the Town Engineer, back slopes for roadway ditches shall extend at least to a point with an elevation equal to that of the adjacent edge of pavement. If these points are located outside the limits of roadway right-of-way, permanent drainage easements encompassing these points shall be placed on the final plat.

[1] *Editor's Note: Exhibits A through D are included as attachments to this chapter.*

## § 500-7. Culs-de-sac.

Culs-de-sac shall have a right-of-way with a minimum radius of 66 feet at the turnaround and shall be constructed in accordance with Exhibit D. Unless otherwise approved by the Town Board, temporary culs-de-sac shall be constructed in accordance with Exhibit D and appropriate easements shall be provided on lands beyond the limits of the street right-of-way. When the lands to be developed adjoin a temporary cul-de-sac, it shall be the responsibility of the future developer of the adjacent lands to remove it and restore the area to create a continuous roadway. All streets designed to have one end closed, whether temporarily or permanently, shall terminate in a circular turnaround having a minimum right-of-way radius of 66 feet. Notwithstanding the foregoing, a temporary "T" intersection 33 feet in width and 33 feet in length abutting the right-of-way lines of the access street on each side may be approved by the governing body if the governing body finds that the temporary cul-de-sac does not serve more than one parcel on each side of the street that the temporary cul-de-sac ends (Exhibit D).

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-8. Replacement of unstable material.

Topsoil, mucky soil, peat and other unstable material shall be removed below the subgrade of roads and replaced with suitable, sound fill materials as required by the Town Engineer.

## § 500-9. Stabilization of slopes.

Side slopes shall be covered with a minimum of four inches of topsoil, prepared, seeded or sodded, fertilized, stabilized, watered and maintained for a sufficient period to provide adequate grass cover prior to acceptance by the Town Board. Unless otherwise provided by the Town, all slopes steeper than three horizontal to one vertical shall be sodded and/or stabilized by methods approved by the Town and Waukesha County.

## § 500-10. Road and ditch construction.

The following procedures, checks, and certifications for road and ditch construction are required by the Town Engineer:

- A. Subgrade construction. The owner's engineer is to provide stakes that indicate the subgrade elevation of the center line of the roadway at one-hundred-foot intervals, or at 50 feet within a vertical curve. Once the contractor has constructed the subgrade, the developer's engineer is to certify that the subgrade is constructed to within 0.1 foot of design elevation. Under supervision of the Town Engineer, the contractor will conduct a "proof roll" of the subgrade. Any areas requiring repairs will not have to be recertified unless

recertification is deemed to be necessary by the Town Engineer. However, if there is a significant time period or severe weather conditions between the initial proof roll and base course construction, the Town Engineer may require an additional proof roll of the subgrade.

- B. Base course construction. The owner's engineer is to provide stakes that indicate the finished aggregate base elevation at the center line and edges of pavement at the intervals noted in Subsection **A**. Once the contractor has installed the base course material, the developer's engineer is to certify the base course grade (to within 0.1 foot) and crown. The engineer will also certify that the base course depth is per plan requirements. Under supervision of the Town Engineer, the contractor will proof roll the base course. Any areas requiring repairs will not have to be recertified, unless recertification is deemed to be necessary by the Town Engineer. The Town Engineer may require an additional proof roll of the base course if there is a significant time period or severe weather conditions between the initial base course proof roll and installation of the binder lift of asphalt.
- C. Ditch grade certification. Prior to installation of the binder course of asphalt (and prior to installing topsoil in the ditches), the developer's engineer will survey the elevations of the ditches and culvert inverts and will submit an as-built drawing of surveyed grades to the Town Engineer for his/her review. Ditches will be surveyed at one-hundred-foot intervals and 50 feet in vertical curves and in areas where the ditch slope is less than 1%.
- D. Paving asphalt binder course and installation of curb and gutter.
  - (1) The developer shall submit to the Town Engineer the paving contractor's asphalt mix design. No construction of the roadways may commence unless and until the paving contractor's asphalt mix design has been approved by the Town Engineer. The Town Engineer will perform construction observation of curb and gutter installation and paving and must be notified at least 48 hours prior to commencement of construction. The paving contractor shall submit asphalt weight tickets to the Town Engineer.
  - (2) Subsequent to paving, the Town Engineer will check shouldering to ensure it is of uniform and required width and thickness.
- E. Paving asphalt surface course.
  - (1) Prior to installation of the surface course of asphalt, the developer/paving contractor will provide the Town Engineer with 10 days' notice of when he intends to install the surface lift of asphalt. The Town Engineer will inspect the site and mark areas of asphalt binder and curb and gutter requiring repair prior to installation of the surface course of asphalt. The Town Engineer will notify the developer's contractor prior to said inspection to afford him the opportunity to be present at the inspection. The Town Engineer will perform construction observation during paving operations and must be notified at least 48 hours prior to commencement of construction. The paving contractor shall submit asphalt weight tickets to the Town Engineer.
  - (2) Subsequent to paving, the Town Engineer will check shouldering to ensure it is of uniform and required width and thickness.
  - (3) For the phases of construction described in Subsections **A** through **D**, the certifications required for each phase will be completed before work is performed on the next phase of work, unless exceptions (for weather considerations at the end of the year, etc.) are granted in writing by the Town Board.

## § 500-11. Culverts.

Metal end sections shall be installed at each end of all culverts as directed by the Town Public Works Superintendent or Town Engineer. Special Town Board approval must be obtained for any alternate culvert end treatment.

## § 500-12. State regulations.

All construction shall comply with the Standard Specifications for Road and Bridge Construction of the State of Wisconsin, current edition. Concrete curb, when applicable, shall be placed and backfilled prior to placement of bituminous concrete. Such bituminous concrete pavement, concrete curb and gutter, and shouldering shall be completed to the satisfaction of the Town Engineer and/or Town Public Works Superintendent and at no cost to the Town.

## § 500-13. Cross sections.

All roads in the Town shall be constructed in accordance with the appropriate standard cross section which is attached hereto as Exhibit A, B, or C and made part of this article. All permanent culs-de-sac constructed in the Town shall be constructed in accordance with the standard design that is attached hereto as Exhibit D and made part of this article.<sup>[1]</sup>

[1] *Editor's Note: Exhibits A through D are included as attachments to this chapter.*

## § 500-14. Proof of payment.

Before final acceptance of a Town road, the developer must furnish sufficient proof to the Town Board, as the Town may require, that said developer has paid for all costs for road construction.

## § 500-15. Street signs.

All street signs shall be obtained and placed by the Town, unless the applicant/developer receives special permission from the Town Board to install a specific type, style, or design of a distinct sign. The material and installation costs for said signs shall be paid by the applicant/developer.

## § 500-16. Culvert posts and guardrails.

Culvert posts shall be required at the ends of all culverts crossing roadways. The posts shall be marker posts prepared and installed per the state specifications. These posts shall be furnished and installed by the applicant/developer and located as directed by the Town Public Works Superintendent. Guardrails, if required by the Town Engineer, shall be furnished and installed by the applicant/developer at his/her expense.

## § 500-17. Removal of dirt and debris.

All public highways are to be cleaned of dirt and debris by those persons who are responsible for depositing this dirt or debris within an elapsed time period of 24 hours.

## § 500-18. Administrative, engineering, planning and legal fees.

Any costs incurred by the Town Board for administrative, engineering, planning and/or legal fees as a result of the review of the construction plans or the inspection of the improvements are to be paid by the applicant/developer prior to acceptance of the road(s) by the Town Board.

## Article IV. Use of Rights-of-Way; Culverts, Driveways and Mailboxes

[Adopted 2-14-2011 by Ord. No. 11-1]

### § 500-19. Use of Town rights-of-way restricted.

No person shall use Town rights-of-way for any purpose whatsoever without written permission of the Town of Genesee Public Works Superintendent, except for ordinary vehicular and pedestrian traffic in designed portions of the rights-of-way, unless otherwise specifically authorized by state statute or Town ordinance.

- A. No trees, shrubs, bushes, landscaping materials, structures, etc., shall be planted, constructed or placed within a Town road right-of-way, except structures specifically authorized under another section of this article. The Town of Genesee is not responsible for any damage that occurs to planters, plantings or landscaping located within the Town road right-of-way. It is the owner's responsibility to remove any interference caused by private trees.
- B. Within vision setback areas, no structure of any kind shall be permitted which exceeds 18 inches in height, except necessary highway and traffic signs, address signs, public utility lines and open fences through which there is clear vision, nor shall any plant material be permitted which obscures safe vision of the approaches of the intersection.
- C. The Town will attempt to mow a minimum of 12 feet from the edge of the road (if possible).

### § 500-20. Culvert regulations.

- A. Compliance required.
  - (1) Prohibition. No person shall install a culvert, or travel on a Town right-of-way where a culvert is installed, unless the culvert fully complies with the regulations of this article.
  - (2) Culvert required. A culvert permit shall be obtained prior to a building permit being issued. The culvert must be properly installed prior to a footing inspection being completed. The installation of all culverts in the Town of Genesee shall be done by the property owner or its agent or designee.
  - (3) Permit required. No person, firm or corporation shall make any excavation or fill or make any alteration in any highway right-of-way or in any manner disturb any highway right-of-way or install or have installed or caused to be installed any culvert which is within or will allow access or easement to property in the Town of Genesee without first obtaining a culvert sizing permit.
  - (4) Purpose. The intent of this section is to assure drainage ditch preservation and to assure adequate surface water and stormwater drainage.
- B. Definition. Culverts are those structures which function to convey surface water through an embankment or under a roadway or under a driveway.
- C. Design specifications.
  - (1) Public Works Superintendent's determination.
    - (a) The location and grade of culverts shall be determined by the Public Works Superintendent, consistent with the criteria stated in this article.

- (b) The size and specification of culverts shall be determined by the Public Works Superintendent, consistent with the criteria stated in this article.
  - (c) The inspection of culverts, after installation, shall be made by the Public Works Superintendent, consistent with the criteria stated in this article.
- (2) Special design criteria.
- (a) Apron ends shall be provided on cross-road culverts and driveway culverts, unless approved by the Town Public Works Superintendent.
  - (b) All driveway culverts shall be at least 15 inches in diameter, and no driveway culvert shall be less than 22 feet plus end sections or more than 30 feet plus end sections in length at the outer street edge unless special permission is obtained from the Town Board.
- (3) Standard material and construction specifications. The applicable portions of the most current edition of the State of Wisconsin, Department of Transportation, Standard Specifications for Road and Bridge Construction shall govern, except as herein amended.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (4) Special material specifications. All culverts must be made of reinforced concrete or corrugated metal pipe.
- (5) Private entrance culvert location.
- (a) In cases of a single entrance to the property, the culvert, as located in the ditch, shall be a minimum of three feet off of said lot line, as extended.
  - (b) Where a joint access is required, the culvert is to be centered on the line between the two properties as extended to the ditch. The driveways where they cross into the respective properties shall be a minimum of five feet off of the property line.
  - (c) The Town Board may grant a variance from the location requirements of this subsection where the Town Board finds that compliance with these requirements presents undue hardship due to topography or other natural features.

D. Culvert sizing permit.

- (1) Cost. The owner of the property serviced by a culvert or any applicant for installation of a culvert shall pay an application fee as established from time to time by the Town Board together with all actual administrative, legal, inspection and engineering fees to the Town Clerk or designee before any building permit or occupancy permit is issued. If at any time additional actual administrative, legal, inspection and engineering costs are incurred by the Town for any reason, including the subsequent inspection of the culvert due to improper installation, the owner shall be responsible for payment of any and all such costs.
- (2) Application procedure.
- (a) Application form. Applications for a culvert sizing permit shall be made in writing to the Town Public Works Superintendent on forms prescribed by the Town Board. The property shall be described by address and tax key number. The proposed culvert location shall be described on the form.
  - (b) Staking required. The owner/applicant must stake the proposed culvert location at the property using properly marked stakes to show center of proposed culvert location.
  - (c) Review process.

- [1] Upon receipt of the application, the Town Clerk shall immediately forward a copy of the same to the Public Works Superintendent.
  - [2] Upon receipt of the copy of the application, the Public Works Superintendent shall review the same, determine the appropriate size and grade and report the same to the Town Clerk. A minimum of one week from the Public Works Superintendent's receipt of the application shall be allowed for the Public Works Superintendent's determination.
  - [3] Upon approval of the location, payment of all fees and a determination of size and grade by the Public Works Superintendent, a Town culvert sizing permit shall be issued.
- (3) Permit conditions. All culvert sizing permits shall be subject to the conditions that the work shall be constructed subject to such rules and regulations as may be prescribed by the Town and be performed and completed to the Town's satisfaction, that in the case of a temporary alteration the highway shall be restored to its former condition, and that the permittee shall be liable to the Town for all damages which occur during the progress of the work or as a result thereof.
- E. Culvert maintenance and repair. Every property owner will have the continuing responsibility and obligation to maintain and repair the culvert(s) servicing its property. Should any culvert become in such a condition or state of disrepair, damaged to such an extent that the flow of the drainage or access by motor vehicles is affected thereby, including any trees/vegetation interfering with the inlet/outlet, the property owner shall take whatever actions are necessary to remove trees/vegetation or repair or replace said defective culvert.
- F. Culvert installation may be required in existing driveways. Where the public welfare requires a suitable culvert for an existing driveway, the Town Board shall notify, in writing, the property owner that the Town will install a culvert at the expense of the abutting property. The property owner shall deposit a sum in an amount equal to the estimated cost of installing such culvert within 10 days from the date of notice. If the deposit is not made, and if the cost of the installation to the abutting property is not paid to the Town Treasurer on or before November 1, the same shall be entered on the tax roll as a special charge against the property.

## § 500-21. Driveway regulations.

[Amended 2-25-2020 by Ord. No. 20-1]

- A. Interference with intersections prohibited. At street intersections, a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Town Public Works Superintendent for effective traffic control or for highway signs or signals.
- B. Interference with street prohibited. No driveway apron shall extend out into the street further than the face of the curb or the edge of the paved portion. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches or roadside areas or with existing structures on the right-of-way.
- C. Number of approaches limited. In all districts the number of road accesses shall be limited as follows: No more than one driveway entrance and approach shall be constructed for any lot or premises unless the Town Board approves an additional access after being deemed by the Town of Genesee Public Works Superintendent to comply with all of the following criteria:
  - (1) The existing access is not feasible to serve the property or structure in question.

- (2) Adequate sight distance is provided at the proposed entrance location.
  - (3) The proposed access is to eliminate the destruction of mature trees, wetland area, environmental corridor or floodplain area.
  - (4) The Topography of the site severely restricts the use of the existing access to serve the property/structure.
  - (5) The second access shall not be located on a different street when serving the same property, unless special permission is granted by the Town Board.
- D. Five feet from side lot lines. All driveways entering onto Town roads shall be at least five feet off of the nearest side lot line at the point where the property line meets the Town road right-of-way line unless otherwise approved by the Town Board. Moreover, all driveways or portions thereof located within the right-of-way shall be at least five feet off of an imaginary line drawn perpendicular to the right-of-way line to the roadway pavement from the point where the nearest side lot line meets the right-of-way line unless otherwise approved by the Town Board.
- E. Restoration required. When curb and gutter is removed, the new construction and connection shall be of equivalent acceptable material and curb returns provided or restored in a neat, workmanlike manner. Driveway surfaces shall connect with the street pavement and sidewalk in a neat, workmanlike manner. Any sidewalk areas which are damaged shall be replaced.
- F. Property owner liable for damage or injury. The property owner shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly from construction or repair of driveway approaches or entrances.
- G. Concrete surfacing of private driveways. If a driveway is installed as a concrete driveway, the concrete shall not extend over the driveway culvert, or between the culvert and the traveled portion of the roadway. If there is no driveway culvert then the concrete shall be no closer than six feet to the traveled portion of the roadway. The area between the concrete driveway and the traveled portion of the roadway shall be paved with asphalt or paver brick. Further, driveway pavement installed within 10 feet from the traveled portion of the roadway shall have a rise of not more than six inches.

## § 500-22. Mailbox regulations.

[Amended 3-14-2011 by Ord. No. 11-2; 2-9-2015 by Ord. No. 15-1]

- A. All mailboxes shall be located in conformity with the requirements of the United States Post Office.
- B. The Town of Genesee ("Town"), contractor hired by the Town ("contractor") or assigns shall not be responsible for damage to mailboxes that are determined by the Town Public Works Superintendent to have been improperly installed or to have deteriorated posts and mounting material or which were not physically struck by Town or contractor equipment. The Town shall not replace any mailbox in kind. Should an investigation determine that a mailbox was damaged by Town or contractor equipment, the property owner shall receive a standard (four inches by four inches) post and box unit or the cash equivalent of a standard (four inches by four inches) post and box unit as determined by the Town. The post shall consist of either a treated or cedar material, depending on what was found in the investigation.
- C. Should the property owner dispute the findings of the Public Works Superintendent, he/she may request in writing that the matter be placed on the agenda for the next available meeting of the Town Board for discussion and action.



## § 500-23. Obligation for corrective work.

If any culvert is installed, driveway access is built, alteration is made in a right-of-way, or other unauthorized condition exists in violation of this article, the violation shall be corrected by the owner of the property, at the property owner's sole expense. If the violation of this article is not corrected after 10 days written notice from the Public Works Superintendent, the Town may make all necessary corrections, including removing the culvert or fill or other cause of the violation and rebuilding conforming improvements if deemed necessary by the Public Works Superintendent and restoring the right-of-way, and bill the property owner for all of the expenses incurred by the Town in said corrective work. If said property owner fails to pay the Town's expenses, the charges shall be placed upon the tax roll and collected as a special charge under § 66.0627, Wis. Stats.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-24. Violations and penalties.

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code. In addition to any penalty imposed for violation of this article, the Town may charge the violator the actual costs and expenses of correcting the violation, and if the violator does not pay such charge, the same may then be added to the tax roll as a special real estate charge pursuant to § 66.0627, Wis. Stats.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article V. Street Excavations

[Adopted 8-12-2013 by Ord. No. 13-6]

### § 500-25. Statement of purpose.

In the interest of public safety on Town streets, the roads and streets, or portions thereof, of the Town of Genesee are hereby declared to be subject to the street excavations requirements as set forth herein.

### § 500-26. Permit required.

No person or public utility shall cause any excavation, including trenching, boring or directional drilling, on any public right-of-way of the Town, including the ditches located within said right-of-way, to be made for the purpose of installing any sewer line, water pipe, gas pipe, electric, cable television (CATV), telephone or telegraph transmission line, buried conductors and utility poles, or any excavation without first obtaining a permit for such excavation from the Town, except as provided in § 500-32, Emergency work.

### § 500-27. Insurance required.

A permit shall be issued only if the applicant submits evidence to the Town Clerk that the applicant is covered by public liability insurance in the following minimum amounts and that such insurance protects the Town from all claims: \$500,000 per person and \$1,000,000 per occurrence. The evidence of insurance shall also provide that the Town be notified at least 10

days prior to cancellation or expiration of the insurance. The provisions of this section shall not apply to entities covered under § 66.0425(6), Wis. Stats.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-28. Information to accompany application.

The applicant shall describe the place where the excavation is proposed to be made with such certainty that it may be readily located and shall specify the purpose for which the excavation is to be made and when it is proposed to begin. In addition, the applicant may be requested to provide additional information on the proposed work to enable the Public Works Superintendent to properly evaluate the work to be done. The Public Works Superintendent shall solely determine whether sufficient information has been submitted.

## § 500-29. Display of permit.

A copy of the permit shall be available at the site at all times.

## § 500-30. Automatic expiration of permit.

If work is not commenced within the time period specified on the permit, the permit shall automatically expire and a new permit shall be obtained and an additional fee charged.

## § 500-31. Notices required.

Notice required from the applicant shall be as follows:

- A. To Public Works Superintendent. The applicant shall notify the Public Works Superintendent at least three working days prior to the commencement of work and again at least 24 hours prior to backfilling or restoring the surface.

## § 500-32. Emergency work.

When an immediate excavation is necessary for the protection of public or private property and Town offices are closed, the same shall be reported to the answering machine. A permit shall be applied for on the next business day.

## § 500-33. Removal of new pavement.

Whenever it is necessary to remove street or alley pavement for installation of new facilities within five years of the construction of the pavement, the applicant shall pay and forfeit as damages to the Town the following charges based upon the unit prices as established by the Town Public Works Superintendent for the year in which the opening is made, such charges to be in addition to the restoration costs incurred by the applicant:

- A. First year: 50% of the unit price.
- B. Second year: 40% of the unit price.
- C. Third year: 30% of the unit price.
- D. Fourth year: 20% of the unit price.

- E. Fifth year: 10% of the unit price.

## § 500-34. Maximum street opening.

Not more than 200 linear feet of trench shall be opened at one time.

## § 500-35. Time limit for completion of work.

No trench excavation shall remain open in excess of three calendar days, unless permission is obtained from the Public Works Superintendent prior to the third day. For each day or fraction thereof the excavation remains open in excess of three days, the applicant shall pay to the Town \$100.

## § 500-36. Excavation procedures.

The following procedures shall be observed in all street excavations:

- A. Excavating. The trench shall be saw cut and shall be excavated to a sufficient width and depth to permit the laying of the pipe conduit, using special care to avoid damaging existing conduits or pipes. All work shall be done to conform to the applicable standards of the Department of Safety and Professional Services and applicable Occupational Safety and Health Administration regulations and to the rules and regulations of the Town. All refuse and excess excavated material shall be removed from the street limits as the work progresses and shall not be deposited on the site.
- B. Maintenance of hard surface opening.
  - (1) General. The applicant shall backfill the openings with slurry immediately upon completion of the work, topped with not less than 3 1/2 inches of bituminous concrete. The applicant shall maintain such temporary pavement in good condition for a minimum of two weeks. Open gravel trenches shall not be permitted.
  - (2) Final restoration. After the two-week period, the applicant shall perform all final surface restoration with eight inches of crushed limestone base and four inches of bituminous concrete placed in two lifts. The final restoration shall consist of removing the temporary surface, trimming all broken edges, and restoring the pavement to equal or better than original condition. The applicant shall guarantee and maintain the site of the excavation for one year after restoring it to its original condition.
    - (a) Restoration of openings in other than hard surface areas. All surfaces or subsurfaces of areas other than hard surface areas as may be disturbed in any street excavation shall be replaced in substantially the same condition as they were prior to such disturbance.
    - (b) Backfilling. Backfilling shall be done with due care in a workmanlike manner according to approved methods so as to prevent the settling of the facility. In all streets, alleys, sidewalks or other public ways, whether improved or unimproved, all excavated material shall be removed and the trench shall be completely backfilled with slurry meeting the following specifications: the materials shall be placed in a cement mixer truck and thoroughly mixed, 1,350 pounds sand, 775 pounds No. 1 stone (one inch), 1,150 pounds No. 2 stone (two inches) and 25 gallons (+0 to -0.5 gallon) water per cubic yard. No additional water will be allowed. The above weights are damp weights. Just prior to placing the slurry, the mixer shall be run at mixing speed for one full minute to ensure an even mixture.

- (c) Traffic control devices. The applicant shall provide and maintain proper barricades, signs, flags, and flag persons at all locations where construction and maintenance work interferes with normal pedestrian or vehicular traffic use of the street. All markings and signing provided for traffic control purposes shall conform to the standards and specifications of the current issue of the Manual on Uniform Traffic Control Devices, as may be applicable.
  - (d) Town's right to restore surface. If the applicant fails to restore the surface of the street to its specified condition within 14 days of being notified to do so, the Public Works Superintendent may do all the work and things necessary to restore the street. The applicant shall be liable for the actual cost thereof, plus 25% of such cost for general overhead and administrative expenses. The cost of such work shall be billed directly to the permit applicant. No future street excavation permits shall be issued to the applicant until such invoices are paid in full.
- C. Erosion control. The applicant shall provide and maintain sufficient erosion control devices to prevent materials from entering any ditch, storm sewer or waterway.

## § 500-37. Permit fees.

[Amended 2-9-2015 by Ord. No. 15-1; 12-13-2021 by Ord. No. 21-6; 1-10-2022 by Ord. No. 22-1]

For the purpose of administering the provisions of this article, each applicant shall pay to the Town Clerk the permit fees for each street in which an excavation is to be made as established from time to time by separate resolution of the Town Board. If the applicant for a permit starts work on an excavation in the public right-of-way before a permit is issued for the same, the above permit fees shall be doubled. This shall not apply to emergency work as defined herein.

## § 500-38. Violations and penalties.

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code. The penalties described herein shall be in addition to obligations imposed upon the property owner for corrective work, described in § 500-36 herein, and in addition to any other remedy that the Town may have regarding the violation.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 519. Trees

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### Article I. Hazardous Trees

[Adopted 1-9-2017 by Ord. No. 17-2<sup>[1]</sup>]

[1] *Editor's Note: This ordinance repealed former Art. I, Dutch Elm Disease, adopted 6-8-1961, as amended.*

#### § 519-1. Hazardous tree defined.

For purposes of this article, "hazardous tree" shall mean any of the following.

- A. Any tree or shrub or part thereof located upon any public or private property which is infected with an infectious plant disease, or is infested with injurious insects or pests, so as to threaten the health of other trees or shrubs in the Town, including but not limited to the following disease and infestation conditions:
- (1) Dutch elm disease, defined as follows: any elm tree or part thereof infected with the Dutch elm disease fungus *Ceratocystis ulmi* (Buisman), or which harbors any of the elm bark beetles *Scolytus multistriatus* (Eichh.) or *Hylurgopinus rufipes* (Marsh.). Also, any dead elm tree or parts thereof, including logs, branches, stumps, firewood or other elm material not buried or burned or from which the bark has not been removed.
  - (2) Asian long-horned beetle infestation, defined as follows: any tree or shrub or part thereof, or logs, branches, stumps, firewood or other tree or shrub material, which harbors the Asian long-horned beetle (*Anoplophora glabripennis*).
  - (3) Emerald ash borer infestation, defined as follows: any tree or shrub or part thereof, or logs, branches, stumps, firewood or other tree or shrub material, which harbors the emerald ash borer (EAB) (*Agrilus planipennis*).
- B. Any tree or shrub that overhangs any public sidewalk, public pathway, public street or other public right-of-way in the Town in such a manner as to impede or interfere with any public easement or traffic or travel on such public pathway, public sidewalk, public street or other public right-of-way, including, but not limited to, any tree or shrub that obstructs street illumination or the vision of persons traveling such public sidewalk, public pathway, public street, or other public right-of-way.
- C. Any part of a tree or shrub that, due to disease, insect infestation or any defective condition, is likely to fall and impair access to a public right-of-way or public place.

## § 519-2. Burning or treatment of diseased wood.

All dead or freshly cut wood infected as described in § **519-1A** shall be burned or treated with an approved spray and oil base as approved by the Town Public Works Superintendent, and it shall be unlawful to keep any dead or freshly cut diseased wood on any premises in the Town of Genesee unless so treated.

## § 519-3. Right of entry; inspections.

The Town Public Works Superintendent or any member of the Town Board, with the permission of the property owner or occupant or by inspection warrant, may enter upon private property within the Town for the purpose of inspecting all trees thereon to determine whether any of such trees are infected or diseased or in need of other preventative measures and is further empowered to inspect such private premises to determine the presence of any infected logs, firewood, or stumps, or the presence of any dead trees.

## § 519-4. Hazardous trees prohibited.

Hazardous trees are declared to be a public nuisance. No person shall permit any hazardous tree public nuisance to remain in or on any premises owned or leased by that person within the Town of Genesee.

## § 519-5. Order to remove.

The Town Public Works Superintendent or the Town Board may order any property owner to remove and destroy any hazardous tree. Notice shall be given by mailing a notice to the last known address of the property owner by registered mail or by delivery of notice and service thereof by any law enforcement officer on such owner or agent of said owner.

## § 519-6. Notice of compliance.

When any property owner is directed to remove a tree or spray a tree or area, he/she shall advise the Town Board of his/her compliance within 20 days after receipt of the notice.

## § 519-7. Violations and penalties.

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code. Each and every day for which a violation continues shall be deemed a separate offense.

## Chapter 535. Vehicles and Traffic

[HISTORY: Adopted by the Town Board of the Town of Genesee as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Peace and good order and nuisances — See Ch. 435.

Roller skates, skateboards and play vehicles — See Ch. 457.

## Article I. Abandoned Vehicles

[Adopted 7-10-1978]

### § 535-1. Vehicles not to be abandoned.

- A. Determination of abandonment. No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public highway or private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Except as otherwise provided in this section, whenever any vehicle has been left unattended without the permission of the property owner for more than 48 hours, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned vehicle when it is out of ordinary public view, or when it is currently registered or designated as not abandoned by a duly authorized Town official.
- B. Vehicles on public highways. No person may cause a motor vehicle to be abandoned within the meaning of Subsection A above on or along any state, county or Town highway or on any public or private property.

### § 535-2. Impoundment.

Any vehicle in violation of § 535-1 herein shall be impounded until lawfully claimed or disposed of under § 535-3, except that if it is deemed by the Town Board that the cost of towing and storage would exceed the value of the vehicle, then that motor vehicle may be junked or sold by the Town of Genesee prior to the expiration of the storage period upon determination by the Town Board that the vehicle is not stolen or otherwise wanted for evidence or other reason. All

substantially complete vehicles that exceed 19 model years in age shall be disposed of in accordance with § 535-3A below.

## § 535-3. Storage and sale.

- A. Notice to owner. Any vehicle which is deemed abandoned by the Town Board of the Town of Genesee and not disposed of immediately under § 535-2 above shall be retained in a convenient place of storage for a minimum of 10 days after certified mail notice has been sent to the owner and to lienholders of record to permit reclamation of the vehicle upon payment of accrued charges. Such notice shall set forth the year, make, model and serial number of the abandoned motor vehicle and the place where the vehicle is being held and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all right, title and interest in the vehicle and a consent to the sale of the vehicle. Each stored vehicle not reclaimed by its owner within the time listed above may be sold. The Town of Genesee may dispose of the vehicle by sealed bid or auction sale. At such public sale, the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by the Town Board, in which event all bids may be rejected. If all bids are rejected or no bid is received, the Town of Genesee may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold.
- B. Procedure for bidding. Public notice of the sale, whether it be by auction or sealed bid, shall be posted at the Town Hall and at two other public locations in the Town. In addition, a copy of the notice shall be mailed to the last owner of record and lienholder of record.
- C. Procedure after sale. Upon the sale of the abandoned vehicle the Town of Genesee shall supply the purchaser with a completed form which will enable said purchaser to obtain a registration certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area but shall pay a reasonable storage fee if established by the Town Board for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten days after the sale, if the vehicle has not as yet been claimed by the purchaser, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to again be abandoned and may be sold again. Any list of vehicles to be sold by the Town of Genesee shall be made available to any interested person or organization who or which makes a written request for such list. The Clerk of the Town of Genesee may charge a fee for the preparation of said list.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. Notice to Department of Transportation. Within five days after the sale or disposal of a motor vehicle as provided in this article, the Town Clerk shall advise the Department of Transportation of the sale or disposition on the appropriate form supplied by the Department of Transportation.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 535-4. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

In addition to the sale or disposition of the abandoned vehicle as provided herein, any person violating § 535-1B shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article II. Vehicular Access to Boettcher Lane

[Adopted 12-13-1982]

### § 535-5. Lane closed to traffic.

Boettcher Lane from its intersection with Boettcher Road, formerly known as County Trunk Highway GD, to its end is hereby closed to public vehicular traffic. The Town employees are directed to place whatever barricades are necessary to close that portion of the street to public vehicular traffic. Access will be permitted to the owner of those lands to the rear of the street for agricultural purposes. The Town employees will use whatever steps are necessary to provide a method of access for the agricultural owner.

## Article III. Traffic and Parking Regulations

[Adopted 10-10-1983]

### § 535-6. State traffic laws adopted.

Except as otherwise specifically provided in this article, the statutory provisions in Chs. 340 to 348, Wis. Stats., describing and defining regulations with respect to vehicles and traffic, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment, are adopted and by reference made a part of this article as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this article. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made part of this article in order to secure uniform statewide regulation of traffic on the highways, streets and alleys of the state.

### § 535-7. Speed limits.

- A. State speed limits adopted. The provisions of §§ 346.57, 346.58, and 346.59, Wis. Stats., relating to the maximum and minimum speed of vehicles are hereby adopted as part of this section as if fully set forth herein, except as specified by Subsection **B** pursuant to § 349.11(3)(c), Wis. Stats.
- B. Particular speed limits designated. No person shall operate any motor vehicle at speeds in excess of the following speed limits on Town roads in the Town of Genesee, Waukesha County, Wisconsin:

Name of Street	Speed Limit (mph)	Location
Aces Court [Added 11-14-2022 by Ord. No. 22-6]	25	Entire length
Ancestral Drive [Added 10-11-1999 by Ord. No. 99-6]	25	From Boettcher Road east to the connection in Haylett Heights
Ancestral Drive	25	From County Trunk Highway DE northerly and westerly for a distance of 0.45 mile



**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6]	25	Entire length
Bartell Court	25	From County Trunk Highway D southerly to its termination
Bartell Road [Added 8-9-2010 by Ord. No. 10-3]	25	Southwesterly from a portion of Bartell Road accepted on November 14, 1994, to the end of the cul-de-sac
Bartell Road [Added 11-14-1994 by Ord. No. 94-7]	25	From Spring Ridge Lane south to the end of the road
Bennett Court (Grid No. S37 W318)	25	Entire length
Bennett Road	25	From State Trunk Highway 83 westerly to its termination
Bethania Lane [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Bethesda Church Road [Added 6-14-1999 by Ord. No. 99-3]	35	From County Trunk Highway D north to the road closure (south side of the railroad tracks)
Bethesda Circle (Grid No. S29 W303)	25	Entire length
Bethesda Court South [Added 5-13-2019 by Ord. No. 19-3]	25	From south Bethesda Circle to its termination
Billings Court	25	From Drumlin Drive southwesterly to its termination
Boettcher Court [Added 9-8-1997 by Ord. No. 97-3]	25	From Boettcher Road north to end of cul-de-sac
Boettcher Road	45	From County Trunk Highway D to Jarmen Drive
Boettcher Road	35	From Jarmen Road northwesterly to Village of Wales limits
Boys School Road	15	Entire length
Brandybrook Road [Added 8-9-2004 by Ord. No. 04-6]	35	From the north line of the Village of Wales northerly to the Town of Delafield line a distance of 0.62 mile
Brecon Way [Added 10-14-1991 by Ord. No. 91-17]	25	From Boettcher Road southerly and easterly to Boettcher Road
Bridle Lane [Added 4-13-2015 by Ord. No. 15-6]	25	From Fields Crossing Drive south to the end of the subdivision
Brookhill Road [Amended 8-9-2019 by Ord. No. 19-6]	35	Entire length

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6]	25	Entire length
Bryn Mawr Court	25	From County Trunk Highway G southerly to its termination
Bryn Mawr Road (Grid No. S29 W330)	25	Entire length
Cambrian Ridge [Added 10-11-1999 by Ord. No. 99-7]	25	From Jarmon Road north to curve, west to curve, and south back to Jarmon Road
Cambrian Ridge	25	From Jarmon Road southwesterly to its termination
Cambria Road [Added 12-8-2003 by Ord. No. 03-4]	25	West from Parkers Place to the end of the property line
Canyon View Drive [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Carmarthen Court (Grid No. S29 W291)	25	Entire length
Carmarthen Drive	25	From County Trunk Highway DT southwesterly to its termination
Chipmunk Lane	25	From County Trunk Highway GE northerly to its termination
Chukar Lane (Grid No. S35 W281)	25	Entire length
Church Street	25	From Old Village Road southeasterly to Walnut Street
Cliffside Court [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Commercial Drive [Added 12-13-1999 by Ord. No. 99-9]	25	From State Trunk Highway 59 north and west to end of road
Connemara Drive	25	Entire length
Country Glen Drive [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Cregennan Bae [Added 5-13-2019 by Ord. No. 19-3]	25	From South Brandybrook to Lochtyn Ridge
Dable Road	35	Entire length
David Court [Added 11-10-2003 by Ord. No. 03-5]	25	Northwest from Wild Berry Lane to the end of the cul-de-sac
Davies Drive [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6]	25	Entire length
Deerpark Court	25	From Deerpark Drive southerly to its termination
Deerpark Drive (Grid No. S41 W337)	25	Entire length
Deerpark Drive [Repealed 2-9-2015 by Ord. No. 15-1]		
Dendon Court [Added 10-10-2005 by Ord. No. 05-2]	25	West from Brookhill Road to the end of the cul-de-sac
Depot Hill Road [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Depot Road (Grid No. S43 W317)	25	Entire length
Drumlin Drive	25	From Fox Hollow Drive northerly and westerly to Deerpark Drive
DT Road [Added 7-14-1986; repealed 7-10-1989]		
DT Road [Added 7-10-1989]	45	Entire length from Jarmon Road south to the end
DT Road [Added 7-10-1989]	35	Entire length from the Town limits south to Jarmon Road
Edwards Drive (Grid No. S43 W335)	25	Entire length
Esser Court [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Esser Drive [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Executive Drive [Added 9-11-2000 by Ord. No. 00-4]	25	From Commercial Drive to end of cul-de-sac
Fern Wood Drive	25	From Post Road westerly to Longacre Road
Fields Crossing Drive [Added 4-13-2015 by Ord. No. 15-6]	25	West off State Highway 83 (round-about) to Bridle Lane and north to the end of the subdivision
Fieldstone Drive	25	From Onish Drive northerly and easterly to its termination
Forest Hills Court-North [Added 9-9-1991 by Ord. No. 91-14]	25	From Forest Hills Court north to the Delafield town line
Forest Hills Drive	25	Entire length

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6] [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Fox Hollow Drive	25	From County Trunk Highway GE northerly, westerly and southerly to its termination
Fox Run Court [Added 11-13-2006 by Ord. No. 06-13]	25	North off Holiday Road to the end of the cul-de-sac
Frederick Place [Added 9-9-1991 by Ord. No. 91-14]	25	From County Trunk Highway D south to its termination
Fryatt Court	25	From Holiday Road southerly to its termination
Gatekeeper Drive [Added 11-14-1994 by Ord. No. 94-7]	25	From County Trunk Highway E east to end of road
Genesee Pass [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Genesee Road [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Glen Hollow Lane [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Grace Court [Added 11-14-1994 by Ord. No. 94-7]	25	From Spring Ridge Lane south to the end of the road
Green Briar Road [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Green Meadow Lane	25	From West End Lane northerly to its termination
Grouse Court (Grid No. S36 W284)	25	Entire length
Grush Road	45	From County Trunk Highway ZZ northerly to Highview Road
Hamilton Drive [Added 11-10-2008 by Ord. No. 08-2]	25	East off Brookhill Road to end of roadway
Harvest View Drive [Added 11-14-2005 by Ord. No. 05-5]	25	East off State Trunk Highway 83 north-easterly and south until it joins that portion of Harvest View Drive in the Smart Certified Survey Map
Harvest View Drive	25	South from Harvest View Drive in the Conservancy at Genesee to the border

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6] [Added 10-9-2006 by Ord. No. 06-11]	25	Entire length of Harvest Canyon Subdivision
Hawthorne Hollow	25	From Hilltop Drive westerly and northerly to its termination
Heather Drive (Grid No. S45 W335)	25	Entire length
Hengen Drive	25	From Drumlin Drive easterly to its termination
Hidden Valley Drive	25	From Deerpark Drive southwesterly to its termination
High Meadow Circle	25	From State Trunk Highway 83 westerly, southerly and easterly to State Trunk Highway 83
High Meadow Lane [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Highview Road	25	From County Trunk Highway D southerly and westerly to Grush Road
Highview Road	35	From Grush Road to County Trunk Highway E
Hillside Road	45	Entire length
Hilltop Drive	25	From Honeysuckle Drive northerly to its termination
Holiday Oak Court [Added 11-9-1998 by Ord. No. 98-4]	25	From the intersection of Ridgefield Road and Holiday Oak Road north and west to end of cul-de-sac
Holiday Oak Drive [Added 11-9-1998 by Ord. No. 98-4]	25	From Holiday Road north to the intersection of Holiday Oak Court and Ridgefield Road
Holiday Point Drive [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Holiday Road [Added 6-13-1994 by Ord. No. 94-4]	25	Entire length from State Trunk Highway 83 easterly to the Town line
Holiday Road [Repealed 6-13-1994 by Ord. No. 94-4]		
Homestead Court [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Honeysuckle Court	25	From Honeysuckle Drive westerly to its termination
Honeysuckle Drive	25	From Lilac Court easterly, northerly and westerly to its termination

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6]	25	Entire length
Hood Parkway	25	From County Trunk Highway GE southerly to County Trunk Highway ZZ
Hunters Crossing [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Imperial Court [Added 11-10-2003 by Ord. No. 03-5]	25	North from Wild Berry Lane to the end of the cul-de-sac
Industrial Lane [Added 10-9-2000 by Ord. No. 00-5]	25	From Wolf Road south to the end of the temporary cul-de-sac
Jamie Court [Added 10-11-1999 by Ord. No. 99-7]	25	From Cambrian Ridge west and south to end of cul-de-sac
Irene Court [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Jarmon Court [Added 10-11-1999 by Ord. No. 99-7]	25	From Jarmon Road northeasterly to end of cul-de-sac
Jarmon Road	35	From County Trunk Highway DT west-erly to County Trunk Highway GD
Jenkins Court [Added 11-14-1994 by Ord. No. 94-7]	25	From Spring Ridge Lane west to the end
Jenna Lane [Added 9-8-1997 by Ord. No. 97-3]	25	From Boettcher Road north and west back to Boettcher Road
Jennie Court (Grid No. S28 W293)	25	Entire length
Johns Way [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Jones Drive	25	From U.S. Highway 18 southerly and westerly to its termination
Journey's Way [Added 11-10-2003 by Ord. No. 03-6]	25	East from Squire Road to the end of the cul-de-sac
Jumpers Circle [Added 4-13-2015 by Ord. No. 15-6]	25	From Fields Crossing Drive north to the end of the cul-de-sac
Kamps Court [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Katherine Court	25	South of County Highway DE (Sunset Drive) to cul-de-sac

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6] [Added 11-14-2016 by Ord. No. 16-5]	25	Entire length
Kayla Court [Added 9-8-1997 by Ord. No. 97-3]	25	From Jenna Lane east to end of road
Kettlefield Court [Added 8-9-2010 by Ord. No. 10-3]	25	West off Bartell Road to end of cul-de-sac
Kettle Ridge Court [Added 12-14-2009 by Ord. No. 09-4]	25	West off State Trunk Highway 83 southwesterly to the end of the cul-de-sac
Lilac Court	25	From County Trunk Highway D northerly to its termination
Little John Drive [Added 11-14-2005 by Ord. No. 05-3]	25	North of railroad tracks, west off Boettcher Road southwesterly to the end of the cul-de-sac
Llanfair Court [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
London Drive [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Longacre Road	25	From State Trunk Highway 83 northeasterly to Post Road
Loon Hollow [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Lorraine Drive [Added 6-13-1994 by Ord. No. 94-3]	25	From Saylesville Road westerly to the end of the road
Luterbach Court [Added 11-10-1997 by Ord. No. 97-7]	25	From State Trunk Highway 18 north to the end of the cul-de-sac
Madison Street [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Madrid Lane [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Majestic Court [Added 11-10-2003 by Ord. No. 03-5]	25	South from Wild Berry Lane to the end of the cul-de-sac
McAllister Way [Amended 3-8-2004 by Ord. No. 04-2]	25	From Long Acre Road southerly to Wood Fern Wood

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6]	25	Entire length
McFarlane Road	25	From County Trunk Highway X westerly to State Trunk Highway 83
Meadow Lane	25	From County Trunk Highway GG easterly to its termination
Meadowlark Lane	25	From County Trunk Highway ZZ northerly to County Trunk Highway E
Meadow View Court [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Meghan Court [Added 10-11-1999 by Ord. No. 99-6]	25	From Ancestral Drive north to the end of the cul-de-sac
Mesa Trail [Added 5-13-2019 by Ord. No. 19-3]	25	From Highway D north to termination
Michelle Court (Grid No. S30 W293)	25	Entire length
Mickle Road	25	From U.S. Highway 18 southerly and westerly to its termination
Molly Lane North [Added 10-11-1999 by Ord. No. 99-6]	25	From Ancestral Drive south to the end of the cul-de-sac
Molly Lane South [Added 10-11-1999 by Ord. No. 99-6]	25	From Ancestral Drive south to the end of the cul-de-sac
Moraine Court (Grid No. S17 W324)	25	Entire length
Moraine Farm Road [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Moraine View Drive	25	From High Meadow Circle southerly to U.S. Highway 18
Morris Road	35	Entire length
Mumford Lane (Grid No. S37 W330)	25	Entire length
North Bethesda Circle	25	From County Trunk Highway GD westerly to Snowdon Drive
North Street	25	From State Trunk Highway 83 northerly and westerly to State Trunk Highway 83
Oak Court [Added 11-10-2003 by Ord. No. 03-5]	25	Northeast from County Trunk Highway DE (Sunset Drive) to the end of the cul-de-sac
Oaklawn Drive	25	From Deerpark Drive southerly to its termination
Olde Oak Pass	25	East from County Trunk Highway C to the end of the road



[Added 11-8-2004 by Ord. No. 04-7]	<b>Speed Limit</b>	<b>Location</b>
<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Old Mill Road [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
[Added 11-14-2022 by Ord. No. 22-8]	25	Entire length
Old Village Road	25	From State Trunk Highway 59 to Dable Road
Onish Drive	25	From Fox Hollow Drive easterly to its termination
Pamela Circle	25	From Wills Barry Drive northerly and southerly to Wills Barry Drive
Parkers Place	25	West from Road DT northwest to Price Court
[Added 12-8-2003 by Ord. No. 03-4]	25	From 0.13 mile northwest of Rockwood Trail southeasterly for 0.23 mile
Park Lane	25	Entire length
Partridge Court (Grid No. S36 W285)	25	Entire length
Penny Lane	25	Entire length
[Added 5-13-2019 by Ord. No. 19-3]	25	From State Trunk Highway 83 westerly to its termination
Perkins Road	25	From Woods Road westerly to its termination
Perren Dale	25	From Town Line Road southwesterly to its termination
Pheasant Run	25	From CTH X south to termination
Point Drive	25	From Quail Run easterly to its termination
[Added 5-13-2019 by Ord. No. 19-3]	25	From County Trunk Highway ZZ northerly to its termination
Prairie Falcon Pass	25	West from Road DT then west and north to cul-de-sac
Prairie View Drive	25	From Pheasant Run northwesterly to its termination
Price Court	25	From Hood Parkway westerly and southerly to Woodchuck Hollow
[Added 12-8-2003 by Ord. No. 03-4]	25	Entire length
Quail Run	25	East from intersection with Bartell Road and the portion of Rhapsody Lane accepted on November 14, 1994, to the end of cul-de-sac
Red Fox Way	25	From Spring Ridge Lane east to the end of road
Red Tail Court (Grid No. S35 W282)	25	Entire length
Rhapsody Lane	25	From Spring Ridge Lane east to the end of road
[Added 8-9-2010 by Ord. No. 10-3]	25	From Spring Ridge Lane east to the end of road
Rhapsody Lane	25	From Spring Ridge Lane east to the end of road
[Added 11-14-1994 by Ord. No. 94-7]	25	From Spring Ridge Lane east to the end of road
Rhapsody Lane	25	From Spring Ridge Lane east to the end of road
[Added 11-14-1994 by Ord. No. 94-7]	25	From Spring Ridge Lane east to the end of road

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6]	25	Entire length
Ridgefield Road [Added 11-9-1998 by Ord. No. 98-4]	25	From the intersection of Holiday Oak Drive east to edge of Ridgefield Bay Addition No. 1 subdivision
Ridgefield Road [Added 11-9-1998 by Ord. No. 98-3]	25	From Saylesville Road north and west through Ridgefield Bay and Ridgefield Bay Addition No. 1 Subdivisions to Holiday Oak Subdivision
Ridge Valley Road [Added 11-10-2008 by Ord. No. 08-3]	25	West off Point Drive and southerly to end of road
Ridgewood Drive	25	From County Trunk Highway DE northerly to North Bethesda Circle
Ring Neck Court (Grid No. S36 W284)	25	Entire length
Roanoke Drive	25	From Windcrest Drive westerly and southerly to County Trunk Highway X
Roberts Court North [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Roberts Court South [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Roberts Road [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Rockwood Trail	30	From County Trunk Highway X northerly to its intersection with State Trunk Highway 59
Ruddy Duck Path [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Ruth Place [Added 9-9-1991 by Ord. No. 91-14]	25	From County Trunk Highway D south to its termination
Saddle Back [Added 11-14-1994 by Ord. No. 94-7]	25	From Connemara south to the existing Saddle Back
Saddleback Drive	25	Entire length
Sadie Lane [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Saint David's Drive	25	From County Trunk Highway ZZ northerly and easterly to its termination
Sandpiper Branch [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6]	25	Entire length
Seville Lane [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Short Road [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Sierra Pass [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Sleepyhollow Court	25	From Drumlin Drive southerly to its termination
Snowdon Drive (Grid No. S33 W301)	25	Entire length
Snow Goose Trail	25	From Quail Run northerly to County Trunk Highway D
South Bethesda Circle	25	From Snowdon Drive easterly to its termination
South Esser Drive [Added 12-13-2021 by Ord. No. 21-5]	25	Entire length
Spring Brook Court [Added 12-14-2009 by Ord. No. 09-4]	25	South off Kettle Ridge Court to the end of the cul-de-sac
Spring Ridge Court [Added 11-14-1994 by Ord. No. 94-7]	25	From Spring Ridge Lane south to end of road
Spring Ridge Lane [Added 11-14-1994 by Ord. No. 94-7]	25	From Highview Road north and easterly to the end of the road
Squire Court [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Squire Road [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Stone Gate Lane	25	From Brookhill Road easterly to its termination
Surrey Hill Court	25	From Deerpark Drive southerly to its termination
Sutton Ridge Court [Added 11-14-2005 by Ord. No. 05-4]	25	East off Morris Road to the end of the cul-de-sac
Taliesin Road [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6]	25	Entire length
Townline Road	35	From State Trunk Highway 59 northerly to County Trunk Highway D
Valley View Road	25	From County Trunk Highway DE northerly and easterly to Bethesda Circle
Walnut Street	25	From State Trunk Highway 83 westerly to Old Village Road
Wayne Keith Circle (Grid No. S29 W294)	25	Entire length
Wern Farm Circle East [Added 9-9-1991 by Ord. No. 91-14]	25	From Prairie Falcon Pass southwesterly to its termination
Wern Farm Circle West [Added 9-9-1991 by Ord. No. 91-14]	25	From Prairie Falcon Pass south to its termination
West End Lane (Grid No. S28 W305)	25	Entire length
West End Lane [Repealed 2-9-2015 by Ord. No. 15-1]		
West Heather Road	25	From Dable Road westerly to its termination
White Pine Court [Added 5-13-2019 by Ord. No. 19-3]	25	Entire length
Wild Berry Court [Added 11-10-2003 by Ord. No. 03-5]	25	Southeast from Wild Berry Lane to end of the cul-de-sac
Wild Berry Lane [Added 10-13-1997 by Ord. No. 97-5]	25	East of Wild Rose Lane to end and west of Wild Rose Lane to end
Wild Berry Lane [Added 11-10-2003 by Ord. No. 03-5]	25	East from Wild Rose Lane north and west through the subdivision back to Wild Rose Lane
Wild Rose Court [Added 10-13-1997 by Ord. No. 97-5]	25	East off Wild Rose Lane to end of cul-de-sac
Wild Rose Lane [Added 10-13-1997 by Ord. No. 97-5]	25	From County Trunk Highway DE north to the end of the road
Williams Way	25	From Ancestral Drive westerly to its termination
Wills-Barry Court (Grid No. S29 W295)	25	Entire length
Wills Barry Drive	25	From Ancestral Drive northerly to Jarmon Road

**Speed Limit**

<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
Aces Court [Added 11-14-2022 by Ord. No. 22-6]	25	Entire length
Windcrest Drive	25	From County Trunk Highway X north-westerly to its termination
Wolf Road [Added 9-9-1991 by Ord. No. 91-14]	25	From County Trunk Highway C easterly for a distance of 1,050 feet
Woodchuck Court (Grid No. S51 W336)	25	Entire length
Woodchuck Court [Repealed 2-9-2015 by Ord. No. 15-1]		
Woodchuck Hollow	25	From County Trunk Highway GE southerly to County Trunk Highway ZZ
Wood Fern Drive (Grid No. S43 W311)	25	Entire length
Woodland Wonderland Court	25	From Prairie View Drive northeasterly to its termination
Woodrock Court (Grid No. S36 W282)	25	Entire length
Woods Road [Added 5-13-2019 by Ord. No. 19-3]	25	From Highway 59 south to CTH X
X	45	Entire length

**§ 535-8. Stop signs.**

- A. Vehicles must stop. It shall be unlawful in the Town of Genesee for the operator of any vehicle, and every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, to fail to come to a full and complete stop within 30 feet of the main limits of an intersection at which has been erected an official stop sign or traffic signal designating an artery for through traffic.
- B. Official Traffic Map.
- (1) There is hereby established an Official Traffic Map for the Town of Genesee upon which shall be indicated stop signs.
  - (2) When official traffic control devices giving notice of the restrictions, prohibitions and limitations shown on the Official Traffic Map are erected and maintained in accordance with the provisions of this section, a violation of the restriction, prohibition or limitation shown on the Official Traffic Map shall be a violation of the provisions of this chapter.
  - (3) The Town Board may from time to time make additions to or deletions from the Official Traffic Map, and the Town Clerk shall keep such Official Traffic Map current.  
[Amended 2-9-2015 by Ord. No. 15-1]

**§ 535-9. Parking limitations.**

- A. No parking zones may be established. It shall be unlawful in the Town of Genesee for the owner or operator of any vehicle, and every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, to park, stop, or leave standing any such vehicle or device at the curb, shoulder, or edge of any highway area, roadway or fire lane in said Town of Genesee upon which or upon a portion of which has been erected a "No Parking" sign designating the limits or area within which there is to be no such parking.
- B. Miscellaneous no parking zones. No owner or operator of any vehicle, and every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, shall park, stop or leave standing any such vehicle or device at the curb, shoulder, or edge of the following streets located in the Town of Genesee:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Depot Road	North	From High View Road 1,000 feet south
Grush Road	Both	From High View Road to Highway ZZ
High View Road	East	From Depot Road to Highway D
North Street <sup>[1]</sup>	Both	Entire length
Old Village Road [Added 12-12-1983]	Both	From Dable Road 2,000 feet northeast

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- C. Specific parking restrictions.  
[Amended 1-14-1991 by Ord. No. 91-1; 8-12-2013 by Ord. No. 13-7]
- (1) Private property. When a sign indicating "No Parking" is clearly posted on private property, no person shall park a motor vehicle thereon without the written permission of the owner or lessee of such property.
  - (2) Trailer parking. No person shall park or leave standing a trailer (of any kind) or piece of machinery on a Town roadway for more than eight hours without prior permission from the Town Clerk or the Superintendent of Public Works and no person shall park or leave standing a trailer (of any type) on a Town roadway between the hours of 2:00 a.m. to 6:00 a.m. (all year round).
  - (3) Snow season.
    - (a) Nonemergency. Whenever the Town Clerk or the Superintendent of Public Works determines that it is appropriate to clear roads in the Town or any part thereof of snow accumulation, the Town shall post such roads or parts thereof with signs bearing the words "No Parking - Snow Removal Work." Such signs shall be erected at least two hours prior to the time snow removal is to be commenced. No person shall park a motor vehicle in violation of such signs.
    - (b) Snow emergencies.
      - [1] Declaration of emergency. The Town Clerk or the Superintendent of Public Works shall declare a snow emergency during the period of a driving snowstorm or immediately thereafter, whenever traffic becomes congested by reason of said snowfall or the operation of emergency vehicles, including snow removal equipment and machinery, is impaired.
      - [2] Duration of emergency. Such emergency shall exist so long as traffic remains congested and the operation of emergency vehicles is impaired, or likely to be impeded, by the falling of snow and the congestion of traffic upon the roads, highways, streets, alleys or public parking lots of the Town.

- [3] Notice of emergency. The Town Clerk or the Superintendent of Public Works may proclaim the state of emergency through the Town website, press, radio or other public means of communication and may designate and authorize law enforcement officers and snow removal personnel to inform the citizenry of the existence of the emergency.
- [4] Parking prohibited during emergency. No person shall park any vehicle on any road, highway, street, alley or public parking lot during the period of a snow emergency or immediately thereafter until such road, highway, street, alley, or public parking lot has been cleared of snow.
- [5] Removal of vehicles. Any traffic officer, the Superintendent of Public Works or designee or Town contractor may remove any vehicle which may interfere with the operation of any snow removal equipment or any emergency vehicle. The cost of removing such vehicle may be charged to the owner or operator thereof, and the removal may be made by the Town or by the commercial towing service. Vehicles removed and towed away shall be stored in a safe place and restored to the owner or operator of such vehicle upon payment of the towing fee therefor.
- (c) If such vehicle has become clearly disabled, the operator of such vehicle shall be exempt from the restrictions in Subsection **C(3)(a)** and **(b)** for a period of four hours to allow for repair and removal of such vehicle.
- (d) Any vehicle, trailer (of any type) or piece of machinery found to be in violation of this subsection may be towed away at the owner's expense.
- (4) Fire station and hydrants. No operator of any vehicle shall park such vehicle within 30 feet of the driveway entrance to the local fire station or within 10 feet of any fire hydrant or in any space marked "No Parking."<sup>[2]</sup>
- [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (5) All-night parking. No person shall park or leave standing a motor vehicle, trailer (of any type) or piece of machinery on a Town roadway between the hours of 2:00 a.m. to 6:00 a.m. (all year round). Emergency personnel on an emergency call, Town-owned or -operated vehicles, and special written permission from the Superintendent of Public Works are exempt from this requirement.
- (6) Unloading of parked vehicles. No person shall park a vehicle on Town street in a manner to block free flow of traffic or endanger public safety.
- (7) Manner of parking. All vehicles shall park within those lines marked by paint on the Town streets, whether for the purpose of angular parking or parallel parking to the street.
- (8) Town parks. Any operator of any vehicle shall only park said vehicle in areas of the Town park so designated as parking lots.
- (9) Parking on public sites restricted. No person shall park any motor vehicle within an area that is marked by signs or similar markings indicating a no parking area. These restrictions shall apply to areas and property used by the general public, including but not limited to properties owned and maintained by the school district or any church. In approving a no parking zone as to such areas, the Town Board shall consider whether such parking restrictions are necessary so as to permit access to the buildings by emergency personnel and equipment, or for other reasons generally promoting the peace and good order by the Town Board action duly noted in the minutes of the Town Board meeting or by written resolution.

## § 535-10. Stopping, standing or parking of vehicles on certain Town roads.

[Added 9-16-2007 by Ord. No. 07-2]

The Town Board of the Town of Genesee, Waukesha County, Wisconsin, has the specific authority under § 349.13, Wis. Stats., to adopt this section. The Town Board of the Town of Genesee, by this section, adopted on proper notice with a quorum and by roll call vote by a majority of the Town Board present and voting, provides the authority for the Town to regulate the stopping, standing, or parking of vehicles on Town highways in the Town as follows:

- A. The stopping, standing, or parking of vehicles on the following Town highways in the Town of Genesee is subject to the following restrictions and limitations:
  - (1) Little John Drive: parking on the road and shoulder is prohibited.
  - (2) Old Village Road: parking on the road from Highway 83 to Church Street is prohibited from November 1 to April 1 from 6:00 p.m. to 6:00 a.m.
- B. The Town Chairman, or his or her designee, shall place appropriate traffic signs on the above-described highways on or before the effective date of this section.
- C. No person may operate any vehicle on the above-noted Town highways in violation of the above-noted parking, stopping or standing parking restrictions and limitations. Any violation shall be subject to a penalty as provided in § 535-13.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 535-11. Erection of official traffic signs and signals.

The Town Board of the Town of Genesee, or its duly appointed agent, is hereby authorized and directed to procure, erect and maintain appropriate standard traffic signs, signals, and markings conforming to the rules of the State Department of Transportation giving such notice of the provisions of §§ 535-6 through 535-9 of this article as required by state law. Signs shall also be erected in such locations and manner as authorized by the Town Board so as to give adequate warning to users of the street, alley or highway in question.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 535-12. Unsafe driving.

It shall be unlawful in the Town of Genesee for the owner or operator of any vehicle, and every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway or public park or other Town property, whether owned or leased, to cause by excessive and unnecessary acceleration the tires of any such vehicle or device to spin or unnecessarily throw stones or ground, or cause such a vehicle or device to make any conditions such as would be a disturbance to the public peace.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See also Art. VI, Motor Vehicle Noise.*

## § 535-13. Violations and penalties.

[Amended 6-11-1984; 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

- A. State traffic laws and all other violations as set forth in §§ 535-6, 535-7 and 535-8 of this article. Any forfeiture for violation of the state statutes adopted by reference in § 535-6 of



this article shall conform to the forfeiture permitted to be imposed for violation of such statutes as set forth in the Revised Uniform State Traffic Deposit Schedule and Uniform Misdemeanor Bail Schedule of the Wisconsin Judicial Conference, including any variations or increases for subsequent offenses, which schedules are adopted by reference.

- B. Local traffic laws as set forth in §§ **535-9**, **535-10** and **535-12** of this article.
- (1) General provisions. Each violation of any provision of §§ **535-9**, **535-10** and **535-12** of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.
  - (2) Deposit schedule. If a deposit schedule has not been established for a specific violation, the arresting officer shall require the alleged offender to deposit not less than the maximum forfeiture permitted hereunder.
    - (a) Sections **535-6**, **535-7** and **535-8**: applicable sections of Revised Uniform State Traffic Deposit Schedule and Uniform Misdemeanor Bail Schedule.
    - (b) Section **535-9**: \$5 plus court costs for all vehicles with one to four wheels; \$60 plus court costs for all vehicles with five or more wheels.
    - (c) Section **535-12**: \$60 plus court costs and penalty assessment.<sup>[2]</sup>

[2] *Editor's Note: Original § 1.08, Enforcement, which immediately followed this section, as amended 8-10-1987, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now § 37-6, Enforcement.*
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article IV. Off-the-Road Vehicles

[Adopted 11-14-1988]

### § 535-14. Prohibited operation.

Subject to conflicting provisions of the Wisconsin Statutes and Wisconsin Administrative Code, if any, it shall be unlawful for any person to operate within the Town limits of the Town of Genesee any off-the-road vehicle on any property unless authorized by this article. The provisions of § 23.33, All-terrain vehicles and utility terrain vehicles, of the Wisconsin Statutes are adopted by reference and shall control in the event of any conflict between this article and said § 23.33.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 535-15. Authorized operation.

Off-the-road vehicles may be operated:

- A. On the premises owned by the operator or member of the family of the operator if said operator resides on the premises where said vehicle is being operated. Operation of said vehicle shall be between the hours of 9:00 a.m. and 6:00 p.m. and be such that the noise from said vehicle does not cause a nuisance and annoyance to other persons residing near said operation.
- B. In those areas designated by the Genesee Town Board as approved vehicle parks pursuant to the terms and conditions set by the Genesee Town Board.
- C. On premises owned by someone other than the operator if the operator possesses a proper permit therefor from the Town Board.

- (1) All applications for permits hereunder shall be made in writing upon the written form provided by the Town and distributed by the Town Clerk and shall be signed by the applicant and filed with the Town Clerk. The Town Clerk shall immediately refer all applications for permits hereunder to the Town Board. The Town Board may grant special permission to an applicant to operate a vehicle regulated herein, on property owned by another, only if, in its discretion, it feels said permit will not create a nuisance or prove injurious to the health, safety and welfare of the surrounding properties and neighbors as well as the community as a whole. The Town Clerk shall issue a permit hereunder only after first receiving the approval of the Town Board. All applications shall require the following:
  - (a) Written permission must be received and filed with the Town from all residents on and landowners of the land on which it is being proposed to operate said vehicle.
  - (b) Written permission must be received and filed with the Town from all neighboring landowners and all adult residents thereon of all lands within 300 feet of the property on which the vehicle(s) is proposed to be operated. Said permission must state that those owners and residents have no objection.
  - (c) The owner of the property must live on the property that is going to be used for riding.
  - (d) Proof that the land on which the operation is proposed is at least 10 acres in size.
- (2) All permits granted by the Town Board under this section are subject to the following conditions:
  - (a) The name and address of the operator must be on file with the Town Clerk.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (b) The owner of the land may revoke his permission to ride in the permitted area at any time upon notice to the operator and Town Board.
  - (c) Permitted hours of operation shall be between the hours of 9:00 a.m. and 6:00 p.m. and operation shall be such that the noise from said vehicle does not cause a nuisance and annoyance to other persons residing near the operation.
  - (d) All permits issued hereunder shall expire on December 31 following the date of issue.
  - (e) The operator must have the permit in his/her possession during all periods of operation.
  - (f) Only the named permittee may use the permit.
- (3) The Town Board reserves the right to revoke any permit granted under this section in the event the Town Board receives justified complaints in regard to the operation of the off-the-road vehicle after written notice of the complaints is given to the permittee and said permittee is given an opportunity to be heard in regard to the same.
- (4) A permit will not be required in the Town of Genesee for off-the-road vehicles for certain uses. The following uses are exempt from requiring a permit when off-the-road vehicles are used:  
[Added 11-9-2009 by Ord. No. 09-3]
  - (a) For special events (i.e., parades, charitable events or fund-raisers at licensed establishments).
  - (b) For construction or land surveying.
  - (c) For landscaping, lawn maintenance or snow removal.

(d) Maintenance or animal care for farming and/or agricultural businesses.

## § 535-16. Definitions.

As used in this article, the following terms shall have the meanings indicated:

### **APPROVED VEHICLE PARKS**

Those areas within the Town limits of the Town of Genesee which are specifically approved by the Genesee Town Board for operation of off-the-road vehicles.

### **OFF-THE-ROAD VEHICLE**

Any minibike, trail bike, all-terrain vehicle, go-cart, or other similar self-propelled vehicles (expressly excluding snowmobiles which are regulated by Wisconsin Statutes) which are commonly operated off the traveled portion of the public thoroughfare, whether currently being used on or off the road and whether registered or nonregistered.<sup>[1]</sup>

### **OPERATOR**

A person who drives or is in actual physical control of the vehicle herein regulated.

### **PUBLIC THOROUGHFARE**

Includes public road, street, alley, highway, freeway, interstate, county trunk highway or public right-of-way.

### **TRAVELED PORTION**

The paved or otherwise surfaced portion of the roadway and the prepared shoulder, but shall include the grass area within the statutory limits of the highways and contiguous to the traveled portion thereof.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 535-17. Violations and penalties.

[Amended 9-12-1994 by Ord. No. 94-6<sup>[1]</sup>]

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article V. Pedestrian Mall

[Adopted 8-11-1997 by Ord. No. 97-4]

### § 535-18. Designation of pedestrian mall.

The section of Town Road DT in the Town of Genesee that is described in attached Exhibit A is hereby designated a pedestrian mall pursuant to § 66.0905, Wis. Stats.<sup>[1]</sup>

[1] *Editor's Note: Exhibit A is on file in the Town Clerk's office.*

### § 535-19. General restrictions.

No person shall operate any automobile, truck, motorcycle, snowmobile, all-terrain vehicle or other motorized or motor-driven vehicle upon the above-designated portion of Town Road DT.

## § 535-20. Violations and penalties.

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article VI. Motor Vehicle Noise

[Adopted 10-9-2006 by Ord. No. 06-10]

### § 535-21. Prohibition on unnecessary or annoying noise.

No person shall make any unnecessary or annoying noises with a motor vehicle by squealing tires, the use of motor vehicle brakes which are in any way activated or operated by the compression of the engine [i.e., a Jacob's Engine Brake (™) or similar hydraulically operated device that converts a power-producing diesel engine into a power-absorbing retarding mechanism], excessively accelerating the engine, blowing the horn or emitting unnecessary and loud muffler noises.

### § 535-22. Exception.

It shall be in an affirmative defense to prosecution under this article that the otherwise prohibited noise was necessary for the protection of persons and/or property.

### § 535-23. Public nuisance.

A violation of this article is declared to be a public nuisance.

### § 535-24. Violations and penalties.

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article VII. Weight Limits

[Adopted 4-12-2010 by Ord. No. 10-1]

### § 535-25. Statement of purpose.

In the interest of public safety on Town roads, the roads and streets, or portions thereof, of the Town of Genesee are hereby declared to be subject to the weight limitations as set forth herein. Such limitations are adopted pursuant to §§ 348.16, 349.15 and 349.16, Wis. Stats., which are hereby adopted by reference and made a part of this article.

### § 535-26. Class "B" weight limitations.

- A. Pursuant to § 349.15, Wis. Stats., all roads, streets, and portions thereof that are maintained by the Town of Genesee, excepting any highway or portion thereof which is a state trunk highway or connecting highway, are hereby designated as Class "B" highways and are subject to the weight limitations set forth in § 348.16, Wis. Stats.
- B. No person without a permit issued pursuant to § 348.25, Wis. Stats., shall operate any vehicle or combination of vehicles that exceeds the weight limitations for a Class "B" highway set forth in § 348.16, Wis. Stats.; provided, however, that any motor vehicle whose operation is pick up or delivery, including operation for purpose of moving or delivering supplies or commodities to or from any place of business or residence that has an entrance on a Class "B" highway, may pick up or deliver on a Class "B" highway without complying with the gross vehicle weight limitations imposed by § 348.16(2), Wis. Stats.
- C. The provisions of Chapter 348, Subchapter III, Weight, of the Wisconsin Statutes as amended from time to time are incorporated herein by reference, including but not limited to the provisions in § 348.18, Wis. Stats., which provides that vehicles owned by the state, a county or municipality are subject to the Class "B" weight limitations except when such vehicles are being used for the removal, treatment or sanding of snow or ice or when such vehicles are authorized emergency vehicles.

## § 535-27. Signs.

Appropriate weight limitation signs shall be erected on Town roads and/or streets.

## § 535-28. Special or seasonal weight limitations.

In addition to the permanent Class "B" weight limitations on Town roads established under § 535-26 of this article, the Town Public Works Superintendent may impose special or seasonal limitations pursuant to § 349.16, Wis. Stats., on any road or portion thereof which, because of weakness of the roadbed due to deterioration or climatic conditions or other special or temporary condition, would likely be seriously damaged or destroyed in the absence of such special limitations. Imposition of the special weight limitations authorized under this section shall be done by erecting signs on or along the highway on which it is desired to impose the limitation sufficient to give reasonable notice that a special weight limitation is in effect and the nature of that limitation. When such seasonal limitations are in effect, the pick-up and delivery exceptions to § 535-26 above shall not be applicable, except for the specially exempted vehicles allowed in § 535-26, or by written permission of the Town Board.

- A. A five-ton weight limit is established on Dable Road.<sup>[1]</sup>  
[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 535-29. Permit to allow overweight loads.

The Town Public Works Superintendent or his or her designee shall be authorized to issue weight permits in accordance with §§ 348.25 through 348.27, Wis. Stats.

## § 535-30. Violations and penalties.

Each violation of any provision of this article shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 535-31. Enforcement.

This article shall be enforced in accordance with the provisions of §§ 66.0114, 345.20 to 345.53 and 348.20 and Ch. 800, Wis. Stats. This article may be enforced by the issuance of a citation by officials authorized to do so on behalf of the Town.

## Chapter 547. Wind, Solar and Communication Systems

[HISTORY: Adopted by the Town Board of the Town of Genesee 2-11-1985. Amendments noted where applicable.]

### § 547-1. General requirements.

[Amended 7-23-2012 by Ord. No. 12-5<sup>[1]</sup>]

- A. Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power are permitted, provided that the following information requirements and standards shall apply:
- (1) Application. Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one premises, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
  - (2) Construction. Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than 40 pounds per square foot in area.
  - (3) Noise. The maximum level of noise permitted to be generated by a wind energy conversion system shall be 50 decibels, as measured on a dB(A) scale, measured at the lot line.
  - (4) Electromagnetic interference. Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
  - (5) Location and height. Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the zoning district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of the Zoning Ordinance; however, all such systems over 75 feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system permit application.

- (6) Fence required. All wind energy conversion systems shall be surrounded by a security fence not less than six feet in height. A sign shall be posted on the fence warning of high voltages.
  - (7) Utility company notification. The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a permit.
  - (8) Compliance with Electrical Code. The electrical portion of the installation shall comply with all provisions of the Electrical Code of the Town adopted in § 250-7 of this Code.
  - (9) State law and Administrative Code adopted.
    - (a) Purpose and intent. It is the intended purpose of the Town to regulate wind energy systems to promote the health, safety, and general welfare of the citizens of the Town and to establish reasonable and uniform regulations for the operation thereof so as to minimize potentially dangerous effects of these systems on the community, pursuant to the authority granted by applicable laws.
    - (b) Amendments to applicable laws and administrative rules incorporated herein. This subsection is adopted, pursuant to § 66.0401, Wis. Stats., the rules of the State of Wisconsin Public Service Commission, Ch. PSC 128, Wis. Adm. Code, and other applicable state and federal laws as they exist on the date of adoption of this subsection dealing with wind energy systems to incorporate into this chapter § 66.0401, Wis. Stats., the rules of the State of Wisconsin Public Service Commission, Ch. PSC 128, Wis. Adm. Code, and other applicable state and federal laws as they exist on the date of adoption of this subsection dealing with wind energy systems. Nothing in this chapter shall be interpreted to be more restrictive than the rules promulgated by the State of Wisconsin Public Service Commission pursuant to § 196.378(4g)(b), Wis. Stats. In the event that said laws or statutes or said Public Service Commission rules are amended from time to time, this subsection shall be interpreted to incorporate such amendments as are made to the applicable laws, statutes and Public Service Commission rules from time to time in the future.
- B. Solar energy conversion systems, commonly referred to as "active" or "passive" solar collection and heating systems and including all systems as defined by § 13.48(2)(h), Wis. Stats., are permitted, provided that the following information requirements and standards shall apply:
- (1) Application. Applications for the erection of a solar energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the conversion system and the means by which the energy will be provided to the structure or structures. The application shall include calculations showing that the structure is constructed to withstand any additional loading placed upon the structure by the installation of the solar energy conversion system.
  - (2) Construction. Solar energy conversion systems shall be constructed and installed in conformance with all applicable state and local building and zoning codes.
  - (3) Location and height. Solar energy conversion systems shall meet all setback and yard requirements for the zoning district in which they are located. Solar energy conversion systems shall conform to all height requirements of the zoning code unless otherwise provided in the permit issued pursuant to this chapter.
- C. Communication systems, commonly referred to as cable television disks, dishes, or devices, are permitted, provided that the following information requirements and standards shall apply:

- (1) Applications. Application for the erection of a communication system shall be accompanied by a plat of survey for the property on which the system is to be located showing the location of the system and all other improvements on the property. If the system is intended to provide communication to more than one premises, the plat of survey shall show all properties to be served and the means of connection to the communication system. A copy of all agreements with the system users of the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system, if any, and provide assurance as to the safety features of the system.
- (2) Noise. The maximum level of noise permitted to be generated by a communications system shall be 50 decibels, as measured on a dB(A) scale, measured at the lot line.
- (3) Electromagnetic interference. Communication system devices shall be filtered and/or shielded so as to prevent emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a permit, the operator of the communication system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (4) Location and height. Communication systems shall meet all setback and yard requirements for the district in which they are located. Height of the device shall not exceed 15 feet.
- (5) Compliance with Electrical Code. The electrical portion of the installation shall comply with all provisions of the Electrical Code of the Town as adopted in § 250-7 of this Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 547-2. Permit required.

No owner shall, within the Town of Genesee, build, construct, use or place any type or kind of device herein regulated without holding a permit for said system from the Town Board.

- A. Separate permit required for each system. A separate permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- B. Basis of approval. The Town Board shall base its determination on general consideration as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Town and specifically of the immediate neighborhood 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 effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carrying out the intent of this chapter.
- C. Types of special devices.
  - (1) Wind energy conversion systems.
  - (2) Solar energy conversion systems.
  - (3) Communication systems.
- D. Fees. The Town Board shall, by resolution, establish fees for the processing and issuance of permits.

## § 547-3. Definitions.



As used in this chapter, the following terms shall have the meanings indicated:

**AGENCY**

The Town Board of the Town of Genesee.

**APPLICANT**

An owner applying for a permit under this chapter.

**APPLICATION**

An application for a permit under this chapter.

**BUILDING INSPECTOR**

The duly appointed Building Inspector of the Town of Genesee.

**COMMUNICATION SYSTEM**

Commonly referred to as cable television (disks, dishes, devices).

**MUNICIPALITY**

The Town of Genesee, Waukesha County, Wisconsin.

**OWNER**

The holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life, but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one owner shall be considered an owner.

**PERMIT**

A permit issued under this chapter.

**SOLAR ENERGY CONVERSION SYSTEM**

Commonly referred to as "active" or "passive" solar collection and heating systems and including all systems defined by § 13.48(2)(h), Wis. Stats.

**WIND ENERGY CONVERSION SYSTEM**

Commonly referred to as "windmills" which are used to produce electrical power.

## § 547-4. Permit procedure.

- A. The Town Board of the Town of Genesee is hereby designated the agency which approves permits.
- B. The Town Board of the Town of Genesee hereby designates the Building Inspector as the official to receive, process and, following approval by the Town Board, issue permits.
- C. The permit application shall be made to the Building Inspector on forms provided by the Town. The application shall include the following information:
  - (1) The name and address of the applicant.
  - (2) The address of the property on which the device will be located.
  - (3) An accurate map of the property, including indication of general terrain and topographical characteristics, the location of all significant terrain features such as streams, ponds, tree growth, etc., and the location of all existing structures.
  - (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.

- (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
  - (6) Any other information which the Building Inspector may deem to be necessary to the proper review of the application.
- D. The Building Inspector shall review the application and, if the application is complete and contains all required information, shall refer it to the Town Board.
  - E. Hearing. Upon referral of the application, the Town Board shall schedule a public hearing thereon as soon as practical and the Town Board shall notice said hearing as deemed appropriate. Notice of hearing and purpose of hearing shall be mailed to all property owners within 300 feet of property on which the device is to be located. Notice shall also be posted in three public places in the Town of Genesee.
  - F. Determination. Following public hearing and necessary study and investigation, the Town Board shall as soon as practical render its decision in writing and a copy shall be made a permanent part of the Town Board's minutes. Such decision shall include an accurate description of the device permitted, of the property on which permitted, and any and all conditions made applicable thereto, or if disapproved shall indicate the reasons for disapproval. The Town Board may impose any conditions or exemptions necessary to minimize any burden on any persons affected by granting the permit.
  - G. Termination. When a use does not continue in conformity with the conditions of the original approval, or when a change in the character of the surrounding area or of the use itself causes it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the permit may be terminated by action of the Town Board following a public hearing thereon. The permit granted herein shall not become a nonconforming use under the Zoning Ordinance.
  - H. Changes. Subsequent change or addition to the approved plans or use shall first be submitted with the appropriate fees for approval to the Town Board, and if in the opinion of the Town Board such change or addition constitutes a substantial alteration, a public hearing before the Town Board shall be required and notice thereof shall be given.

## § 547-5. Building, site and operation plans; modifications; accessory uses and structures.

- A. Standard requirements.
  - (1) Except as may be specifically otherwise provided, any such use shall conform to the building location, height, building size, lot size, and open space regulations of the zoning district in which it is located.
  - (2) Building, site and operation plans of the proposed use shall be submitted for approval of the Town Board. Such plans shall be in sufficient detail to enable the Board to evaluate the suitability of architectural and landscape treatment; the proper location of the building or buildings on the lot; the satisfactory provision for parking and circulation needs, for drainage and sewage disposal, for adequate planting screen where necessary, and for operational control devices where necessary to eliminate noise, dust, odor, smoke or other objectionable operating condition; and the general compatibility of the proposed use with the area in which it is located.
- B. Modification of regulations. Requirements applicable to uses by the regulations of this chapter may be modified or waived by the Board in their application to a special use if in the Board's opinion they are not appropriate or necessary to the proper regulation of the

special use and where such modification or waiver would not in the Board's opinion result in adverse effect upon the surrounding properties.

- C. Accessory uses and structures. Uses and structures accessory to a principal special use may be permitted subject to appropriate regulations in the same manner as hereinbefore set forth for the principal special use.

## § 547-6. Appeals.

Any person aggrieved by a determination by the Town Board under this chapter may appeal the determination as provided by the Town of Genesee ordinances.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 9, Administrative Review.*

## § 547-7. Reservation of rights.

The transfer of title to any property shall not change the rights and duties under this chapter.

## § 547-8. Effect on other required permits.

The approval of a permit under this chapter shall not be construed to waive the requirement to obtain a building or plumbing permit prior to installation of any system.

## § 547-9. Advertising prohibited.

Other than the manufacturer's name in an inconspicuous location, no other designs, words, letters or legends shall be placed upon the device.

## § 547-10. Violations and penalties.

Each violation of any provision of this chapter shall be subject to the penalties and remedies described in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter DL. Disposition List

The following is a chronological listing of legislation of the Town of Genesee adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was Ord. No. 14-1, adopted 9-8-2014.

### § DL-1. Disposition of legislation.

Ord. No.	Adoption Date	Subject	Disposition
14-2	10-13-2014	Fires and fire prevention: open burning	Ch. 330, Art. IV
15-1	2-9-2015	Adoption of Code	Ch. 1, Art. II

Ord. No.	Adoption Date	Subject	Disposition
15-2	2-9-2015	Detachment of property within Boundary Agreement area	NCM
15-3	2-9-2015	Firearms and hunting	Ch. <b>326</b>
15-4	3-9-2015	Streets and sidewalks: snow and ice amendment	Ch. <b>500</b> , Art. <b>II</b>
15-5	3-23-2015	Zoning	Pending codification
15-6	4-13-2015	Traffic and parking regulations amendment	Ch. <b>535</b> , Art. <b>III</b>
15-7	12-14-2015	Comprehensive Plan amendment	NCM
15-8	9-14-2015	Zoning Map amendment	NCM
15-9	7-13-2015	Signs	Ch. <b>478</b>
16-1	2-8-2016	Zoning Map amendment	NCM
16-2			Number not used
16-3	7-11-2016	Building construction amendment	Ch. <b>250</b>
16-4	9-12-2016	Parks and recreation amendment	Ch. <b>428</b>
16-5	11-14-2016	Vehicles and Traffic Amendment	Ch. <b>535</b>
17-1	1-9-2017	Comprehensive Plan amendment	NCM
17-2	1-9-2017	Hazardous trees	Ch. <b>519</b> , Art. <b>I</b>
17-3		Zoning amendment	Pending codification
17-4		Zoning amendment	Pending codification
17-5	6-12-2017	Approval of detachment of property	NCM
18-1	6-11-2018	Agreement	NCM
19-1	4-8-2019	Comprehensive Land Use Plan Amendment	NCM
19-3	5-13-2019	Vehicles and Traffic Amendment	Ch. <b>535</b>
19-4	5-13-2019	Intoxicating Liquor and Fermented Malt Beverages Amendment	Ch. <b>356</b>

Ord. No.	Adoption Date	Subject	Disposition	Supp No.
19-5	8-12-2019	Zoning Map Amendment	NCM	5
19-6	8-9-2019	Vehicles and Traffic: Traffic and Parking Regulations Amendment	Ch. <b>535</b> , Art. <b>III</b>	5
19-7	11-11-2019	Intoxicating Liquor and Fermented Malt Beverages Amendment	Ch. <b>356</b>	5
20-1	2-25-2020	Streets and Sidewalks: Use of Rights-of-Way; Culverts, Driveways and Mailboxes Amendment	Ch. <b>500</b> , Art. <b>IV</b>	5
21-1	4-12-2021	Building and Construction Code	Ch. <b>250</b>	5
21-2	5-12-2021	Comprehensive Land Use Plan	NCM	5

<b>Ord. No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>	<b>Supp No.</b>
21-5	12-13-2021	Vehicles and Traffic: Traffic and Parking Regulations Amendment	Ch. <b>535</b> , Art. <b>III</b>	6
21-6	12-13-2021	Streets and Sidewalks: Street Excavations Amendment	Ch. <b>500</b> , Art. <b>V</b>	6
22-1	1-10-2022	Streets and Sidewalks: Street Excavations Amendment	Ch. <b>500</b> , Art. <b>V</b>	6
21-3	7-12-2021	Zoning Map Amendment	NCM	7
22-2	2-9-2022	Virtual Meetings	Ch. <b>190</b>	7
22-4	7-11-2022	Zoning Map Amendment	NCM	7
22-5	7-27-2022	Zoning Map Amendment	NCM	7
22-6	11-14-2022	Vehicles and Traffic: Traffic and Parking Regulations Amendment	Ch. <b>535</b> , Art. <b>III</b>	7
23-1	2-13-2023	Sex Offenders	Ch. <b>474</b>	7