

CHAPTER 17 - ZONING CODE (Am. 8/14/07)

INTRODUCTION	
<u>17.01</u>	Authority
<u>17.02</u>	Interpretation and Purposes
<u>17.03</u>	Definitions
GENERAL PROVISIONS	
<u>17.10</u>	Compliance
<u>17.11</u>	Building Permit
<u>17.12</u>	Zoning, Occupancy and Use Permits
<u>17.121</u>	Erosion Control Plan Approval
<u>17.13</u>	Residential Development Control System
<u>17.14</u>	Site Regulations
<u>17.141</u>	Land Disturbance
<u>17.15</u>	Drainage Regulations
<u>17.16</u>	Sanitation and Water Supply
<u>17.17</u>	Use Regulations
<u>17.18</u>	Conditional Uses
<u>17.19</u>	Conditional Uses Permitted
<u>17.20</u>	Building Location

<u>17.21</u>	Height Regulations
<u>17.22</u>	Area Regulations
<u>17.23</u>	Off-Street Parking
<u>17.24</u>	Off-Street Loading and Unloading
<u>17.25</u>	Signs
<u>17.26</u>	Airport Safety Zone
<u>17.27</u>	Mobile Homes and Trailers
<u>17.28</u>	Legal Non-Conforming Uses, Structures and Lots
<u>17.29</u>	Swimming Pools
<u>17.30</u>	Guesthouses
<u>17.31</u>	Special Use Systems
<u>17.32</u>	Prior Permit
DISTRICTS	
<u>17.40</u>	Establishment of Districts
<u>17.41</u>	Zoning Map
<u>17.42</u>	C-1 Conservancy District
<u>17.43</u>	E-C Environmental Corridor District
<u>17.44</u>	A-1 Agricultural District

<u>17.45</u>	A-2 Rural Home District
<u>17.46</u>	A-3 Suburban Estate District
<u>17.47</u>	R-1 Residential District
<u>17.48</u>	R-2 Residential District
<u>17.49</u>	R-3 Residential District
<u>17.50</u>	P-1 Public District
<u>17.51</u>	B-1 Restricted Business District
<u>17.52</u>	B-2 Local Business District
<u>17.53</u>	B-3 General Business District
<u>17.54</u>	Q-1 Quarrying District
<u>17.55</u>	M-1 Limited Industrial District
<u>17.56</u>	M-2 General Industrial District
<u>17.59</u>	Residential Cluster Developments
BOARD OF ADJUSTMENT	
<u>17.60</u>	Creation
<u>17.61</u>	Rules
<u>17.62</u>	Appeals
<u>17.63</u>	Powers

<u>17.64</u>	Decision
<u>17.65</u>	Court Review
CHANGES AND AMENDMENTS	
<u>17.70</u>	Authority
<u>17.71</u>	Procedure
PUBLIC HEARING	
<u>17.80</u>	Notice
<u>17.81</u>	Procedure
GENERAL ADMINISTRATION	
<u>17.89</u>	Fees Relating to Administration of the Zoning Code
<u>17.90</u>	Plan Commission
<u>17.91</u>	Zoning Administration
<u>17.92</u>	Violations
<u>17.93</u>	Repeal of Conflicting Ordinances
<u>17.94</u>	Declaration of Severability
<u>17.95</u>	Effective Date
<u>17.96</u>	Adoption

INTRODUCTION

17.01 - AUTHORITY.

- (1) This chapter is enacted to regulate and restrict the location and use of buildings and the use of lands according to their specific characteristics; to regulate and restrict the density of population and the percentage use of lot area; to regulate and determine the areas of open spaces surrounding buildings; to divide the Town into districts of such number, shape and area as may be deemed best suited to carry out the provisions of this chapter as applied to the areas of the Town, to provide for the administration and enforcement of such provisions, and to prescribe penalties for the violation of the provisions hereof.
- (2) The Town Board, pursuant to former §60.18(12), now §60.22(3), Wis. Stats., has been directed at an annual Town meeting of the qualified electors on April 2, 1929, to exercise all powers relating to and conferred upon villages.
- (3) The exercise of the Town, village and city zoning power pursuant to former §60.74(7), now §§60.61, 60.62, 61.35 and 62.23(7), Wis. Stats., was approved by a referendum vote of the Town electors on April 2, 1929.

17.02 - INTERPRETATION AND PURPOSES.

- (1) PURPOSE. The provisions of this chapter shall be held to be minimum requirements made in accordance with a comprehensive plan and 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; to preserve burial sites as defined in §157.70(1)(b), Wis. Stats.; to aid in conserving and stabilizing the economic values of the community; to promote the safety and efficiency of the public streets and highways; to preserve and promote the general attractiveness and character of the community environment; and otherwise provide for the healthy and prosperous growth of the community.
- (2) GENERAL INTERPRETATION. It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easement covenants or agreements between parties or with any rules, regulations or permits previously adopted or issued pursuant to laws; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises, or upon

the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this chapter shall govern.

17.03 - DEFINITIONS. (Am. 10/12/20(1))

(1) GENERAL INTERPRETATION. For the purpose of this chapter, and when not inconsistent with the context, words used herein in the present tense include the future, words in the singular number include the plural and in the plural include the singular; the word "person" may be taken for persons, associations, co-partnerships or corporation; the word "structure" includes buildings; the word "occupied" includes designed or intended to be occupied; the word "used" includes designed or intended to be used; the word "shall" is always mandatory and not merely permissive.

(2) SPECIFIC WORDS AND PHRASES. For the purpose of this chapter certain terms, words and phrases shall be defined as follows:

ADMINISTRATIVE OFFICER. Any officer such as a Clerk, Building Inspector, Engineer, Attorney or Zoning Administrator, or his agent, who is appointed, elected or is otherwise officially designated by the Town and/or County and does not include any committee, commission or board or its individual members.

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."

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

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-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.

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

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 OR FARM USE. Any of the following uses:

- (1) Any of the following activities:
 - i. Crop or forage production.
 - ii. Keeping livestock, horses and poultry.
 - iii. Beekeeping.
 - iv. Nursery, sod, or Christmas tree production.
 - v. Floriculture.
 - vi. Aquaculture.
 - vii. Fur farming.
 - viii. Forest management.

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 shall also generally define a dwelling unit (DU).

APARTMENT HOUSE. See Dwelling, multiple.

APPLICANT. The applicant signing any application or petition for any permit, variance, special exception, conditional use, site plan, plan of operation or rezoning under this ordinance shall be the landowner, specifically a person or entity holding fee title to the property, as set forth below:

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

ARCADE. Any premises containing 3 or more amusement devices or games, usually of an electronic nature, for the primary use of entertainment of the public or the patrons of the establishment. Premises for which a license to sell fermented malt beverages and/or intoxicating liquors has been issued may be excluded from this designation.

ARMY CORPS OF ENGINEERS (ACOE). Federal agency commonly referred to as ACOE.

ATTORNEY. That officer appointed or otherwise officially designated by the Town Board in such capacity, unless otherwise specifically designated.

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

BASE FLOOD ELEVATION (BFE). The elevation of a Base Flood. Commonly referred to as BFE.

BASE SETBACK AREA. That area of the lot between the base setback line and the line at which the structure may be constructed recognizing the required setback distance.

BASE SETBACK LINE. The ultimate street line as established by §17.20(1) 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 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 historically significant qualities where lodging for paying guests is offered and which offers breakfast to these 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 house or building where regular meals are generally furnished or served to 3 or more persons at a stipulated amount for definite periods of one month or less.

BOATHOUSE. A structure located close to the ordinary high water mark and designed and used for the storage of boats normally used in the daily activities of lakefront property and which has a large garage-type door for primary access on the side of the building facing the water. A boathouse may also be used for the storage of accessory marine and other items used by the occupants of the lot. A boathouse shall be placed on a foundation extending below the frost line or concrete slab and contain at least 200 square feet in area. A boathouse may contain limited plumbing facilities, not including showers and/or baths, for occasional use and convenience of the occupants of the lot; but under no circumstances may the boathouse be used for human habitation, human habitation being defined as utilizing the building for occupancy for overnight living or longer periods of time and including the aggregate of normal living activities such as lounging, cooking, eating, sleeping, etc.

BREEZEWAY. An above-ground, roofed area for passage for the purpose of connecting 2 structures or buildings, as between a house and a garage, with either open or enclosed sides, with or without a foundation, and which must be designed and constructed in keeping with the existing structures or buildings.

BUILDING. Any structure used, designed 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 incidental to the permitted use of the principal building. Outbuildings which are not supported by a foundation and which may be placed directly upon the ground or upon a skid and have at least 100 square feet shall be considered as accessory buildings subject to meeting all offsets.

BUILDING HEIGHT, ACCESSORY. The vertical distance measured from the lowest exposed point of a structure to the highest point of any roof. The maximum height from the finished grade at the entrance to the peak of the accessory building cannot exceed 18 feet. Maximum height of accessory buildings with flat roofs cannot exceed 15 feet.

BUILDING, HEIGHT OF. The vertical distance measured from the lowest exposed point of a structure to the highest point of any roof.

BUILDING INSPECTOR. A person who has been designed, or appointed by the Town Board, to fulfill the obligations of construction inspections within the Town of Merton.

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 a principal building, except a guesthouse as provided in §17.30.

BUILDING FOOTPRINT. The surface area of all roofed structures on a lot, except for the area of a roof overhang that measures 24 inches or less in depth.

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

CAMPING UNIT. Any portable device used as a temporary shelter, including, but not limited to, a tent, camping trailer, mobile home, bus, van, or pick-up truck that is fully licensed, if required, and ready for highway use.

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

CLEAN FILL DISPOSAL SITE. A tract of land operated by a public or private agent as a Conditional Use under Chapter 17.19 of this Ordinance which involves only materials such as sand, dirt, gravel, concrete or other forms of clean fill material.

CLERK. That person appointed or otherwise officially designated by the Town Board as the Town Clerk.

CODE. Means the Town of Merton Zoning Code.

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

COUNTY ZONING AGENCY. The committee or commission created or designated by the County Board to act in all matters pertaining to County Planning and Zoning. Also referred to as Zoning Agency.

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

COMPOSTING FACILITY. A place where vegetation (but not food waste) may be collected and composted. The term includes storage and manipulation of materials prior to, during, and following composting.

CONDOMINIUM. Ownership, in fee simple, of one or more units in a multiple unit project with the land and all other parts of the project held in limited and/or common ownership or use with owners of the other units. A property subject to a condominium declaration as established under Ch. 703, Wis. Stats.

COUNTY. The County of Waukesha, Wisconsin.

CRAWLSPACE. An enclosed area below the first usable floor of a building, generally less than 5 feet in height, which may be used for access to plumbing, electrical, and other utilities.

DANCE HALL. A facility including any room, place or space in which a public dance, public ball with live or amplified music (not including juke box) and live entertainment including shows, disc jockeys, comedy or dramatic arts, 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, cantilever and/or by other similar methods

DEVELOPMENT. Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of principal or accessory structures; the construction of additions or alterations to principal or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of structures; land division layout and site preparation; mining,

dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

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

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

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 family.

DWELLING, TWO-FAMILY. A detached or semi-detached building designed for and occupied exclusively by 2 families.

ENTRANCE GATE OR ENTRANCE MONUMENT. A structure, usually built with a decorative feature or landscape feature and located at the entrance to a property, such as walls which are often constructed in conjunction with lights, fencing, gates, pillars with lights, property identification signage, or raised planting boxes.

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 5 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 5-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,#2 and is incorporated herein by reference.

ENVIRONMENTALLY SIGNIFICANT AREAS. Lands which are zoned C-1 Conservancy District, E-C Environmental Corridor District, or designated as primary environmental corridor, secondary environmental corridor, or isolated natural area on the Waukesha County Development Plan.

FAMILY. The body of persons related by blood, marriage or adoption; or 4 unrelated persons who live together in one dwelling unit as a single housekeeping entity.

FARM, BEEF. A tract of land devoted principally to the raising of beef cattle and calves for commercial purposes.

FARM, FUR. A tract of land devoted in whole or part to the raising of fur-bearing animals for commercial purposes.

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, GENERAL. A tract of land devoted principally to the raising of crops which may or may not be associated with livestock grazing.

FARM, PIG. A tract of land devoted principally to the raising and feeding of pigs and hogs.

FARM, POULTRY AND/OR EGG PRODUCTION. A tract of land which may or may not be part of a larger farm operation, devoted principally to the raising of poultry and/or egg production for commercial purposes. (§17.19(10.5))

FEED LOT.

- (a) 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 25 units per acre. One animal unit is equivalent to 1,000 pounds of live animal weight. The acreage used to compute the density of animal units shall include all fenced pens, yards or similar uncovered structures and all covered enclosures in which animals are enclosed for all of 30 or more continuous days per year on a 24 hours per day basis, and shall not include lands used for the growing crops, vegetative cover or pasture.
- (b) 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 kind of farm operation in which cultivation and livestock grazing or feeding is conducted

on a smaller scale. Further, the intent is not to prohibit these kinds of operations but to recognize their potential as a pollution source and to effectively control it.

FEDERAL EMERGENCY MANAGEMENT AGENCY. The Federal agency that administers the National Flood Insurance Program. Commonly referred to as FEMA.

FENCE. See §14.02 of the General Code of Ordinances. Section 14.02 is incorporated herein by reference.

FINDINGS. A written conclusion or determination that is made in connection with reaching a decision.

FLOODFRINGE. That portion of the floodplain, outside of the floodway, which is covered by flood waters during the regional flood and associated with standing water rather than flooding water.

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

FLOODPLAIN CERTIFICATE OF COMPLIANCE. A certification that the construction and the use of the land or a structure, the elevation of fill, and the lowest floor of a structure are in compliance with all of the floodplain provisions of the Town and Waukesha County Shoreland Floodland Ordinances.

FLOODWAY. The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

FLOOR AREA. The sum of the horizontal areas of each floor of an enclosed building as measured to the outside edges of the outside walls. This definition does not include basements, exterior balconies or unenclosed porches.

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., an F.A.R. of 100 percent allows a floor area equal to the total area of the lot, and F.A.R. 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 floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggregation of the river or stream bed.

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.

FRONTAGE. The smallest dimension of a lot abutting a public street measured along the street line.

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. (§17.19(10.5))

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

GARAGE, PUBLIC OR COMMERCIAL. Any building or premises, other than a private or 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 the engineer or by such authority as shall be designated by law to determine such an elevation.

GRADING, MINOR. Including filling and land altering activities: Those land altering activities or projects that do not exceed land disturbance greater than 3,000 square feet in area and/or 15 cubic yards in aggregate.

GREENHOUSE AND OR HOOP HOUSE. 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 DAYCARE 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 only for the occasional occupancy of guests of the owners, and shall not be used, leased or rented for human occupancy.

HIGHWAY. A right-of-way designated on the Waukesha County Established Streets and Highway Width Map or any other comprehensive system for the principal purpose of providing vehicular thoroughfare and not necessarily affording direct access to abutting property.

HOME OCCUPATION. Any occupation for monetary gain or financial support conducted entirely within the principal residence. (§17.44(7))

HORTICULTURE. The culture of growing and cultivating fruits, flowers and related plant material.

HOTEL. A building in which lodging, with or without meals, is offered for compensation and which may have more than 5 sleeping rooms for this purpose. See MOTEL.

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

HUMAN HABITATION. The use of a building or structure for overnight living or longer periods of time and including the aggregate of normal occupancy activities such as lounging, cooking, eating, sleeping, bathing, sanitation, etc.

IMPERVIOUS SURFACE. An area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surface includes, but is not limited to, rooftops, sidewalks, driveways, parking lots, Decks, patios, sport courts, swimming pools, retaining walls and hot tubs.

INFILTRATION(OR INFILTRATE). The entry of precipitation or runoff into or through the soil.

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.

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

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

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 5 dogs. This definition includes businesses termed "doggy day care" and dog rescue operations or any similar operations. The raising and selling of 3 or more litters of animals per year shall constitute a commercial kennel. The training or grooming of dogs without other related kennel activities, as listed above, is not considered a commercial kennel, but those activities are considered commercial type uses which are otherwise regulated in this Ordinance.

KENNEL, HOBBY. A non-commercial establishment, structure, premises or pursuit accessory to the principal use of the property where 3 or more household pets of 6 or more months of age are kept for such private purposes as pets, field trials, shows or hobby. The occasional raising of not more than 2 litters of dogs per year on a premises and the sale or disposal of said dogs within 6 months of their birth shall also be considered a hobby kennel. More than 5 dogs on a single property shall constitute a commercial kennel.

LAND-ALTERING ACTIVITY. Any man-made change of the land surface, including removal of 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 §17.14(5) and §17.141, 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. (§17.14(5); §17.141)

LIVESTOCK. Animals which are typically kept for breeding, production of agricultural products, sale or pleasure, including, but not limited to cattle, bovine, emus, llamas, alpaca, pigs, swine, hogs, sows, horses and other equine animals, sheep, goats, farm raised deer, camelids, ratites, farm-raised fish, farm-raised game birds and bison.

LIVING AREA. The occupies 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 5 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 public rights-of-way, mil tax roads, public streams or other public water body. Where such streams or public rights-of-way divide a single described parcel into 2 or more parts, such severed portions shall be considered separate individual lots if such separate parcels individually meet the use regulations, building location and area regulations of the zoning district in which they are located. Where such separate parcels do not meet those requirements and have been described as a single parcel of record, together such severed portions shall be considered to be a single lot for regulatory purposes under the provision of this ordinance, and such severed areas shall constitute a single lot for computation of area regulations and other locational provisions of this ordinance and 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, mil tax roads, public streams and lands below the ordinary highwater mark of 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 legally recognized lot which existed at the time of passage of this chapter, but which does not conform to the district regulations in the district in which it is located.

LOT LINES. The lines bounding a lot as defined herein.

LOT LINE, SIDE. A lot line extending from a street line towards the interior of the lot and separating adjoining lots.

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 2 would produce the minimum required lot area. A lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the depth of the lot which is necessary to create the minimum required area. On corner lots the lot shall be at least as wide as specified minimum average width for one-half of the depth in both directions perpendicular to the road frontage.

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 office of the Waukesha County Register of Deeds prior to the adoption of the original Town of Merton zoning ordinance (February 26, 1959). (§17.20)

LOWEST FLOOR OR LEVEL. The lowest floor or level of the enclosed area in a building, including a basement.

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

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

MOBILE HOME PARK. Any plot of ground upon which 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 accommodation, §66.0435, Wis. Stats. For the purpose of this chapter a mobile home park cannot be considered a Residential Planned Unit Development.

MODULAR HOME. A principal structure which is partially preassembled at a manufacturing plant and placed together or erected on a lot or parcel as a dwelling unit or units (also called "prefabricated" or "precut" homes or "double-wide" units) meeting the requirements of all applicable state and local building codes.

MOTEL, (ALSO HOTEL). A building or series of buildings, with or without the availability of meals being served in a restaurant associated with the facility, in which short-term lodging (not a housekeeping entity) and normally not exceeding 2 weeks in duration, is offered for the traveling public for compensation and which may have more than 5 individual sleeping rooms, or grouping of rooms (or a suite) or units and toilet and bathing facilities for the purpose of overnight sleeping and which is distinguished from a hotel primarily by reason of providing direct independent access to each room and adjoining parking for each room or unit. Such facilities shall provide

longer term housing (normally more than 2 weeks) to a person or groups of persons as a residence as such uses are considered apartments with each unit serving as a single housekeeping entity.

MOTEL. A building or series of buildings in which lodging is offered only for compensation, has more than 5 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, trailer, tractor, bus, vehicle or other conveyance that is self-propelled by an internal combustion engine or motor, and for the purposes of this zoning ordinance shall include, but not be limited to, boats, recreational vehicles, all-terrain vehicles, motorized farm equipment and mobile machinery, motorcycles and snowmobiles.

NAVIGABLE WATERS. Those intermittent and perennial rivers, streams, ponds, lakes and flowages shown on the U.S.G.S. Topographic Quadrangle 7.5 Minutes Series Maps of Waukesha County (and as periodically updated) and those stream reaches shown on the large scale topographic mapping control survey project for Waukesha County conducted under §87.31, Wis. Stats. Any water is considered navigable in fact if it meets the tests outlined in state laws. Determinations of navigability are ultimately field determinations, and map delineations are merely the best representation of navigable conditions at any particular time. (§17.20(1)(h))

NONCONFORMING STRUCTURE, LEGAL. A building, structure, or portion thereof, lawfully existing at the time of passage of this Ordinance, but which does not conform in one or more respects to the regulations of this Ordinance.

NONCONFORMING USE, LEGAL. The use of a building or land lawfully carried on-at the time of the passage of this Ordinance or amendments thereto, but which does not conform to the use regulations established by this Ordinance.

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 sold 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, and not including a roof 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 event.

OPEN SPACE. Land area used for recreation, agriculture, resource protection, amenities for recreational purposes or buffers. (§17.22(3))

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. (§17.59(3)(c))

OPEN SPACE, PUBLIC. Lands which are open space dedicated and owned by a public entity, such as a town, city, village, county or other public entity and used for a public purpose.

ORDINARY HIGHWATER MARK. The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high water mark is, reference may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high water mark. (§17.20(1)(h))

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 having a more specific purpose such as tennis courts, swimming pools, basketball or racquetball courts, ice arenas, etc., other than passive park-like open areas, and further classified:

- (1) Public: Facilities owned and operated by a governmental agency for a 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 general public use.
- (3) Private Noncommercial 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.

OUTHOUSE. A facility designed to accommodate the elimination of human waste directly into a hole or earthen pit without running water. Same as privy.

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 room 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.

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

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

PERSON. Means an individual, association, partnership, limited liability company, or corporations.

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.

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

PLAN COMMISSION. The Town Plan Commission established under village powers pursuant to §62.23, Wis. Stats., the Town Park Commission established pursuant to §60.181, Wis. Stats., or any other agency created by the Town Board and authorized by statute to plan land use.

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

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 recreations 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 from vision the objects it is intended to hide from view.

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.

PORCH/STOOP. A functional element of the ingress/egress of a principal structure allowing for easy and convenient passage between the exterior and interior of said structure. For the purposes of regulation in this ordinance, a stoop is considered to be 20 square feet or less whereas a porch exceeds 20 square feet in area.

POULTRY. Domesticated birds kept for eggs, meat or as pets.

PRIVATE CLUB OR LODGE. 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. Office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other similar recognized professional person.

PUBLIC AND SEMI-PUBLIC BUILDING. Public and semi-public buildings and uses in the sense of this chapter are structures principally of an institutional nature and serving a public need such as hospitals, rest homes, private academic and nursery schools, libraries, museums, public and private utilities and other public services, but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

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

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

RAIN GARDEN. 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. Motorized vehicles that include a cabin for living accommodations and are commonly used for recreational travel and touring. Vehicles included in this category come in several forms: travel trailers, tent trailers and camping trailers, all of which must be towed by another vehicle; and truck campers, motor homes and camper 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 water 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. A tract of land operated by a public or private agent, subject to restrictions of use and under supervision, and where more than one family may take all types of refuse, including organic and inorganic wastes (but excluding human excreta, sewage and/or other liquid wastes) hard or clean fill operations involving materials such as foundry sand, dirt, gravel, concrete or other forms of clean fill material, for compacting and burial by sanitary land fill methods. Hard or clean fill operations involving materials such as sand, dirt, gravel, concrete or other forms of clean fill material shall not constitute refuse disposal sites for the purposes of this Ordinance.

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

REGIONAL FLOOD ELEVATION. The elevation of the regional flood. Commonly referred to as RFE.

REMODELING. Any structural alterations(s), additions(s), modifications(s), or lateral enlargement(s) of any 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 changes(s) require structural alterations 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.

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

RETAINING WALL. A structure more than 24 inches in height, as measured from finished grade, or a combination or series of multiple structures more than 24 inches in height from finished grade, constructed of man-made or natural materials for the main purpose of retaining land or stone and resisting the lateral pressure of the land or stone. For the purposes of this Ordinance, outcroppings are also considered retaining walls if they meet the retaining wall definition, unless they are naturally occurring in the landscape.

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.

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

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.

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.

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 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 closed point of a structure or building and the wetland boundary, excluding a roof overhang measuring 24 inches or less.

SHORELANDS. Those lands within the following area: One thousand feet from the ordinary high water mark of the navigable lakes, ponds or flowages; 300 feet of the ordinary high water mark of navigable rivers or streams, or to the landward side of the Floodplain (as defined herein), whichever distance is greater.

SHORELAND/WETLANDS. Those wetland areas that lie within the shoreland and floodland jurisdiction of this ordinance and that have been designated as such on the Final Wisconsin Wetland Inventory Maps for Waukesha County prepared by the WDNR as depicted on the WDNR

Surface Water Data Viewer.

SIGN. Any structure or device displaying advertising in lettering, pictures, symbols or other media.

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 200 feet to one 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.

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 PARKING. A 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 or Town Board.

SPECIAL EXCEPTION. 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 or welfare.

SPECIAL USE SYSTEMS. Accessory structure which may be mounted on the ground surface, upon another structure or as a mobile unit for the purpose of receiving satellite communication transmissions or retransmissions; for the purpose of solar collection for heating, including those systems defined by §13.48(2)(h)1.g., and §66.0403(1)(m), Wis. Stats.; for the purpose of generating electrical power by use of windmills. Solar energy conversion systems shall mean only "active" solar collection systems not constructed as an integral part of a building.

SPECIFIED ANATOMICAL AREAS means:

- (1) Less than completely and opaquely covered human genitals, public 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. Simulate or actual:

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

STABLE, COMMERCIAL OR BOARDING. A tract of land or structure where horses or other livestock are kept for hire, boarding, sale or used for commercial recreation purposes. (§17.43; §17.44(6))

STABLE, PRIVATE. A tract of land or structure where horses or other livestock are kept for personal use by the property owner or occupant of the principal residential structure on the property. (§17.44(6))

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

STORY. That portion of a building included between the surface of the floor next above it or the space between the floor and the ceiling next above it. A basement or cellar having one-half or more of its height above grade shall be deemed a story for purposes of height regulation and floor area computation.

STREET. SEE ROAD.

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

STREET FRONTAGE. A street contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property.

STREET LINE. A dividing line between a lot, tract or parcel of land and a contiguous street.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building or any substantial change in the roof structure or exterior walls.

STRUCTURE. Any man-made object with form, shape and utility that is constructed or otherwise erected on the ground or attached to something on the ground, or permanently or temporarily placed, either upon the ground or upon another structure. For the purposes of this Ordinance, the term "structure" includes, but is not limited to, principal and accessory buildings (including garages, sheds, boathouses, porches and gazebos), signs, swimming pools, hot tubs, patios, decks, sidewalks, walkways, fire pits, retaining walls, monuments, entrance gates, radio towers and television towers, but does not include landscaping, earthwork, or land altering activities including graded areas, filled areas, ditches, berms, or earthen terraces. The term "structure" does not include flag poles, mailboxes, fences, basketball hoops, satellite dishes 18 inches or less in diameter, or small objects that are easily moved by hand, such as lawn chairs, portable grills, portable picnic tables, fences, doghouses, bird feeders, birdhouses, and birdbaths.

STRUCTURE, LEGAL NONCONFORMING. A building, structure or portion thereof lawfully existing at the time of the passage of this ordinance, but which does not conform in one or more respects to the regulations of this ordinance.

SUSTAINED YIELD FORESTRY. The management of forested lands to provide annual or periodic crops of forest products.

SWIMMING POOL. A structure designed to hold water more than 30 inches deep for the purposes of swimming. See pool, swimming.

TEMPORARY STRUCTURE. A movable structure not designed for human habitation or occupancy but for the temporary protection (not to exceed one year) of goods or chattels during a period of construction, for the enclosure or screening of goods or property or for the display of signs and advertising.

TOURIST HOMES. A building in which lodging with or without meals is offered to transient guests for compensation, and having no more than 5 sleeping rooms for this purpose with no cooking facilities in any such individual room or apartment.

TOWN BOARD. The Town Board of Supervisors of the Town of Merton.

TOWN ZONING AGENCY. The Town Plan Commission designated by the Town Board as its agency in regard to zoning.

TRAFFIC ARTERY. See Highway.

TRAILER PARKS. See Mobile Home Parks.

USE, ACCESSORY. A use subordinate to and customarily incident to the permitted principal use of the property or buildings and located upon the same lot as the principal use.

USE, LEGAL NONCONFORMING. The use of a building or land lawfully carried on at the time of the passage of this chapter or amendments thereto but which does not conform to the use regulations of this chapter.

USE, PRINCIPAL. The main or primary use of property or buildings as specified and permitted by the regulations of the district in which it is located.

VARIANCE. An authorization granted by the Board of Adjustment to construct or alter a building, land use or structure in a manner that deviates from this ordinance.

VISION SETBACK. An unoccupied triangular space at the street corner of a corner lot as established by this code. §17.20(1)(b).

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

YOUTH FACILITY. Any facility where minors gather for education or recreational activities including, but not limited to, playgrounds, swimming pools, libraries, licensed child care facilities or youth clubs. (§17.19(17))

ZONING ADMINISTRATOR. The person designated by the Town Board.

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.

GENERAL PROVISIONS

17.10 - COMPLIANCE.

Except as may be otherwise specifically provided, the use, size, height and location of buildings now existing or hereafter erected, converted, enlarged or structurally altered, the provisions of open spaces, and the use of land shall be in compliance with the regulations established herein for the district in which such land or building is located.

17.11 - BUILDING PERMIT.

- (1) REQUIRED. No structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning and building permit having been first issued and without full compliance with the provisions of this chapter, the Waukesha County Shoreland and Floodland Protection Ordinance, if applicable, and with other local, county, state and federal regulations.
- (2) APPLICATION FOR. An application for a building permit shall be made to the Town Building Inspector.
- (3) ISSUANCE.
 - (a) No building permit, if required, shall be issued by the Town until a zoning permit has been issued by Waukesha County should the Waukesha County Shoreland and Floodland Protection Ordinance require a County zoning permit (within 1,000 feet of a lake, 300 feet of a river, or 75 feet of a wetland).
 - (b) No building permit shall be issued by the Town if the permit would exceed the building permit allocation for the year in which the application is made as established under the provisions of §17.13 and Chapter 18 of this General Code, as applied to the land division in which the lot for which the building permit is requested is located. This subsection shall not apply to lots which do not come within the jurisdiction of the allocation provisions of this chapter and Chapter 18 of this General Code.

17.12 - ZONING, OCCUPANCY AND USE PERMITS.

- (1) REQUIRED. No vacant land shall be occupied or used except for agricultural purposes and no building, open decks, porches, or stairways shall be hereinafter erected, structurally altered, relocated, used or occupied until zoning and occupancy use permits have been issued certifying that any such building, use or occupancy complies with the provisions of this chapter; like permits shall be obtained before any change is made in the type of use or before any nonconforming use is resumed, changed, extended or granted conditional use status pursuant to §17.28(3).
- (2) APPLICATION. Application for such permit shall be made to the Building Inspector. A fee, the amount of which shall be established from time to time by Town Board resolution, shall accompany the application even if no building permit is required for the building construction

proposed. Application shall be made prior to or at the same time as the application for a building permit and shall be prepared in duplicate and include for the purpose of proper enforcement of this chapter the following data:

- (a) A statement by the applicant as to the intended use of the premises and of any existing or proposed buildings thereon.
 - (b) An accurate map of the property in duplicate, drawn to a reasonable scale and properly dimensioned, showing:
 1. The boundaries of the property involved.
 2. The location of the centerline of any abutting streets.
 3. The location on the lot of any existing buildings, proposed additions or proposed new buildings including the measured distances between such buildings and from the lot lines and from the actual centerline of any abutting street to the nearest portion of such building.
 4. The proposed floor elevation of any proposed buildings in relation to the existing and/or established grade of any abutting streets.
 5. The high waterline of any stream or lake on which the property abuts.
 6. The location of any existing and proposed septic system and well, including those within 50 feet of the property lines.
 7. The location and results of any percolation tests and soil borings on the individual property.
 - (c) Where the use involves human occupancy, a plan of the proposed sewage disposal system, if not connected to an approved municipal sewage system, shall require the certification that it conforms to all Town and County ordinances and other governmental laws or regulations then applicable to sewerage disposal systems.
 - (d) Satisfactory evidence that a safe and adequate supply of water is to be provided and the location of any well for that purpose on the property.
- (3) ISSUANCE. Zoning and occupancy and use permits shall be issued by the Building Inspector after adequate investigation as to compliance or upon recommendation of the deputy where he has made the necessary investigation.
- (a) Zoning Permit. Provided the application is in order and any building, occupancy or use as proposed would be in compliance with the provisions of this chapter a zoning permit shall be issued upon such application, and a certification that such permit has been issued shall be posted in a prominent place on the premises during the period of any construction or other activity involved in readying the land or buildings for use occupancy.
 - (b)

Occupancy and Use Permit . Within 10 days after the notification of the completion of the erection, alteration or relocation of a building or of intent to commence a use, the Building Inspector shall make an inspection of the premises and any buildings thereon, and if such buildings, use or occupancy complies with the requirements of this chapter an occupancy and use permit shall be issued.

- (4) EXPIRATION. If within 6 months of the date of issuance of a zoning permit the proposed construction or preparation of land for use has not commenced, or if within 18 months an occupancy and use permit has not been issued, or if the construction has not been completed, said zoning permit shall expire; except that upon showing of valid cause, the Zoning Administrator may grant an extension of such permit for a period not to exceed 6 months. Said permit extension shall be issued for the full fee and based upon full conformance with the ordinance at the time of issuance for the new permit. If the construction has not commenced or is not completed after a total of 24 months, a new permit must be applied for and received subject to all fees and subject to the ordinance in effect at the time of such new permit issuance. Previous incomplete work is not entitled to a new permit if the ordinance no longer permits said use or structure or if changes to the ordinance have been made subsequent to the original issuance of the permit.
- (5) TEMPORARY OCCUPANCY AND USE PERMIT. Pending the issuance of a regular permit, a temporary permit may be issued for a period not exceeding 6 months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants. A temporary permit shall be voided if the building fails to conform to the provisions of this chapter to such a degree as to render it unsafe for the occupancy proposed, according to the judgment of the Building Inspector.
- (6) ZONING AND OCCUPANCY AND USE PERMITS; SITE PLANS AND PLANS OF OPERATION. Certain permitted uses as well as certain conditional uses require the submission of site plans and plans of operation which provide a detailed description of the proposed use and serve as a basis for Plan Commission and Town Board consideration prior to approval. The purpose of such a site plan and plan of operation review is to document the permit file, determine adequacy of the data submitted to describe the permitted and accessory uses and buildings proposed, and document the plan and method of operation to enable a determination of compatibility with the ordinance and consideration of approval. Such site plans and plans of operation shall be reviewed and approved by the Town Plan Commission and Town Board and include, without limitation because of enumeration, a scale map showing all buildings and other attributes either existing or proposed on the site, parking lots and spaces, lighting fixtures, easements, signage, description of uses in detail, number of employees, hours of operation, types of uses, grading and excavation where proposed, and shall be required in all Business and Industrial Districts and required in the conditional use permit application.

17.121 - EROSION CONTROL PLAN APPROVAL.

- (1) REQUIRED. Unless specifically exempted by the provisions of this chapter, no landowner or land user may undertake a land disturbing activity as defined in §17.141 of this chapter without receiving approval of an erosion control plan from the Building Inspector or Plan Commission prior to commencing the proposed land disturbing activity. The Building Inspector or Plan Commission may refer any proposed erosion control plan to the Town Engineer for review and recommendation. The cost of such engineering review shall be paid by the applicant prior to any permit being issued.
- (2) SHORELAND ORDINANCE COMPLIANCE. It is not intended by this section to repeal or abrogate the Waukesha County Shoreland and Floodland Protection Ordinance; however, wherever this section imposes greater restrictions, the provisions of this section shall govern. Where the county ordinance is more restrictive than this section in relation to floodlands and shorelands, its greater restrictions are effective. Approvals under both this section and the county ordinance are required.
- (3) APPLICATION. Applications for approval of erosion control plans shall be made to the Building Inspector. Application shall be made prior to or at the same time as the application for a building permit, if required, and shall be prepared in duplicate and include for the purpose of proper enforcement of this chapter the following data:
 - (a) Surface Water Drainage and Stormwater Runoff. A plan to control surface water drainage and stormwater runoff. The Building Inspector or Plan Commission may require applicant to submit calculations for stormwater runoff where, due to the size of the project, such information is deemed necessary. Calculations shall be prepared by a professional engineer.
 - (b) Erosion and Runoff. A plan to control erosion and runoff resulting from land disturbing activity during and after development. The erosion control plan shall contain a map with the existing site and adjacent lands, a plan of final site conditions after completion of land disturbing activity and a description and schedule of planned land disturbing activities and corrective measures, all of which shall contain specific information as set forth in a document entitled "contents of erosion control plans" which shall be prepared and from time to time updated by the Town Plan Commission. Copies may be obtained from the Building Inspector.
 - (c) Plan Commission Approval. If deemed necessary by the Building Inspector, the Building Inspector may refer the application for approval of an erosion control plan to the Plan Commission for approval.
 - (d) Waukesha County Department of Parks and Land Use, Land Resource Division Approval. Either the Building Inspector or the Plan Commission may require approval of the erosion control plan by the Land Resource Division for compliance with the Waukesha County

Stormwater Ordinance.

17.13 - RESIDENTIAL DEVELOPMENT CONTROL SYSTEM.

- (1) PURPOSE. The purpose of the Residential Development Control System is to establish control over the quality, distribution and rate of growth of the Town in the interest of preservation of the quality of the community; preservation of the prime agricultural lands; preservation of the rural atmosphere of the community; preservation of environmentally sensitive areas; insuring the adequacy of the Town facilities and services, including but not necessarily limited to police, ambulance, fire, highway, parks and playgrounds and street systems, without imposing an unreasonable tax burden on the taxpayers and residents of the Town; to insure the adequacy of Town facilities and services based upon plans for and possibilities of expansion thereof and the adequacy to provide for the needs of future residents of the proposed development; and insuring the adequacy of the existing school facilities and the potential for additional facilities without imposing an unreasonable tax burden on the taxpayers of the Town and the school district involved.
- (2) APPLICABILITY. The provisions of this section shall apply to all residential development in the Town except:
 - (a) Remodeling, restoration or reconstruction of any existing building.
 - (b) Construction of one single-family structure on any existing lot of record.
 - (c) Construction pursuant to a valid building permit issued prior to the effective date of this chapter.
 - (d) A land division of 3 or fewer family homes.
 - (e) Commercial or industrial developments. No residential development subject to the provisions as herein provided shall be undertaken, and no building permit shall be issued unless a development allotment has been obtained for the residential development in question, all in accordance with the provisions of this chapter.
- (3) APPLICATION. An application for development allotment shall be made to the Plan Commission prior to submittal of a preliminary plat of a proposed subdivision or prior to submittal of a certified survey map to the Plan Commission for approval. This submittal may be made at the time of the preapplication consultations provided in Chapter 18 of this General Code. The application shall be accompanied by the following documents, and where appropriate, a proposed preliminary plat may be utilized to furnish the information required, however submittal of a preliminary plat to satisfy the provisions of this subsection shall not be considered as a filing of a preliminary plat for approval under Chapter 18.
 - (a) Site Utilization Map. To include:
 - 1.

Vicinity map to show the relationship of the proposed development to adjacent development, the surrounding area and the Town. The map shall indicate the school district in which the proposed development lies. This map may be shown as a small inset map.

2. Site use layout map showing the extent, location and type of proposed residential use, the nature and extent of open space and the nature and extent of any other uses proposed. This map is of major importance.

- (b) Site Development Plan. Lot layout to preliminary subdivision map standards; topography; lot sizes; street alignments showing coordination with the Town street system; existing and proposed buildings, trees, landscaped areas, open space, bicycle paths, equestrian trails or pathways.
 - (c) Preliminary Architectural Plans. Typical architectural elevations, types and numbers of dwelling units.
 - (d) Preliminary Landscape Plans. Plantings, screenings, fencing, walks, walls, lighting, plant selection and arrangement and other landscape features.
 - (e) Public Facilities. Needed public facilities to be provided, such as critical linkages in the major street system, schoolrooms or other vital public facilities.
 - (f) Development Schedule. Proposed schedule of development including phasing and all applicable processes such as environmental assessment, tentative and final subdivision maps, rezoning and rezoning, site design review and similar matters.
 - (g) Title Information Required. Such other information as may be required by the Plan Commission.
- (4) EVALUATION. The Plan Commission shall evaluate the proposed development giving consideration to the purpose of the Residential Development Control System, with particular emphasis toward the impact of the development upon Town and school facilities and services. Evaluation shall be of the following:
- (a) Ability and capacity of the area of the proposed subdivision to provide for adequate water system and on-site sewerage disposal facilities.
 - (b) Ability and capacity of the drainage facilities to adequately dispose of the surface runoff of the proposed development.
 - (c) Ability of the fire department serving the area of the proposed development to provide fire protection according to the established response standards.
 - (d) The capacity of the school system to absorb the children expected to inhabit the proposed development.
 - (e) Ability and capacity of major street linkage to provide for the needs of the proposed development.

- (f) Ability and capacity of parks, playgrounds and other recreational facilities to meet the additional demands of the proposed district.
 - (g) Ability and capacity of the electric utility serving the immediate area to provide the needs of the proposed development.
 - (h) Ability of the police department to provide police protection according to established standards of the department.
 - (i) Ability of the Town Highway Department (equipment and personnel) to provide adequate service to the proposed development without overtaxing the capabilities of the Department to the point where excessive additional facilities, equipment or personnel are required or inadequate service might result.
 - (j) Ability and capacity of the emergency ambulance service provided for the area of the proposed development according to established and acceptable response standards.
 - (k) The number of residential lots of record existing in the area, for which building permits could be requested.
- (5) DETERMINATION. The Plan Commission, after considering the above, shall determine the impact on the Town and the school district in which the proposed development is located, and based upon such determination, shall arrive at a desirable rate of development. This rate of development shall be designated as an annual building permit allotment. The Plan Commission shall determine the period of time for completion of the development. The developer shall be advised, in writing, of the basis for the allotment and the period of time over which the Plan Commission desires the development to take place.
- (6) APPEAL TO TOWN BOARD. The developer may appeal the determination of the annual allotment established by the Town Plan Commission and/or the period of time for development completion, to the Town Board. A written appeal shall be filed with the Town Clerk within 20 days after written notice of the annual allotment and term has been mailed. The Town Clerk shall place the matter on the next agenda of the regular Town Board meeting or, upon agreement with the developer, on the agenda for a special Town Board meeting. The Board shall consider the appeal at such regular or special meeting, at which time the Board will hear the developer or his representative and such other persons as may be able to assist the Board in the determination of the matter on appeal. The Town Board may affirm or modify the allotment and term and its decision shall be final and conclusive. Such decision shall be rendered within 60 days of receipt of the notice of appeal.
- (7) PLAT REVIEW. The developers may proceed with filing of a preliminary plat for review and with other required procedural steps under Chapter 18 of this Code and Ch. 236, Wis. Stats., only after a final determination has been made with regard to the annual allotment.
- (8)

COMPLIANCE. To assure compliance with the determinations made concerning the residential development control system, the Plan Commission and/or the Town Board may require plat and/or deed restrictions limiting the number of building permits and/or phase approval of final plats of the proposed development.

17.14 - SITE REGULATIONS.

- (1) BUILDING MUST BE ON A LOT. Every building hereafter erected, structurally altered or relocated shall be located on a lot as defined herein. In no case, except in General Business and Industrial Districts or Planned Unit Developments shall there be more than one principal building on a lot. The Board of Adjustment may grant an exception to permit more than one principal building on a lot in any district, where such grant would not be contrary to the spirit of intent of this chapter and provided that sufficient lot area is provided and the buildings so located as to individually meet the setback, offset, lot size and open space requirements of the district in which it is located. No accessory building shall be constructed until the principal building is under construction or completed.
- (2) BUILDINGS OR CREATION OF LOTS ON A PRIVATE STREET OR WAY. The intent of this provision is to discourage the creation of lots and placement of structures which do not have adequate access for emergency vehicles and equipment to provide a right-of-way width which could accommodate a public right-of-way, if necessitated in the future. Subject to the approval of the Plan Commission and the 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) provided such tract of land is at least 3 acres in area and has a minimum average width of 200 feet, has access by a permanent easement at least 33 feet in width to a public street or way, will have a paved or gravel driveway width of at least 12 feet, and does not conflict with the plans for the future development of streets in the area.

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

(3)

JUNK AND UNDESIRABLE BUILDINGS OR STRUCTURES, MATERIALS, VEHICLES.

- (a) Junk. Junk, as defined by this chapter, shall at all times be stored in an enclosed building, thereby securing it from the view of the public and adjacent property owners.
1. This subsection is not intended to regulate or place limitations on any property properly zoned junkyard, salvage yard, 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 the view of the public and adjacent property owners by a natural or manmade visual barrier.
 3. This subsection is not intended to regulate or place limitations on the storage of idle but operative snow removal vehicles or equipment or lawn mowing equipment.
 4. This subsection is not intended to regulate or place limitations on the orderly storage of firewood for fuel.
 5. This subsection is not intended to regulate the temporary storage of construction materials which are for use on the site for the project authorized by an active zoning permit and which are stacked, stored and secured on the site in an orderly method.
- (b) No Undesirable Structures, Materials, Vehicles.
1. No building or structure shall be erected, structurally altered or relocated in a manner which shall be of such character as to adversely affect the nearby properties or general desirability of the neighborhood. The determination by the Plan Commission shall be stated in writing, including the reason for denying a permit or conditions of approval for a permit, and may be based upon considerations that the design or appearance is of such an unorthodox or abnormal character as to have an adverse effect on the nearby properties or general desirability of the neighborhood.
 2. No building or structure shall be erected, structurally altered or relocated and no lumber, materials, vehicles, furniture or other equipment or vehicles or similar articles shall be stacked, piled or stored in a manner which shall be of such character as to adversely effect the property values and general desirability of the neighborhood. Motor vehicles or other items such as snowmobiles or other vehicles, motorized or intended to be motorized, equipment which is unlicensed, abandoned, disassembled, inoperative, disabled, junked or wrecked shall not be stored anywhere on any premises except in an authorized salvage

yard or unless they are completely enclosed in a structure. The Zoning Administrator or his deputy shall review any such case in question and may recommend to the Town Board legal action to bring about conformance.

3. Procedure for Determination of Violations. The Building Inspector shall submit any such case in question to the Plan Commission for its determination.
 4. The Plan Commission shall base its determination upon the following considerations:
 - a. Design or appearance of such unorthodox or abnormal character so as to have a substantial adverse effect on the property values and general desirability of the neighborhood.
 - b. A degree of similarity in design, style and appearance so as to have a substantial adverse effect on the property values and general desirability of the neighborhood.
 - c. The nature of, usefulness and appearance of articles or vehicles stored and whether those objects have any adverse effect on surrounding or adjacent property.
 5. The decision of the Zoning Administrator shall be stated in writing, including the reason for refusing a permit or any conditions of approval.
- (4) STREET GRADE. Every building hereafter erected, structurally altered or relocated shall be at a grade approved by the Building Inspector as being in satisfactory relationship with the established or existing street grades, with particular consideration for proper drainage and safe vehicular access.
- (5) PRESERVATION OF TOPOGRAPHY. In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 3 horizontal to one vertical within a distance of 20 feet from the property line, except with the written consent of the abutting property owner and with the approval of the Plan Commission; or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- (a) The construction of a retaining wall (stone, ties, brick or other material) 5 feet or less from a property line may be specifically authorized by the Plan Commission and County zoning agency and on agreement made between the Plan Commission, County zoning agency and the applicant, stating the method and purpose of construction and will not in any way adversely affect drainage or the aesthetics of the adjacent lot. A retaining wall greater than 5 feet from a property line may be allowed pursuant to issuance of a zoning permit (minor

grading permit) and an agreement being made between the owner, the Town Plan Commission, and the County Zoning Administrator which will serve to promote the purpose and intent as stated in this chapter.

Fill or grading considered by the Zoning Administrator to be necessary backfill and/or excavation for an otherwise permitted structure or retaining wall may be permitted without the necessity of securing a conditional use permit as long as said fill or grading is accessory to said construction and does not create slopes greater than 3 horizontal to one vertical and does not extend to a distance greater than 30 feet from the foundation and does not divert runoff directly onto adjacent property or adversely affect adjoining property. In order to make such a determination, the property owner shall submit a grading plan of existing and proposed grades on the subject lot and adjacent lands where said accessory fill and/or grading is closer than 20 feet to a property line.

Land-altering activities extending greater than 30 feet from the foundation may be allowed subject to issuance of a minor grading permit (zoning permit) without benefit of a conditional use permit unless the quantities and the area of fill exceeds 3,000 square feet and 15 cubic yards. This provision excludes the area normally associated with septic system installation, backfilling and grading around the foundation, as above, and normal driveway construction. Further, no fill or alterations on existing topography shall be allowed under any circumstances which will alter the drainage or topography in a way which will adversely affect the surrounding lands. In making such a determination, the Zoning Administrator shall have the authority to determine the effect of the construction or fill on surrounding property and require improvements and/or facilities as may be in the best interest of preserving the topography and drainage system and which will have the effect of lessening the impacts on either upstream, downstream or adjacent properties. In case of a dispute or question arising as to the adversity or effect of the project on either the property owner, adjacent owners or the general public, said question shall be submitted to the Town Board of Adjustment pursuant to the procedures for appeal as enumerated in §§17.60 through 17.65. Land-altering activities may also be subject to locally adopted or state-mandated erosion and sediment control ordinances in addition to the requirements set forth herein.

- (b) Land-altering activities such as the placement of fill, excavation and other earth moving activities in excess of the above may be allowed subject to issuance of a conditional use permit as long as said fill, excavation or earth moving activities do not occur in a wetland as indicated on the Final Wisconsin Wetlands Inventory Maps for Waukesha County or subsequently revised by hydraulic analysis and approved by the Army Corps of Engineers and/or the Department of Natural Resources. The performance of such earth altering must not impede drainage or reduce the floodwater storage capacity of any floodland.
- (c) Site Protection. Any property disturbed with land-altering activities as may be authorized through the issuance of a zoning permit or a conditional use permit shall be required to protect the disturbed land surface of the lot or building site that is susceptible to erosion

while under construction and which is not occupied with buildings, dedicated parking areas or other hard-surfaced areas with suitable stabilization measures. Said disturbed areas shall be permanently stabilized and continuously maintained with suitable vegetative cover or other approved landscape material and in any case shall be required to conform to the provisions of the Waukesha County Construction Site Erosion Control Ordinance No. 146-158. Bonding or other forms of financial guarantee to ensure performance may be required by the Plan Commission, the Zoning Administrator or the Waukesha County Department of Parks and Land Use, Land Resources Division.

17.141 - LAND DISTURBANCE.

- (1) LAND DISTURBING ACTIVITIES SUBJECT TO EROSION CONTROL. Land disturbing activities are subject to the erosion control provisions of this chapter when an area of 3,000 square feet or greater will be disturbed by removal of vegetation, excavation, grading, filling or other earth moving activities, resulting in a temporary or permanent absence of protective ground cover or vegetation. Section 17.14(5) shall apply to any change in existing grade. It is acknowledged that even though a land disturbing activity may come within the provisions of this definition by reason of topography or other factors, there may be no danger of erosion. In such case the Building Inspector may waive the requirement for plan approval.
- (2) GENERAL DESIGN PRINCIPLES. Control measures shall apply to all aspects of the proposed land disturbance and shall be in operation during all stages of the disturbance activity. The following principles shall apply to soil erosion and sediment control.
 - (a) Stripping of vegetation, grading or other soil disturbance shall be done in a manner which will minimize soil erosion.
 - (b) No site shall be cleared of topsoil, trees and other natural features before the commencement of building operations. Whenever feasible, natural vegetation shall be retained and protected. Only those areas approved for the placement of physical improvements may be cleared. The extent of the disturbed area and the duration of its exposure shall be kept within practical limits.
 - (c) Either suitable temporary seeding, mulching or other stabilization measures shall be used to protect exposed critical areas during construction or other land disturbance.
 - (d) Drainage provisions shall accommodate increased runoff resulting from modified soil and surface conditions during and after development or disturbance. Such provisions shall be in addition to all existing requirements.
 - (e) Water runoff shall be minimized and retained on site whenever possible to facilitate groundwater recharge.
 - (f) Sediment shall be retained on site.
 - (g)

Diversions, sediment basins and similar required structures, including silt curtains, shall be installed prior to any on-site grading or disturbance.

- (3) MAINTENANCE. All necessary soil erosion and sediment control measures installed under this chapter shall be adequately maintained until such measures are permanently stabilized as determined by the Town Building Inspector. The Town Building Inspector shall give the applicant upon request a certificate indicating the date on which the measures called for in the approved plans were completed.
- (4) EXEMPTION. Land disturbance associated with agricultural pursuits is specifically exempted from this section.

17.15 - DRAINAGE REGULATIONS.

- (1) 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 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, structurally altered or relocated on land which is not adequately drained, which has an observed or estimated high groundwater table condition, or has soils which may have a seasonal zone of water saturation as may be determined by use of a USDA soil survey, an on-site soil investigation by a certified soil tester or other qualified engineer or soil scientist, unless adequate measures are taken to protect the building, its basement and its foundation from such water conditions. The identification of mottled characteristics in the soil profile may be utilized to identify soil conditions which may require additional protective measures as outlined below. Where soil monitoring tests have been made, the data resulting from such testing procedures may also be utilized to assist in establishing soil conditions requiring protection measures.

Normally, a few faint mottles or a very low incidence of mottling will not necessitate any special consideration. Basements will be allowed to extend into such soils where those conditions exist as long as appropriate construction measures are provided. Where the incidence of mottling is considered very severe or where groundwater is observed in the soil profile, no basement area will be allowed to be placed below the level at which such a condition exists. The Zoning Administrator and/or Building Inspector may review such conditions by observation and other evidence at the building site and shall require appropriate measures to be taken beyond normal footing drains as normally required by local building codes to adequately protect the building and its basement and foundation from such potential water-related problems. 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 to this provision.

- (a) The zoning permit and building permit 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 as follows: auxiliary power supplies; gravity drainage of foundation footings together with the installation of a sump pump which will be operative in the event of blockage of the gravity drains, gravel backfill and extra drains, waterproof poured concrete basement.
 - (b) 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 Plan Commission or the County zoning agency may cause such notice to be affixed to the face of the document.
 - (c) 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 appropriate agencies pursuant to the appeal provisions of this chapter.
- (2) OBSTRUCTION TO DRAINAGE PROHIBITED. The damming, filling or relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural watercourse shall not be permitted except with approval of the Plan Commission, and where necessary the Waukesha County Park and Plan Commission and the Department of Natural Resources.

17.16 - SANITATION AND WATER SUPPLY..

- (1) SAFE SEWAGE DISPOSAL POSSIBLE. No principal building shall be erected, structurally altered or relocated unless it has been certified by the Building Inspector or Plumbing Inspector that it conforms to all Town and County ordinances and other governmental laws or regulations then applicable to sewage disposal systems and that satisfactory evidence has been submitted to show that suitable provision for disposal of sewage, based on the proposed use, is possible on the lot if it is not served by an approved municipal or other state-approved sewage disposal system.
(Explanatory Note: While every attempt has been made, through control of minimum lot size, building location and plumbing standards, to insure that proper disposal of sewage will be provided on any lot, it is recognized that no such standard will completely insure adequate disposal in every situation. This section has been written for the purpose of giving the community the authority to require whatever additional provisions are necessary to prevent a sanitary problem from developing in a situation where the normal requirements will not insure proper sewage disposal.)

- (2) APPROVED SEPTIC SYSTEM. No principal building or guesthouse shall be erected, structurally altered or relocated unless a sewer is installed running to a septic tank designed and located in accordance with the Town and County ordinances and other governmental laws or regulations then applicable to sewage disposal systems or to an approved municipal or other state-approved disposal system.
- (3) OUTHOUSE PROHIBITED. No outhouse or privy as defined shall hereafter be erected. Sealed vaults, portable chemical toilets and similar facilities used in conjunction with park and open space land uses or with ongoing construction may be permitted subject to approval of the Waukesha County Department of Parks and Land Use, Environmental Health Division.
- (4) WATER SUPPLY REQUIRED. No occupancy and use permit shall be issued for a building used for residence purposes unless provision is made for a safe and adequate supply of water in or within 300 feet of the dwelling or connection is to be made to an approved municipal or community water system.
- (5) REDUCTION IN LOT SIZE, LOT WIDTH, OFFSET, ROAD SETBACK, OPEN SPACE AND INCREASE IN FLOOR AREA RATIO AND INCREASE IN DENSITY IN PLANNED UNIT DEVELOPMENT. In the case of any lot proposed to be served by a municipal or municipally approved communal sewage system and where such service would be provided prior to any occupancy of such lot, the Plan Commission and Zoning Administrator may authorize the reduction of the lot size, lot width, open space, offset and road setback requirements applicable to such lot and increase the floor area ratio and increase the density in planned unit developments without the necessity of public hearing. In making the decision, the Plan Commission and Zoning Administrator shall give particular consideration to the following:
 - (a) The suitability of soil, terrain and groundwater table conditions and the practicality of providing municipal sewer to the parcel.
 - (b) The effect of any reduction in the lot size, lot width, open space, road setback and offset requirements and the increase in floor area ratio and density requirements on the character and value of surrounding development.

The maximum amount of reduction in the lot size, lot width, open space, offset and road setback requirements or increase in floor area of individual lots and the maximum increase in the density of planned unit developments shall not exceed 3 percent and in no case reduce the lot area requirements for the individual lots to less the 18,000 square feet except as provided for multifamily type units in §17.19(9.5) and (27).

17.17 - USE REGULATIONS.

- (1) USES RESTRICTED. In any district, no building or land shall be used and no building shall be hereafter erected, structurally altered or relocated except in conformance with the regulations hereinafter established for the district in which the property is located or as otherwise provided in

this chapter. Where a change in use or a new use (excluding change in owner or operator) of a building or premises is proposed in any Business or Industrial District at the site of a legal nonconforming use or a conditional use, a plan of operation and site plan shall be prepared for review and approval pursuant to this chapter and appropriate procedures undertaken to conform with this chapter for uses or changes which no longer conform or which may require rezoning or conditional use status.

- (2) ACCESSORY USES/PYRAMIDING. In any district, accessory buildings and uses customarily incident to the permitted uses in that district shall be permitted subject to such requirements as may be hereinafter designated for that district in which they are located. No pyramiding as defined herein shall be permitted on any land fronting on a lake or other body of water except as may be specifically permitted accessory to a marina or resort and which may be allowed under the terms of a conditional use permit for a planned unit development. (Pyramiding: See §17.03, Definitions.)
- (3) UNCLASSIFIED USES. Any use not specifically listed as a permitted use or conditional use shall be considered to be prohibited except as hereinafter provided. Where deemed appropriate, the Plan Commission and Zoning Administrator shall have the authority to authorize uses not specifically enumerated or authorized under other procedures or zoning districts under the terms of §17.19(24) of this chapter.
- (4) ADDITIONAL REQUIREMENTS. For any use or structure in any district which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, the owner or occupant may be required to correct, improve or abate such conditions by such measures as may be mutually directed by the Plan Commission and Zoning Administrator consistent with reasonable technology and economic practicality and in conformance with reasonable standards or as may be determined by the Plan Commission and Zoning Administrator as may be contained in this chapter. Any building determined to be unfit for human habitation or which may endanger the health, safety and welfare of the public as may be determined by the Town Board after recommendation by the Plan Commission or Zoning Administrator shall be removed pursuant to the procedures outlined by the Wisconsin Statutes.
- (5) PUBLIC UTILITIES. Transmission lines, power lines, communication lines and supporting structures shall be permitted in any district. Height restrictions shall not apply.

17.18 - CONDITIONAL USES.

- (1) APPROVAL REQUIRED. Certain uses and situations which are of a special nature or are so dependent upon actual contemporary circumstances as to make impractical the predetermination of permissibility or the detailing in this chapter of specific standards, regulations or conditions which would permit such determination in each individual situation, may be permitted as conditional uses in districts subject to such requirements as hereinafter specified for each situation.

- (2) APPLICATION. Applications for conditional use permits shall be made in triplicate to the Town Clerk on forms furnished by the Clerk and shall include the following where pertinent and necessary for proper review by the Town Plan Commission.
- (a) A map (preferably a topographic map) in triplicate, drawn to scale of not less than 200 feet to one inch showing the land in question, its legal description and location, location and use of existing buildings, sanitary systems and private water supplies on such land, the high-water elevation of any navigable waters within 300 feet of the land in question, and the proposed location of use of any buildings, sanitary systems and wells on such land and within 300 feet of such land in question.
 - (b) The names and addresses of all owners of property within 300 feet of any part of the land included in the proposed change.
 - (c) Additional information as may be required by the County zoning agency, if within the Waukesha County shoreland and floodland jurisdiction, the County Health Department, or the Town Plan Commission.
 - (d) A fee will be paid to the Town Clerk to defray the cost of official notification 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 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 fee covering such costs shall accompany the application.
 - (e) Where the County has shoreland and floodland jurisdiction, a copy of the application shall be submitted to the County.
 - (f) Where necessary, to comply with certain Wisconsin Statutes, an application will be submitted to the Department of Natural Resources.
- (3) PUBLIC HEARING. Upon receipt of the application, the foregoing data and fees, the Town Clerk shall establish a date for a public hearing by the Town Plan Commission and shall publish notice of said hearing once each week for 2 consecutive weeks in a newspaper of general circulation in the area of the proposed conditional use. Notice of the public hearing shall be given by certified mail to all property owners within 300 feet of any part of the land included in the conditional use at least 10 days before such public hearing is held.

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 to the Town Plan Commission at least 10 days prior to the date of the public hearing. Testimony of all interested parties will be recorded at the public hearing, and the Town Plan Commission shall take action within 30 days to either recommend approval or disapproval of the application along with any recommended conditions of approval or reasons for recommending denial. If additional time is necessary beyond the 30 days referred to above, such time may be extended with the consent of

the petitioner. The Town Board shall, within 60 days from the date of the hearing, take action to approve or disapprove the application and attach any conditions as deemed necessary. If additional time is necessary for the Town Board to take action, such time may be extended with the consent of the petitioner.

Failure to act shall be deemed to be a recommendation of approval. The recommendations of the Town Plan Commission and any conditions suggested shall be sent in writing to the Zoning Administrator. In the case of a conditional use application for a cemetery, mausoleum or quarry, the recommendation of the Town Plan Commission must first be submitted to the Town Board for official action of that body before transmittal to the Zoning Administrator, and said action by the Town Board shall be an integral part of the conditional use permit.

- (4) FINAL REVIEW AND APPROVAL. Any conditions deemed necessary by the Town Board shall be made an integral part of the permit. These conditions shall be complied with by the applicant and any deviation or alteration of those conditions set forth in the permit shall constitute a violation of the terms of the conditional use permit. Such violation shall constitute a violation of this chapter and will be subject to prosecution and penalties under the terms of this chapter.
- (5) APPLICATION FOR CHANGE OF CONDITIONAL USE PERMIT. If any holder of a conditional use permit wishes to extend or alter the terms of the permit, he must apply for such extension or alteration through the procedure of application for conditional use permits detailed herein.
- (6) EXPIRATION OF CONDITIONAL USE STATUS. Conditional use status will terminate when, after public hearing, the Plan Commission and Town Board determines any of the following:
 - (a) The conditional use has not continued in conformity with the conditions of the permit.
 - (b) A change in the character of the surrounding area or in the conditional use itself causes such use to no longer be compatible with surrounding uses.
 - (c) The conditional use has been discontinued for a period of 12 consecutive or 18 cumulative months in a 3-year period. A business of a seasonal nature shall not be deemed discontinued during periods in which it is normally inactive, (i.e., summer camps, snowmobile courses, ski areas, marinas, quarries, etc.).
 - (d) Upon such determination, the owner of the premises shall be required to bring all such land and buildings into conformity with the regulations of the district in which such former conditional use is located and all other provisions of this chapter within 90 days from such determination.

17.19 - CONDITIONAL USES PERMITTED.

Subject to §17.18, the following may be permitted as conditional uses in the districts specified for a specified time:

- (1) AIRPORTS, LANDING FIELDS AND TAKE-OFF STRIPS. In an Agricultural District, provided the location, building and site plans and plan of operation have been submitted to and approved by the Plan Commission.
- (2) ANTIQUE SHOPS, GIFT SHOPS, ART STUDIOS, AND SIMILAR USES. Such uses are permitted by right in Business and Industrial Districts. In addition, such uses are permitted conditionally in all other districts except C-1 and E-C, subject to the following:
 - (a) The location, site plan and plan of operation have been submitted to and approved by the Plan Commission.
 - (b) Such use is compatible with surrounding land uses.
- (3) AUTOMOBILE SERVICE STATIONS AND CONVENIENCE STORES ASSOCIATED WITH SERVICE STATIONS. In the B-2 Local Business District or less restrictive districts, subject to the following:
 - (a) The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission.
 - (b) No gasoline pumps and accessory equipment shall be closer than 15 feet to the base setback line and 50 feet offset to the side and rear yards. Underground or aboveground storage tanks shall conform with state standards.
 - (c) No lighting installation shall be permitted which creates a hazard to traffic or a nuisance to surrounding property. Lighting installation shall be shielded, baffled or shaded to effectuate and avoid such hazard or nuisance.
- (4) ANIMAL HOSPITALS, COMMERCIAL KENNELS, VETERINARIAN OFFICES, AND LABORATORIES USING ANIMALS OR ANIMAL PRODUCTS. (For Hobby Kennels, see [§17.43](#), A-1 Agricultural District). In any district other than a Rural Home, Suburban Estate, Residential or Restricted Business District, subject to the following:
 - (a) The location, building and site plans, and plan of operation, shall be submitted to and approved by the Plan Commission.
 - (b) Animal hospitals and clinics not involved in the operation of a commercial kennel may be permitted on lots of not less than one 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 3 acres and 300 feet of minimum average width.
 - (c) No building other than one used for residence purposes shall be closer than 50 feet to the lot line of an adjoining lot in an Agricultural or Residential Zoning District. Where the buildings are to be used to board or house dogs in a commercial kennel, including outdoor kennel runs, such structures and fenced runs shall not be closer than 100 feet to the adjoining lot lines.
- (5)

CEMETERIES AND MAUSOLEUMS FOR THE BURIAL OF HUMAN REMAINS ONLY. In any district, except in C-1 Districts, subject to the approval of the Town Board following recommendation of the Plan Commission.

- (6) CHURCHES, SYNAGOGUES AND OTHER BUILDINGS FOR RELIGIOUS ASSEMBLY. In any district, except in C-1, E-C, M-1 and M-2 Districts, subject to the following requirements:
- (a) The location, building and site plans, and plan of operation shall be submitted and approved by the Plan Commission.
 - (b) A floor area ratio of no more than 50 percent is permitted.
 - (c) Off-street parking be provided for one automobile for each 4 seats in the main assembly 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 setbacks and offsets shall be increased 2 feet for every additional foot of height in excess of the permitted maximum in that district. The aforesaid height regulation shall not apply to the spire or belfry of a church except where airport safety zone regulations specifically limit the maximum height.
- (7) COMMERCIAL FISH OR BAIT PONDS OR HATCHERIES. In any district, subject to the following:
- (a) The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission.
 - (b) No such use shall be permitted on a lot less than 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 uses.
- (8) DRIVE-IN ESTABLISHMENTS SERVING FOOD OR BEVERAGES TO CUSTOMERS OTHER THAN AT A BOOTH OR TABLE. In Local and General Business Districts and Industrial Districts subject to the following:
- (a) The location, building and site plans and plan of operation have been submitted to and approved by the Plan Commission.
 - (b) The requirements of subsection (21), Restaurants, are fully met.
- (9) DWELLING, TWO-FAMILY (DUPLEX). In any Planned Unit Development, A-1 Agricultural, R-3 Residential or any Business District, subject to the following:
- (a) The location, building and site plans, and plan of operation have been submitted to and approved by the Plan Commission.
 - (b) The minimum lot area shall have no less than 20,000 square feet of open space if served by private waste disposal methods. When served by a municipal sewer system the open space requirement may be reduced to 15,000 square feet. In the A-1 Agricultural District, the

minimum parcel size shall be no less than 10 acres and the additional residential unit shall be intended initially for farm family or employee use.

- (c) In no case shall minimum lot width be less than 180 feet.
- (d) The method of sewerage disposal shall be approved by the Wisconsin Department of Commerce.
- (e) The minimum floor area per unit shall be 900 square feet for one-bedroom units, 1,000 square feet for two-bedroom units, and 1,100 square feet for three-bedroom units.
- (f) Architectural review may be required.
- (g) Provision for 2 off-street parking spaces for each dwelling unit.
- (h) Absolute minimum setback of 50 feet and absolute minimum offset of 20 feet in PUD or Business Districts and 3 feet in an R-3 Residential District.

(9.5) MULTIPLE-FAMILY DWELLING UNITS. In the R-3 Residential or B-1 Restricted Business Districts or in a planned unit development which may be allowed pursuant to §17.59 of this chapter, subject to the following:

- (a) The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission.
- (b) 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 unit for each 15,000 square feet of land area, exclusive of wetlands or 100-year floodplain or lands zoned C-1. Where the use will be served by municipal sewerage facilities, the density requirements can be reduced to a minimum of 10,000 square feet per unit and 8,000 square feet if both municipal sewer and water service is available. The density may be further increased if the requirements of §17.16 are met. 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 180 feet in width. The amount of open space (green space) on the property, exclusive of parking areas, driveways, roads and other paved or impervious areas shall be 5,000 square feet per unit.
- (c) The manner in which the units are to be serviced with sewerage disposal is subject to the approval by the state Department of Commerce and the Waukesha County Department of Parks and Land Use, Environmental Health Division, prior to any approval by the Town.
- (d) The minimum floor area per unit shall be 900 square feet for one-bedroom units, 1,000 square feet for two-bedroom units, and 1,100 square feet for three-bedroom units.
- (e) The Town Plan Commission may require architectural review of the project.
- (f) There shall be at least 2 off-street parking spaces for each dwelling unit. The location and arrangement of these spaces is subject to the approval of the Plan Commission and the County.

(g) The offset, setback and landscaping requirements are subject to approval of the Plan Commission and the County zoning agency. However, offsets shall be no less than 20 feet in a planned unit development or Business District or 50 feet from any Residential District. The setback minimum shall be 50 feet.

(10) FEEDLOT OPERATIONS. As defined in this chapter including livestock and poultry of all type where the number of animals units exceed 25 per acre. This conditional use category is created in recognition of the potential which exists in feedlot operations for uncontrolled runoff of animal wastes, pollution of surface and groundwater and potential for such use to be a nuisance. Feedlot operations may be permitted as a conditional grant in the A-1 Agricultural District subject to the following:

(a) General Requirements.

1. No feedlot operation shall be permitted on less than 20 acres of land.
2. No part of the feedlot operation shall be closer than 1,000 feet to any residential district.
3. No residence other than that which is accessory to the principal use shall hereafter be permitted closer than 500 feet to the feedlot operation. No accessory residence shall hereafter be permitted closer than 100 feet to the feedlot operation.
4. Animal wastes shall not be mechanically spread or discharged into streams, lakes, open ditches or ponds with outlets into public waters or on which 2 or more persons own, occupy or control frontage.
5. Animal wastes shall not be mechanically spread between December 1 and April 1 on land which is less than 200 feet from a stream, lake, open ditch or pond with outlets into public waters or on which 2 or more persons own, occupy or control frontage. The animal waste may be spread in the above-listed areas if it is incorporated into the soil immediately upon spreading or if the disposal site is part of an erosion control system which will prevent drainage into the listed streams, lakes, ditches or ponds.
6. A minimum land area shall be under the control of the animal feedlot operation owner or manager for the purpose of animal waste disposal.
 - a. The minimum controlled area for the disposal of dairy, beef, swine or sheep manure is one-third acre per annual animal unit.
 - b. The minimum controlled area for poultry manure disposal is one-half acre per annual animal unit.
 - c. If a method of disposal other than land disposal is proposed, the Town shall require opinions evaluating the suitability of such proposal from both the Wisconsin Department of Natural Resources and the Soil Conservation Service of the United States Department of Agriculture.

(b)

Runoff Control.

1. An animal feedlot shall not contain within its boundaries streams, lakes, open ditches or ponds with outlets into public waters or on which 2 or more persons own, occupy or control frontage. The owner may construct a crossing. Such shall be constructed of a durable material, stationary to stream flow and placed so that it will prevent the erosion of the stream bank and not present an obstruction to stream flow.
2. Owners shall eliminate point sources of animal wastes and control diffuse sources of pollution from contaminated runoff, which flows from animal lots or enclosures into streams, lakes, open ditches or ponds with outlets into public waters or on which 2 or more persons own, occupy or control frontage.
3. Means of controlling pollution from contaminated runoff include, but is not limited to:
 - a. Locating feedlots as far as possible from the aforementioned waters.
 - b. Diverting uncontaminated runoff waters.
 - c. Preventing the accumulation of animal wastes.
 - d. Constructing diversion structures for contaminated runoff.

(c) Application Procedure.

1. No feedlot operation shall take place in any district without proper permit from the Town.
2. Application shall be made on the form provided by the Town for conditional use permits and shall include:
 - a. A site plan showing drainage and the method to be employed to control, contain or divert the runoff of animal wastes.
 - b. An operation plan detailing the method of operation and the equipment necessary to accomplish a safe and sanitary disposal of animal wastes.
 - c. A statement of the number of animal units to be contained in the proposed animal feedlot. Any change in the number of animal units for a period of more than 30 days shall be reported.
 - d. A statement detailing the method of dead animal disposal to be employed.

(10.5) FUR FARMS, PIG FARMS, CREAMERIES, CONDENSERIES, COMMERCIAL OR CUSTOM GRAIN DRYING OPERATIONS. In all Agricultural Districts. Commercial or custom grain drying, poultry and/or egg productions are conditional uses in all Agricultural Districts. The following minimum requirements shall be complied with in the granting of conditional uses under this section:

- (a) The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission and County zoning agency.
- (b)

No building or containment area other than one used only for residential purposes shall be located closer than 100 feet of the lot line of an adjoining lot in a Residential District. In all other cases, a minimum of 50 feet shall be maintained.

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

(11) LABORATORIES FOR TESTING, EXPERIMENTAL OR ANALYTICAL PURPOSES. Agricultural, medical, biological, food processing and industrial design and manufacturing uses are permitted uses by right in the B-3 General Business and Industrial Districts subject to the site plan and plan of operation provisions of those districts and conditional uses in the A-1 Agricultural and A-2 Rural Home Districts, subject to the following standards:

(a) The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission.

(b) The minimum lot size shall be on 3 acres.

(c) The minimum offset for a building housing such uses shall be 50 feet where the zoning upon the adjoining lot permits residential use.

(d) Off-street dedicated parking at a rate of one space for each 300 square of floor area.

(e) Approvals of any other applicable state or federal agencies.

(12) LAND-ALTERING ACTIVITIES. Grading, dredging, placement of clean fill, topsoil removal and channel improvement in excess of those limitations set forth in §17.14(5) of this chapter, excluding highway construction which may be expected by the Wisconsin Statutes, home construction and attendant limited grading and fill necessary to achieve positive drainage away from the foundation, may be permitted as a conditional use in any district.

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

(b) Such use shall comply with the conditions established by the Town Plan Commission, the County zoning agency and, where applicable, the state pursuant to Chapters 87 and 144, Wis. Stats., and any federal regulations.

(13) LEGAL NONCONFORMING USES. In any district as provided by §17.28.

(14) MOBILE HOME PARKS AND CAMPS. In R-3 Residential and B-2 Business Districts subject to the following:

(a) The location, building and site plans, and plan of operation shall be submitted for review and approval by the Plan Commission.

(b)

The provision of all county, state and local regulations upon trailer mobile homes and mobile home parks shall be met.

- (c) No such use shall be allowed unless served by municipal sewage disposal facilities, and the density of the project shall not exceed that which may be authorized by applying the provisions of §17.16(5) of this chapter.

(15) MOTELS AND HOTELS. In Local and General Business Districts subject to the following:

- (a) The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission.
- (b) No such use shall be permitted on a lot less than 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.

(16) OUTDOOR THEATER. In any district other than a Conservancy Rural Home, Suburban Estate, Residence or Restricted Business District subject to the following:

- (a) The location, building and site plans and plan of operation shall be submitted to and approved by the Plan Commission.
- (b) No portion of the theater area shall be closer than 200 feet to the base setback line or closer than 200 feet to the lot line of an adjoining lot in a district permitting residential use.
- (c) A planting screen at least 40 feet in width and at least 6 feet high shall be provided along any lot line abutting a district permitting residential use.
- (d) Additional highway width sufficient to provide for the safe control of traffic at the theater entrance shall be dedicated and the necessary highway improvements constructed to provide for a divided roadway, with adequate reservoir area in the center strip to shelter cars entering the theater.

(17) PRIVATE CLUBS AND PRIVATE OUTDOOR RECREATIONAL FACILITIES SUCH AS CAMPS, CAMPGROUNDS, GOLF COURSES, BATHING BEACHES, RIDING ACADEMIES, RESORTS, YOUTH FACILITIES. Without limitation because of enumeration, this category includes resorts and private clubs such as indoor/outdoor recreational and athletic facilities (i.e., tennis, racquetball, volleyball, basketball, driving ranges, baseball batting cages, tanning booths, campgrounds, golf courses, beaches, yacht clubs, boarding stables, etc.) are permitted in any district except that buildings and structures are not permitted within the C-1 zoned areas, subject to the following:

- (a) The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission.
- (b) No such use shall be permitted on a lot less than 3 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 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 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, restaurant or arcade except as may be specifically authorized in the grant of permit.
- (18) PUBLIC AND SEMI-PUBLIC BUILDINGS AND USES. In any district except C-1 Conservancy, subject to the following:
- (a) The location, building and site plans, and plans of operation shall be submitted to and approved by the Plan Commission.
 - (b) Such use shall conform to the setback, height and double the offset requirements of the district in which it is located.
 - (c) The height limitation may be extended to a maximum of 50 feet provided the minimum required setbacks and offsets shall be increased 2 feet for every additional foot of height in excess of the permitted maximum of that district.
- (19) PUBLIC AND COMMERCIAL REFUSE DISPOSAL SITES. In any district other than R-1, R-2 and R-3 Residential, C-1 and E-C, subject to the following:
- (a) The location, building and site plan, plan of operation, and plan of restoration shall be submitted to and approved by the Plan Commission, the Waukesha County Department of Parks and Land Use, Division of Environmental Health, and the Department of Natural Resources pursuant to the state solid waste disposal standards.
 - (b) Such plans shall be approved or disapproved upon consideration of the effects on:
 - 1. Topography.
 - 2. Drainage.
 - 3. Water supply.
 - 4. Soil conditions.
 - 5. Roads and traffic.
 - 6. Present and ultimate land development and use.
 - (c) Only sanitary landfill refuse disposal methods, subject to standards established and enforced by the Waukesha County Department of Parks and Land Use, Environmental Health Division, the Wisconsin Board of Health, and the Department of Natural Resources shall be used. Permission to burn refuse before covering shall be specifically included in the zoning permit and granted by the Department of Natural Resources and may be separately withdrawn at

any time the smoke or smell constitutes a health or safety hazard. All garbage shall be covered to the specified depth prior to the end of a day during which disposal has taken place.

- (d) A responsible person shall be in attendance during the hours of operation, which hours shall be subject to the approval of the Town Board. No refuse disposal shall take place except during the specified hours of operation and with the attendant present.
1. A nonflammable fence with a gate which can be locked shall be erected to encompass the disposal site to prevent refuse disposal and scavenging during nonoperating hours, and the attendant shall retain the key.
 2. Such fence, and additional auxiliary portable fence such as snow fence that will minimize the nuisance of blowing paper, shall be approved by the Town Board.
- (e) Requirements shall be as follows:
1. *Setback.* No refuse disposal shall take place, nor shall structures pertinent thereto be constructed, closer than 200 feet to the base setback line.
 2. *Offset.* No refuse disposal shall take place closer than 200 feet to any property line, nor shall refuse disposal take place closer than 500 feet to any existing dwelling or to the site of a dwelling for which a building permit has been issued prior to the application date for the conditional use permit, nor closer than 500 feet to a district zoned A-2, A-3, R-1, R-2 or R-3 Residential at the time of grant of permit. No refuse disposal shall take place closer than 500 feet to a permanent business or industrial structure without the written consent of the owner of that adjacent property, and the written approval of the County Department of Parks and Land Use, Environmental Health Division, and the Department of Natural Resources.
 3. *Additional Requirements.* Restrictions as to types and sources of refuse, if needed, shall be the responsibility of the Town Board, under advisement of the County Department of Parks and Land Use, Division of Environmental Health. A planting plan as approved by the Plan Commission shall be included in the plan of operation.
- (f) All existing refuse disposal operations shall be registered by the operator within 60 days after the adoption of this chapter with the Town Clerk, submitting pertinent data relative to the present operation, including the boundaries of the actual operation and ownership. A permit shall be granted to such existing operation, subject to compliance with a plan of operation satisfactory to the approving bodies. A plan of restoration shall be submitted by the operator within one year of adoption of this chapter together with a surety bond to ensure such restoration. Such operation and restoration plans shall not impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this chapter.

QUARRYING. In any district other than C-1 Conservancy, E-C Environmental Corridor, Rural Home, Suburban Estate, Residential or Restricted Business District, subject to the following:

(a) Procedure for Application.

1. *Permit.* No quarrying operation shall take place in any district until a quarrying permit has been secured from the 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 5 years, and may be renewed thereafter for periods not to exceed 3 years, provided application therefor shall be made at least 60 and no more than 120 days before the expiration of the original permit. Application after such date shall be treated as an original application.
2. *Application.* Application for a quarry permit shall be made on forms supplied by the Town Clerk and shall be accompanied by:
 - a. A fee of \$25.00 to defray the cost of notification and holding of public hearing.
 - b. A full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made part of the description.
 - c. 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.
 - d. A topographic map of the area at a minimum contour interval of 5 feet extending beyond the site to the nearest public street or highway or to a minimum distance of 300 feet on all sides.
 - e. A restoration plan as required by §17.19(20)(c)5.

(b) Procedure for Action on Applications.

1. *Referral to Plan Commission.* The application and all data and information pertaining thereto shall be referred to the Plan Commission for public hearing and report and recommendation made to the Town Board within 30 days after the public hearing.
2. *Public Hearing.* Within 30 days after an application has been filed, a public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing, notices also shall be sent through the mail or otherwise placed in the hands of all land owners within a one-half mile radius of the approximate center of the proposed quarry operation. These notices shall be mailed or delivered at least 10 days prior to the

date of hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient. No hearing shall be required precedent to issuing a permit in a Quarrying District.

3. *Action by Town Board.* The Town Board shall, within 30 days after receipt of the recommendation of the Plan Commission, take action to approve or disapprove the application for the proposed quarrying operation and shall be guided by consideration of public health, safety and welfare, and shall give particular consideration to the following factors in making their decision:
 - a. The effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety and efficiency.
 - b. The effect of the proposed operation on drainage and water supply.
 - c. The possibility of soil erosion as a result of the proposed operation.
 - d. The degree and effect of dust and noise as a result of the proposed operation.
 - e. The practical possibility of restoration of the site.
 - f. The effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area.
 - g. The most suitable land use of the area with particular consideration for future residential value.
4. *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.
5. *Renewals.* The procedure as designated in paragraphs 1., 2., 3. and 4., above, shall apply to applications for renewal of a permit. Determination in regard to renewal shall be based particularly on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the Town.

(c) Requirements.

1. *General Requirements.*
 - a. No part of the quarrying operation shall be permitted closer than 1,000 feet, nor shall any accessory access road, parking area or office building be permitted closer than 500 feet to a district zoned Rural Home, Suburban Estate or Residential at the time of the grant of permit, except with the written consent of the owners of all Rural Home or Residentially zoned properties within 1,000 feet, or except in a Quarrying or General Industrial District, but in no case shall such operation be permitted closer than 200 feet to a Residential District.
 - b.

No quarrying operation shall be permitted except in a Quarrying, Limited Industrial or General Industrial District if 30 or more families reside within a band one-half mile wide around the perimeter of the proposed operation.

2. *Setback Requirements.* No part of the quarrying operation other than access roads shall be located closer than 200 feet, nor shall any accessory parking area, stockpile, or office building be located closer than 100 feet to the base setback line along any street or highway. Grading for restoration may occur within the above distances subject to specific approval by the Town.
3. *Offset Requirements.* No part of the quarrying operation shall be permitted closer than 200 feet, nor shall any accessory access road, parking area or office building be permitted closer than 50 feet to any property line except with the written consent of the owner of the adjoining property or except where such line is abutting a Quarrying, Limited Industrial or General Industrial District or abutting an existing quarrying operation, but in no case shall such operation be closer than 20 feet to any property line except by agreement between abutting quarrying operations, or be in conflict with the provisions of §17.14(5) relating to preservation of topography.
4. *Operational Requirements.*
 - a. Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where, in the determination of the Town Board, such fencing or barrier is necessary for the protection of the public and shall be of a type approved by the Town Board.
 - b. All machinery and equipment used in the quarrying operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust-free condition by surfacing or treatment as directed by the Town Engineer and the Town.
 - c. The crushing, washing, refining or other processing other than the initial removal of the material may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit or as otherwise provided in a Quarrying or Industrial District.
 - d. In stone quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be otherwise specifically authorized under the terms of the grant of permit or as otherwise provided in a Quarrying or Industrial District.

- e. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the quarrying operation shall not be permitted except as otherwise provided in a Quarrying or Industrial District.
 - f. 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 supply for other uses in the area.
 - g. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the 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 countryside. Such planting shall be started as soon as practicable, but no later than one year after quarrying operations have begun. Such plantings shall be made an integral part of the restoration of the site and should be done in accordance with a plan acceptable to the Town.
 - h. Except in a Quarrying or General Industrial District, quarrying operations shall not begin before 7:00 a.m. and shall not continue after 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 30-day intervals.
5. *Restorative Requirements.*
- a. In order to insure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the Town a plan for such restoration in the form of the following:

An agreement with the Town whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the Town. A physical restoration plan showing the proposed contours after restoration and the manner in which the proposed contours will tie in with adjacent existing contours, plantings and other special features of restoration and the method by which such restoration is to be accomplished. A bond, written by a licensed surety company, a certified check or other financial guarantee satisfactory to the Town, in an amount sufficient in the opinion of the Town Building Inspector to secure the performance of the restoration agreement. Such agreement and financial guarantee shall be in a form approved by the Town Attorney.

- b. In the event of the applicant's failure to fulfill this agreement such bond, check or other financial guarantee shall be deemed forfeit for the purpose of enabling the Town to perform the restoration.
 - c. Restoration shall proceed as soon as practicable and at the order and direction of the Town Engineer. The plan shall provide 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 2 years.
 - d. At any stage during the restoration the plan may be modified by mutual agreement between the Town and the owner or operator.
 - e. Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard, nor which would be objectionable because of odor, combustibility or unsightliness and shall be subject to approval by the Town. 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.
 - f. Within one year after the cessation of the operation, all temporary structures (excepting fences), equipment, stockpiles, rubble heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly fashion.
 - g. In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of 3 horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.
6. *Exceptions.*
- a. The provisions of this section shall not apply to the removal of sod.
 - b. When the operation is limited to the removal of topsoil, the Town Board may, consistent with the intent of these regulations, modify any or all of the provisions of this section, provided, however, that in no case shall such operation be permitted closer than 10 feet from any property line or to a depth in excess of 18 inches or so as to adversely affect the drainage of the area.
 - c. The provisions of this section shall not apply to an operation which is incident to legitimate use of the premises; provided, however, where such operation involved the commercial disposal of the material removed, the approval of the Town Board shall be required and such operations shall be limited to a maximum period of 6 months.
 - d.

In a Quarrying or 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 modifications may permit a reduction in the required setback or offset; provided, however, that in no case shall the setback be less than 100 feet or the offset be less than 100 feet for quarrying operations or 2 feet for any accessory access road, parking area or office building except as may be otherwise provided by subparagraph (c)3. above.

(d) Application to Existing Operations.

1. *Permit.* Within 6 months after the adoption of this chapter all existing quarrying operations shall be required to register with the Town Clerk, submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A quarrying permit shall be granted to such existing operation subject to compliance with the operational requirements of this subsection, where they can be reasonably applied under existing circumstances.
2. *Plan for Restoration.* There shall be required within one year after adoption of this chapter the submission of a plan for restoration of the site of any existing quarrying operation as provided by paragraph (c)5. The plan for restoration in such case shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this chapter.
3. *Renewal Permit.* Within 3 years after the date of this chapter any such existing operation shall be required to make application for a renewal permit the same as for reapplication in the case of a new operation under this chapter except in a Quarrying or General Industrial District.

(21) RESTAURANTS, SUPPER CLUBS, LAKE RESORTS, TAVERNS AND SIMILAR USES. In A-1 Agricultural, A-2, A-3, R-1, R-2, R-3 Residential Districts and B-1, B-2 and B-3 Business Districts. In B-2 and B-3 Business Districts, such uses shall be considered permitted uses by right. In all other districts, except C-1, P-1 and E-C Districts, the above uses shall be considered conditional uses, subject to the following:

- (a) The location, building and site plan and plan of operation are submitted to and approved by the Plan Commission.
- (b) The minimum lot area shall be 2 acres with at least 200 feet in minimum average width.
- (c) Off-street parking shall be provided within 200 feet of the proposed building but offset 20 feet from any adjoining residential district. One parking space 10 feet by 30 feet shall be provided for each 50 square feet of floor area in the proposed building.
- (d)

A planting screen of at least 6 feet in initial height shall be provided between any abutting residential district and the proposed use. Additional planting screens may be required by the Plan Commission.

- (e) The proposed building shall be offset at least 50 feet from any abutting residential district and 100 feet from any navigable body of water.
- (22) SALVAGE YARDS. Sites used for the storage or sale of salvageable materials or for the purpose of salvage, wrecking, dismantling or demolition of salvageable materials in M-2 Industrial Districts, subject to the following:
- (a) The location, building and site plans, and plan of operation are submitted to and approved by the Plan Commission and, if applicable, the County zoning agency.
 - (b) All requirements of the Wisconsin Administrative Code applicable to salvage yards shall be complied with.
- (23) COMMERCIAL STORAGE. In A-1 Agricultural, B-3 Business and M-1 and M-2 Industrial Districts, subject to the following conditions:
- (a) The location, building and site plans shall be submitted to and approved by the Plan Commission.
 - (b) No such use shall be permitted on a lot less than 5 acres in area if in an Agricultural District and one acre in area if in a B-3, M-1 or M-2 District.
 - (c) No building used for such purpose shall be closer than 100 feet to the base setback line or closer than 75 feet to the lot line of an adjoining lot in a district permitting residential use.
 - (d) The Plan Commission may require planting screens along any lot line or building side where deemed necessary.
 - (e) Off-street parking space and lighting shall be provided as deemed necessary by the Plan Commission.
 - (f) Storage shall be restricted to storage of items incidental and accessory to residential use and owned by the lessee or members of his family, such as campers, boats, snowmobiles, recreation vehicles, furniture, appliances, tools and lawn equipment and other personal items of similar nature. Storage for business purposes or for wholesale or retail sales to others is prohibited, except for incidental or occasional sale of stored articles. This limitation shall not apply to the M-1 and M-2 Districts, if the use is otherwise permitted.
 - (g) Access shall be from a public street.
 - (h) There shall be no storage outside of approved buildings. Outside storage shall be considered a violation of the terms of any conditional use permit issued under this subsection and grounds for the termination of such permit.
 - (i)

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 Plan Commission. If it is determined that it would in any way be incompatible and represents an adverse effect or nuisance to adjacent land uses, the conditional use permit shall not be issued.

(23.5) COMMERCIAL TRUCK PARKING. Such uses are permitted by right in B-3, Industrial and Quarrying Districts. In all Residential, Agricultural, B-1 and B-2 Business Districts, except the E-C Environmental Corridor and C-1 Conservancy 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.
- (b) No more than one such vehicle shall be allowed to be parked and stored on the occupant's property, and no more than 2 additional construction vehicles (backhoes, front-end loaders, grading equipment, etc.) shall be allowed. Such vehicles shall be fully operative and in active use. Where considered appropriate, 2 trailers may be allowed, but in no case may there be more than one semi-tractor or "cab" unit.
- (c) No such vehicle 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 refrigerator trucks, the refrigeration unit may not be operated in the open if said 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 to the Town Plan Commission and, if applicable, the County zoning agency in issuing the conditional use permit. If it is determined that it would in any way be incompatible and represents an adverse effect or nuisance to adjacent land uses, the conditional use permit shall not be issued.
- (e) The conditional use permit shall be reviewed every 2 years by the Town Plan Commission in order to determine conformance with the terms of the permit. If it is determined that the use is no longer compatible with adjacent land uses as they develop in the vicinity, the conditional use permit may be revoked in accordance with the revocation procedures contained in this chapter.

(24) 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 §17.17(3) and in the judgment of the Plan Commission meet the intent of a conditional use as set forth in §17.18(1).

(25)

BED AND BREAKFAST FACILITY. The intent is to provide travelers with temporary accommodations and breakfast for a fee on a daily or weekly room rental basis as an accessory use in any existing structure designed for and occupied as a single-family residence in any district permitting single-family residences, subject to the following:

- (a) The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission.
- (b) Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which is it 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 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 5 sleep-in rooms or less, excluding those used by the occupants of the facility, and no room may contain more than 2 beds. There must be at least 500 square feet of gross interior floor area for each sleeping room. Those facilities providing service to a greater number of guests are not considered "license exempt" under state law and must comply with state hotel/motel/restaurant licensing procedures administered by the County or state Health Department. The issuance of such licenses shall not be considered as conferring nonconforming 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 on-premises 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 15 square feet in size with letter sizes not less than 5 inches in height.
- (f) All necessary state and county permits, certifications or requirements shall be obtained as a condition of approval of a bed and breakfast service.
- (g) Room rentals to families or individuals shall not exceed 14 consecutive days.
- (h) The bed and breakfast facility must be accessory to and contained within the single-family dwelling occupied by the owner (e.g., not a manager) of said premises.
- (i) The only meal to be provided to travelers/guests shall be breakfast, and it shall only be served to guests taking lodging in the facility.
- (j)

The Town shall request the Environmental Health Division of the Waukesha County Department of Parks and Land Use to examine both the water system and the sewage disposal system and shall conduct a general health and safety inspection of the proposed facility. The Town may impose any conditions suggested by the Department to ensure that all necessary health and safety standards have been met. The applicant shall not: initiate any construction activity and other improvements related to the bed and breakfast facility or begin operation of the facility prior to a determination, in writing, by the Department that the necessary inspections have been completed and any deficiencies have been corrected. The proprietor shall have a water quality evaluation conducted by a recognized water testing laboratory on an annual basis following the certification of adequacy by the Department. The results of that test shall be submitted to the department with a copy to the Zoning Administrator. All requirements must be incorporated into the terms of the conditional use permit.

- (26) IN-LAW UNIT. In any Residential, Agricultural, B-1 or B-2 Zoning District, subject to the following:
- (a) The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission.
 - (b) The Waukesha County Department of Parks and Land Use, Environmental Health Division, shall certify that the septic system will accommodate the proposed use and is in accordance with COMM 83, county and state sanitary codes.
 - (c) Maximum living area of the in-law unit shall not exceed 800 square feet and shall contain no more than 2 bedrooms. There shall be an additional parking space for the in-law unit. There shall be no more than one in-law unit per single-family lot.
 - (d) Architecture of the residence shall be compatible with the adjacent residential neighborhood and shall appear to be a single-family residence. All other appropriate zoning district requirements for the principal living unit shall be complied with. A common entrance to the residence and in-law unit should be designed into the structure so that a separate front entrance, off of the common entrance, is available and the structure does not appear to be a duplex.
 - (e) The Plan Commission shall determine if it is appropriate to have an interior door between the in-law unit and the principal residence.
 - (f) A deed restriction shall be filed in the Waukesha County Register of Deeds office and a copy of the recorded document presented to the Building Inspector prior to issuance of the building permit. This deed restriction shall state that the in-law unit is to be occupied by persons related by blood or marriage to the family occupying the principal unit, that the conditional use is not transferable without formal approval of the county zoning agency without necessity of a public hearing, and that the unit will be used as intended.

17.20 - BUILDING LOCATION.

(1) SETBACKS.

(a) Base setback lines from which building setbacks shall be measured are hereby established for all streets and highways in the Town as follows, unless otherwise specified by action of the Town Board:

1. On all streets or highways for which the ultimate width has been established by the Highway Width Ordinance of Waukesha County, the base setback line shall be located at a distance from the centerline equal to one-half such established width as designated on the "Established Street and Highway Width Map of Waukesha County."
2. On all other streets, which shall be designated as "local streets," the base setback line shall be 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.
3. 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.
4. When a lot abuts a Town road which does not have 66 feet of right-of-way and it is not contemplated that the road right-of-way will ever be widened to 66 feet because of building improvements already existing along said 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 road.
5. There shall be a required setback equal to the offset requirements of the district in which the property is located, from a private right-of-way providing ingress and egress to the subject land or other lands, unless such private right-of-way is considered a 3 mil road (§82.25, Wis. Stats.), in which case the normal road setback requirements contained in this chapter shall apply.

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

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 the base setback line and the railroad right-of-way line.

1. 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 2 points on the intersecting base setback lines, which points are located 60 feet distant from the intersection of the base setback line.
- 2.

Across each sector between any other intersecting streets a vision setback line shall be established by a straight line connecting 2 points on the intersecting base setback lines, which points are located 30 feet distant from the intersection of the base setback lines.

- (c) No principal or accessory building shall be hereafter erected, altered, horizontally added to, relocated or placed closer to the base setback line than the setback distance specified by the regulations for the district in which such building is located except as specified hereinafter:
1. If there is a building which is nonconforming 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 300 feet of the proposed building, the average of the road setback of that building of similar usage and the required minimum road setback shall apply.
 2. If there are 2 buildings which are nonconforming with respect to road setback with similar uses as the proposed building located on adjacent parcels on each side of said building or within 300 feet of the proposed building, the average of the road setbacks of those buildings of similar usage shall apply.
 3. 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.
 4. On corner lots of record, as of the date of adoption of this chapter, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than 30 feet. Where such reduction would result in an area narrower than 30 feet after applying the offset reduction, the Zoning Administrator shall have the authority to modify the setback or offset provision to the extent necessary to minimize the encroachment on both the offset and setback standard while maintaining the 30-foot area required herein.
- (d) No other structures of any kind, except necessary highway and traffic signs, open stairs extending 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 20 square feet in area and extend no more than 6 feet from the enclosed portion of the structure, public utility lines, rural mailboxes, monuments or entrance gates, 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 may be located not closer than 10 feet to the base setback line and shall not restrict safe access and visibility of the intersecting drive and the road and shall be subject to review and approval by the Plan Commission and the applicable municipality having jurisdiction over the road or highway.
- (e) In the vision setback area no structure of any kind shall be permitted which exceeds a height of 3 feet above the elevation of the center of the intersection, except for necessary highway and traffic signs, public utility lines and open fences through which there is clear vision nor

shall any plant material be permitted which obscures safe vision of the approaches to the intersection.

- (f) Additions to and replacements of existing structures may be made within the established road right-of-way as set forth in §17.20(1)(a) of this chapter, subject to approval of the Town Board, provided the owner will file with the Waukesha County Register of Deeds an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this chapter at his expense, when said right-of-way is necessary for the improvement of the highway.
- (g) On corner lots of record which do not meet the lot area and width requirements for the zoning district in which they are located, the effect of the setback regulations shall not cause the buildable width of such lot to be reduced to less than 30 feet. In order to achieve such buildable width, the offsets may be reduced but shall in no case be less than 10 feet. If such modification does not provide the necessary 30 feet, the building may then extend into the setback area up to 50 percent of the required distance in order to achieve such width.
- (h) Every structure except boathouses and any other structures excepted by another section of this chapter shall be at least 75 feet from a navigable body of water, or from the Conservancy District boundary line, whichever distance is greater, except that where structures were erected prior to the passage of this chapter and were located closer than the 75 feet mentioned above but not closer than 50 feet, such structures may be considered conforming. Additions to said existing structures not closer than 50 feet to a navigable body of water or the Conservancy District boundary line may be allowed as long as such additions do not result in an encroachment closer to the ordinary high-water mark or Conservancy District boundary line than presently exists. Boathouses may be permitted within 50 feet of the normal high-water mark of a navigable body of water or Conservancy District boundary line but not closer than 5 feet from said high-water mark or Conservancy District.
- (i) In the case of an extension or addition of a structure into the minimum required road or shore setback area and where such extension would not extend closer to the established setback line, shoreline, 100-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 special exception may be allowed by the Town Board of Adjustment for such an extension or addition as long as said extension or addition does not encroach closer to the setback line, shoreline, 100-Year Floodplain or Conservancy District than the existing structure to which it is attached.
- (j) Where an overhang exceeds 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 2 feet unless a variance is granted by the Board of Adjustment.

(k) (Cr. 2/25/13) A principal building, an addition to a principal building, or a deck or patio immediately adjacent to a principal building may be located as close as 50 feet from a Conservancy District boundary if it is in conformity with the required shore setback from the ordinary high water mark and if the existing natural ground elevation adjacent to the lowest level of the principal building, including an exposed basement, is at least three feet above the regional flood elevation or the high water mark of the conservancy or wetland area.

(2) OFFSETS.

(a) No principal building or its accessory building shall be hereafter erected or altered so that any roofed or enclosed portion thereof, excluding the 24-inch overhang as defined herein, is closer to any lot line than the offset distance hereinafter specified by the regulations for the district in which such building is located, with the following exceptions:

1. Only one boathouse per lot is allowed and the boathouse may not be permitted closer than 5 feet from the ordinary high-water mark.
2. In the case of a lot of record which has a minimum average width of less than 120 feet, the offset for the principal structure from a side lot line may be reduced proportionately to the ratio between the actual average width and 120 feet, but not less than 10 feet, except in accordance with §17.16(5) or as may be permitted within an approved planned unit development.
3. Offsets for detached accessory buildings exceeding 200 square feet in area on lots of 120 feet in width or less may be reduced to an amount equal to the proportionate amount between the actual width and 120 feet and not less than 5 feet, even when consideration is given to §17.16(5). However, no detached accessory building shall be located closer than 10 feet to any structure used for residential purposes.
4. Offsets for buildings housing domesticated livestock, fur-bearing animals, pigeons, swine, goats and poultry, shall be not less than 50 feet from an adjacent property line. This does not include dog houses or small enclosures housing normal and usual household-type pets.
5. When a detached accessory structure lies on an adjacent lot and closer than 5 feet to 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 10 feet of each other. In such a case, the new detached accessory structure shall contain a fire wall 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 side walls may be no closer than 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.

6. One detached accessory building on any parcel which is less than 200 square feet in area may be located 5 feet to the side lot line unless otherwise excepted under any other provision.
7. 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 Board of Adjustment to allow such an extension or addition as long as said extension or addition does not encroach closer to the side lot line than an existing structure to which it is attached.
8. Offsets on decks, fences and patios may be reduced to 60 percent 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 5 feet to the lot line. This includes any reduction allowed in §17.16(5).

(b) Where a lot abuts a district boundary line, the offset from such line in the district of less restricted use shall be not less than that required for the district of more restrictive use. In the case of two-family dwellings or commercial use structures, the offsets may be modified as follows:

1. Two or more buildings on adjoining lots may be erected with common or directly adjoining walls provided the requirements of the Wisconsin 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.
2. The required offset may be reduced on one side of a structure provided the offset on the other side is increased by an equivalent amount, and provided the owners of any property adjoining the area of reduced offset shall file with the Town Board a copy of a recorded deed restriction stipulating that no building shall be erected on the property so as to reduce the combined offset in such case to a distance less than that resulting from the normal application of the minimum offset requirements to both properties, except as permitted under subsection 1., above.

(3) MAINTENANCE AND USE OF SETBACK AND OFFSET AREAS. Any such required setback or offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse and shall not be used for the storage or display of equipment, products, vehicles or any other material.

(4)

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 10 feet to the principal building on said lot.

- (5) VERTICAL LOCATION. No building intended for human habitation shall be located so that its lowest floor, including any basement floor, is less than one foot above the highest seasonal groundwater level.

17.21 - HEIGHT REGULATIONS.

- (1) MAXIMUM HEIGHT RESTRICTED. In any district no building or structure shall be hereafter erected or structurally altered to a height in excess of that hereinafter specified by the regulations for that district.
- (2) EXCEPTIONS. The following shall be excepted from the height regulation of all districts:
- (a) Chimney and flues.
 - (b) Accessory farm buildings, excluding silos, but not to exceed 60 feet in height.
 - (c) Electric power and telephone transmission lines.
 - (d) Subject to the approval of the Plan Commission: Cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, wind energy towers, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts, aerials and necessary mechanical appurtenances.
 - (e) Increase Permitted. (Cr. 2/25/13) All accessory buildings or structures not exempted by subsections (a), (b), (c) and (d) of this section may be increased by not more than 10 feet; however, the maximum height shall not exceed 25 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 approval of the Plan Commission.
 - 3. Subject to all other regulations of the town.

17.22 - AREA REGULATIONS.

- (1) FLOOR AREA.
- (a) Any building intended in whole or part for residential purposes shall provide a minimum residential floor area as hereinafter specified by the regulations for the district in which such building is located. The minimum floor areas specified are in terms of that required of the first

floor used for residential purposes and that required as a total for residential purposes. Where a residential building does not have a basement of at least 300 square feet, the minimum total residential floor area required shall be increased by 200 square feet.

- (b) The maximum total floor area of the buildings on a lot shall not exceed that permitted under the floor area ratio as hereinafter specified by the regulations for the district in which such building is located as noted below. 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.
- (c) Minimum required floor area shall be measured at each level from the outside edge of wall to outside edge of wall and, for purposes of computing total minimum floor area, shall not include attached or detached garages, other outbuildings, porches or basements. Exposed basements and the second floor of one and one-half and two-story residences may be included in computing total minimum floor area according to the following schedule:
 - 1. That portion of the exposed basement of an exposed basement residence 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 completely exposed to grade level and access has been provided to the outside at grade level by means of at least one door, but said area does not have to be included in calculating the minimum floor area ratio requirements.
 - 2. That portion of the second floor of one and one-half and two-story buildings which has a minimum distance between the ceiling face and the floor of 6 feet shall be included in computing the total minimum floor area provided there is a permanent stairway leading from the first floor to the second floor. Where the floor to ceiling height is less than 6 feet and the area is part of living space in the residence and does not include a closet, attic or similar storage area, said area shall be included in the minimum floor area computation (i.e., "splayed" or sloped ceiling).
 - 3. In split-level units, 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 included in total floor area of the building unless such basement qualifies as an exposed basement (section) in §17.22(1)(c)1. above.
 - 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), 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 6 months of the date upon which the building permit is issued.

- (d) The Board of Adjustment 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 this chapter and provided the proposed building would not be of such character or quality as to depreciate the property values of the surrounding area, and provided further that in no case shall a minimum floor area of less than 1,000 square feet be permitted.

(2) LOT SIZE.

- (a) No lot shall hereafter be created and no building shall be erected on a lot of less land area or minimum average width than hereinafter specified by the regulations of the district in which such building is located except as may be provided in §§17.22(2)(e), 17.16(5), 17.19(9.5) and 17.19(27).
- (b) For the purpose of this chapter, the lot area shall be measured from the base setback line.
- (c) A lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the length of the lot.
- (d) No lot area shall be reduced by any means so as to create a lot of less than the required size or so that the existing offsets, setbacks, open space or lot area would be reduced below that required by the regulations for the district in which such lot is located except as provided in §17.16(5).
- (e) Where a lot has less land area or width than required for the district in which it is located or frontage as specified in §17.22(2)(a) and was of record at the time of the passage of this chapter, 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 requirements of the R-3 Residential District except where otherwise specified in other sections of this chapter. Such substandard lots shall be in separate ownership from abutting lots. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the minimum lot area requirements of the R-3 Residential District or as close to that minimum as possible.

(3) OPEN SPACE.

- (a) No building shall be erected, structurally altered or placed on a lot so as to reduce the usable open area of such lot to less than that hereinafter specified by the regulations for that district except as provided in §17.16(5)(a).
- (b)

To be considered usable, such open area shall be readily accessible and of a size and shape which can be reasonably considered to provide for the amenities and necessities of light, air, play space, drying yard, garden, parking, driveways, etc. Crop, pasture and wooded land may be included in computing such open area.

- (c) No part of the open space provided for any building shall be included as part of the open space required for another building except as hereinafter provided.
- (4) ACCESSORY BUILDINGS AND STRUCTURES. The aggregate total floor area of any accessory buildings in any zoning district may not exceed 3 percent of the total area of the lot nor exceed the floor area ratio requirements of the appropriate zoning district. An attached garage shall not be included in this 3 percent limitation. Temporary structures must be included within these allowable square footages. In no case shall more than 2 accessory buildings be permitted unless approved by the Town Plan Commission, with the following exceptions:
- (a) On parcels of 15 acres or more in area, the accessory building areas may be greater than the 3 percent limit when used solely for the pursuit of agriculture and where the accessory building will house equipment as regulated in §17.23(3)(a) and when consistent with the floor area ratio requirements of the zoning ordinance. On parcels of 15 acres or less in area, the accessory building areas shall not exceed 3 percent of the total area or 5,000 square feet, whichever is less.
 - (b) In all Business and Industrial Districts, when approved as part of the plan of operation and site plan review and where said buildings are used solely accessory to the principal use on said lot.
 - (c) On parcels which are the subject of a conditional use permit and as regulated by the conditional use permit.
 - (d) When a petitioner is proposing more square footage of accessory buildings than the 3 percent limit allows or as excepted above, the Board of Adjustment may grant a special exception to the above requirement in accordance with the procedure as outlined in §§17.60 through 17.65 of this chapter. The petitioner must submit a current plat of survey by a registered surveyor indicating all existing buildings on the parcel, their location, total square footages and the number of stories in existing structures and proposed buildings. The Board of Adjustment may require a deed restriction to be recorded prior to issuance of the zoning permit restricting the use of the oversized accessory buildings to uses accessory to the principal use of the premises and may not allow uses prohibited in the zoning district in which the building is located.
 - (e) All accessory buildings shall be constructed in such a way that the exterior appearance is compatible with the design, style, architecture and appearance of the principal structures on the parcel. This determination shall be made by the local Building Inspector and the Zoning

Administrator. In case of dispute, such questions shall be submitted to the Plan Commission for review and approval in accordance with §17.14(3). This does not apply to farming operations on more than 35 acres.

- (f) In no case shall any accessory building be used for purposes not allowed in the underlying zoning district or as may be authorized by a conditional use permit.
- (g) Where more than 2 such accessory buildings are proposed, the Town Plan Commission shall review said structures in light of the provisions of §17.14(3) and render a finding to allow or disapprove said structure.

17.23 - OFF-STREET PARKING.

- (1) SPACE REQUIRED. Any building hereafter erected or structurally altered shall be provided with an off-street parking space not greater than 500 feet from the principal use. A parking space shall be considered to be 9 feet in width by not less than 20 feet in depth for angled, 60-degree parking and not less than 27 feet in depth for 90-degree parking, and there shall be at least 16 feet of width between opposite facing parking stalls for ingress and egress. The following schedule shall be utilized to determine the number of parking spaces for various uses allowed by this chapter.
 - (a) Two Spaces Per Dwelling Unit. Such dimensions as enumerated above, however, are not required for single-family detached housing.
 - (b) Auditoriums, Churches, Theaters, Community Centers and other Places of Public Assembly. One space per 4 seats.
 - (c) Retail Business Establishments, Resorts, Restaurants, Taverns, Clubs, Etc. Seven spaces per 1,000 square feet of primary floor area devoted to the principal use of the property. This requirement does not apply to the area of the building utilized for storage purposes. No additional space will be required for such storage space.
 - (d) Wholesale and Other General Business Establishments. One space for each employee during any work shift.
 - (e) Office Buildings. One space for each 300 square feet of floor area.
 - (f) Medical and Dental Clinics. Three spaces for each doctor and one space for each employee.
 - (g) Industrial Buildings and Warehouse Buildings. One space for each employee during any work shift.
 - (h) Sanitariums, Institutions, Rest Homes, Nursing Homes. One space for each 5 beds, plus one space for every 3 employees.
 - (i) Hospitals. One space for each 2 beds, plus one space for every 3 employees.
 - (j) Hotels and Motels. One space for each guestroom, plus one space for every 3 employees.
 - (k)

Colleges, Vocational and Night Schools, Secondary and Elementary Schools . One space for each employee, plus one space for every 2 students except that the requirement for parking at elementary schools may not include student parking. At secondary schools, the number of stalls for student parking shall be determined by the administration of that school and appropriate provisions made consistent with the intent of this provision.

- (2) RESIDENTIAL PARKING. Parking of vehicles accessory to a residence use shall be limited to those actually used by the residents or for temporary parking of guests. Vans or pick-up trucks used for private and recreational use or a motor home (recreational vehicle) or one van or pick-up truck used in a business or trade or used for transportation to and from a place of employment of the occupant may be parked on a residential property as long as such use does not become a nuisance to the neighborhood.
- (3) PARKING OF TRUCKS AND EQUIPMENT. No other vehicular equipment of a commercial or industrial nature, except as in subsection (2) above, shall be parked or stored for more than 2 consecutive hours and 4 cumulative hours during any 24-hour period on any lot in any zoning district except business and industrial districts or as follows:
 - (a) Agricultural equipment (such as farm tractors, plows, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of his farm, etc.) used in a farm operation.
 - (b) One panel, van, or pick-up truck used in the conduct of a conforming business activity being carried on in a residential or agricultural district. The Board of Adjustment may, if the need is evident, permit more than one such vehicle if the Town Board and Plan Commission indicate it has no objection to the increase in the number of such vehicles. No limitation shall be placed on vans or pick-up trucks if they are used for private nonbusiness or noncommercial recreational purposes.
 - (c) A conditional use permit pursuant to §17.18 may be granted to permit the parking of commercial or industrial type vehicles in any zoning district except C-1 Conservancy. In Business and Industrial Districts where such vehicles are necessary to an otherwise permitted business or commercial use, a conditional use permit will not be required and there are no limitations as to the number of such vehicles which may be parked on the property except as may be hereinafter established under the provisions of the applicable zoning district.
- (4) SURFACING. Any off-street parking area, other than that provided for a residence, having a capacity for more than 4 vehicles shall be surfaced and maintained in a reasonable dustless condition.
- (5) SCREENING. Any off-street parking area, other than that provided for a residence, which abuts or faces a Residential District shall provide a planting screen, landscaped fence or wall at least 4 feet in height along the side abutting or fronting on a Residential District.

- (6) OFFSET. In any off-street parking area other than that provided for a residence which abuts a Residential District, no vehicle shall be allowed to park closer than 10 feet to the abutting residential lot line.
- (7) SETBACK. No vehicle shall be parked closer than 10 feet to the base setback line.
- (8) LIGHTING. Lights provided in any parking area shall be hooded or beamed so as not to create undesirable glare or illumination of adjacent residential property.

17.24 - OFF-STREET LOADING AND UNLOADING.

- (1) REQUIRED. In any Local Business, General Business, Limited Industrial or General Industrial District, an off-street loading space shall be provided in addition to the defined off-street parking area for every 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.
- (2) AREAS. Each loading space shall have an area at least 10 feet wide by 45 feet long with a 14-foot minimum height clearance.

17.25 - SIGNS.

- (1) USE RESTRICTED. No signs shall be permitted in any district except as is hereinafter specified by the regulations of that district.
- (2) SETBACKS AND OFFSETS. In any district no sign other than those permitted in a Residential or Agricultural District shall be permitted closer than 20 feet to the base setback line or to any other lot line, and any sign not directly related to the use of the premises on which it is located shall conform to the setback and offset requirements as would apply to a building in that district.
- (3) HAZARDS OR NUISANCES PROHIBITED. No sign, billboard or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.
- (4) HEIGHTS. No 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.
- (5) NONACCESSORY SIGNS. No sign, billboard or other advertising media not directly related to the use of the premises on which it is located shall be permitted in any district. Nonaccessory directional signs may be permitted only with Plan Commission approval.
- (6) AREA OF SIGN. The size of permitted signs shall be determined by measurement of the face of the sign excluding the molding or frame unless they are part of the message the sign is displaying. Double-faced signs are permitted subject to the specific area requirements in the basic regulations of the district and such double-faced signs shall be considered one sign. Where the

sign consists of individual letters or symbols affixed directly to a building or as an architectural element, only the individual items shall be measured. Uprights and supports shall be measured only where they become a part of the sign's message.

17.26 - AIRPORT SAFETY ZONE.

- (1) **MAXIMUM HEIGHT.** No buildings or objects of natural growth located within 2 miles of the boundaries of any 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 hereafter be erected, altered or permitted to grow to a height above the elevation of the nearest point of such runway greater than one-fifteenth of the distance from such point.
- (2) **CONTROL OF USE.** No building or land located within 2 miles of the boundary of any airport, landing field or landing and take-off strip shall be so used that by reason of the emission of smoke, gas or other emanation it shall produce a hazard to the operation of aircraft.
- (3) **EXCEPTIONS.** The above regulations shall not apply to growing field crops which are harvested at least once a year, nor to fences not over 5 feet high.

17.27 - MOBILE HOMES AND TRAILERS.

- (1) **HUMAN HABITATION PROHIBITED.** Except within an approved mobile home park or camp, no trailer or mobile home shall be used for the purpose of human habitation, human habitation being defined as entering the mobile home for any purpose other than maintenance.
- (2) **PERMIT RESTRICTIONS.** A permit for one continuous 6-month period allowing the human habitation of a mobile home on lands other than an approved mobile home park may be granted by the Town Board provided:
 - (a) The habitation is accessory to the current construction of a principal structure owned by the same person who is applicant for the permit.
 - (b) The waste disposal facilities and water supply facilities are approved by the County Health Department.
- (3) **STORAGE PROHIBITED.** No mobile home in excess of 25 feet in length shall be located or stored on any property except in an approved mobile home park, unless completely enclosed in a structure.
- (4) **MOBILE HOME PARKS.** Such uses shall not be permitted except in accordance with §17.19(13).

17.28 - LEGAL NON-CONFORMING USES, STRUCTURES AND LOTS. (Rep. & recr. 10/13/20(1))

- (A) **CONTINUANCE OF USE, GENERALLY.**
 - (1)

Any lawfully established construction of a building or structure at the time of the 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 Adjustment, 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 § 17.62 from the Board of Adjustment, 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 the grant of a variance per §17.62 from the Board of Adjustment, 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 Board of Adjustment 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 Board of Appeals 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 12 consecutive months or 18 cumulative months during a 3-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 §17.18 and §17.19, 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 §17.18
- (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 §62.23(7)(h)(c), 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.

17.29 - SWIMMING POOLS.

- (1) USE PERMITTED. Above and belowground swimming pools are permitted in any district other than C-1 Districts, subject to the following:
 - (a) Occupant Use Only. The pool must be intended to be used solely by the occupants of the principal use of the property on which the pool is intended to be located, and their guests.
 - (b) Setback and Offset Requirements. Any pool, together with its surrounding walks, patios, diving platforms, bathhouses and accessory structures, shall be so located that the parts of such complex are in conformity with the setback and offset requirements of the applicable districts and meet the distance requirements established in the county and state sanitary codes.
 - (c) Fences.
 1. Every swimming pool shall be completely surrounded by a fence or wall not less than 4 feet in height, which shall be so constructed as not to have openings, holes or gaps which would allow access by unauthorized persons, except for doors or gates. A dwelling or accessory building may be used as part of such enclosure. All gates or doors opening through enclosures shall be equipped with an inside, self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.
 2. Aboveground pools with self-providing fencing to prevent unguarded entry are allowed without separate additional fencing provided the self-providing fence is of minimum required height and design as above specified. All access from grade by ladders, stairs or ramps shall provide equal safeguard protection as provided the pool proper.
 3. If grade variations affect the height of fencing for either in-ground or aboveground pools, adequate provision shall be made to assure the minimum height required at all points surrounding such pool.
- (2) PERMIT REQUIRED. No swimming pool shall be constructed unless building and zoning permits have been issued pursuant to §§17.11 and 17.12.
- (3) INSPECTION. No pool shall be used until the Building Inspector has made his final inspection and has approved all phases of construction, including the erection of necessary fencing. Water in the pool, except for minimal amounts for testing purposes, shall be considered evidence of use.

- (4) BOND REQUIRED. An application for a permit to construct a pool shall be accompanied by a cash deposit in the amount of \$500.00 to be retained by the Town Treasurer until final inspection and approval. If any person uses the pool prior to final inspection and approval, such bond shall be forfeited. The bond shall be returned upon compliance by permittee with all requirements of this section.

17.30 - GUESTHOUSES.

- (1) USE PERMITTED. Guesthouses, as defined by this chapter, are permitted in any district in which a single-family dwelling is permitted.
- (2) PERMANENT HABITATION PROHIBITED. A guesthouse must be used only for occasional occupancy by guests of the owner and shall not be leased or rented for human occupancy.
- (3) ACCESSORY TO A SINGLE-FAMILY DWELLING. No guesthouse is permitted unless a single-family dwelling is already present on the lot. Only one guesthouse per lot is allowed.
- (4) AREA REQUIREMENTS. No guesthouse is allowed unless the lot upon which the guesthouse is to be located is at least one and one-half the minimum area and one and one-half the minimum average width requirements of the district.
- (5) BUILDING LOCATION. A guesthouse shall meet the minimum setback, shore setback, offset and open space requirements as would be applied to a principal structure on the property and shall not be located closer than one and one-half times the required offset distance to the principal structure on the property.
- (6) FLOOR AREA. There is no minimum floor area requirement for a guesthouse.

17.31 - SPECIAL USE SYSTEMS.

- (1) PURPOSE. Special use systems may affect the health, general welfare, safety and economic prosperity of the Town, specifically the immediate neighborhood in which located. The Town Board deems it necessary to regulate such uses when their installation may have an effect on the established character and quality of the area; its physical attractiveness; 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 the possible effect on property values in the neighborhood.
- (2) USE PERMITTED. Special use systems as defined in §17.03(2) are permitted in any district other than C-1 when used solely by the occupants of the principal use, subject to the provisions of this section. Such systems shall be considered accessory uses.
- (3) PERMIT REQUIRED. No special use system shall be installed or erected in the Town without a permit from the Building Inspector.
- (4) TYPES OF SPECIAL USE.
 - (a)

Solar Energy Conversion System. Commonly referred to as "active" solar collection and heating systems and including systems defined by §13.48(2)(h)1.g., Wis. Stats.

- (b) Wind Energy Conversion Systems. Commonly referred to as "windmills" which are used to produce electric power (§66.0403, Wis. Stats.).
 - (c) Communication Systems/Television Satellite Dish Antennas. Commonly referred to as private cable televisions (disks, dishes, devices).
- (5) FEES. The Town Board shall by resolution establish fees for the processing and issuance of special use permits.
- (6) PERMIT PROCEDURE.
- (a) The permit application shall include the name and address of the applicant, a site plan, details of the system to be installed, and any additional information deemed necessary by the Building Inspector for proper review of the application.
 - (b) The Building Inspector shall review the application, and if it is complete and contains all required information and satisfies the following size, locational and installation requirements, he shall issue the permit. The Building Inspector may refer an application for a special use system permit to the Plan Commission if there are special circumstances which, in his opinion, require Plan Commission consideration including, but not limited to, screening, color, location, height, visual impact and construction requirements. The Building Inspector shall refer all applications for permits in commercial and industrial districts to the Plan Commission.
 - (c) Special use systems shall be located in a manner which conforms with the applicable locational and height requirements for accessory structures in the district in which the system is to be located, except as may be modified by the following:
 - 1. There shall be no separation distance requirement between the special use system and the principal building.
 - 2. Special use systems shall be located not closer to the base setback line than the existing building setback or the required setback, whichever is greater.
 - 3. Offset of all special use systems shall be equal to or greater than the offset requirements of the particular zoning district, but not less than the total vertical height of the system structure.
 - 4. In a commercial or manufacturing district where the parcel abuts directly a parcel which is residentially zoned, the more restrictive requirements of the residential district shall apply.
 - 5. Earth satellite stations, commonly referred to as disks or dishes, shall have a maximum diameter of no more than 10 feet.

6. Earth satellite stations shall have a maximum total height of no more than 12 feet.
 7. Earth satellite stations installed on lake lots shall be located no closer to the shoreline than the required shore setback or the existing shore setback of the principal building, whichever is greater.
 8. Not more than one earth satellite station dish antenna shall be permitted on a lot or parcel.
 9. Earth satellite station dish antennas shall be located and designed to reduce their visual impact on surrounding properties, and the Building Inspector may require adequate screening and unit color that harmonizes with such screening and the improvements already located on the premises. Neutral, inconspicuous, earth-tone colors shall be required whenever possible.
 10. Wind energy conversion systems shall be installed according to manufacturer's specifications so as to withstand anticipated wind velocities.
 11. Priority of location of all special use systems shall be rear yard, side yard, and lastly front yard or lake side (with appropriate variances, if required).
- (d) All applications for roof earth station dish antennas shall be referred to the Plan Commission. The Plan Commission shall determine if the proposed antenna conforms with the requirements of this section, is aesthetically harmonious with the building on which it is to be located, and would not adversely effect the appearance of or property values in the neighborhood.
- (e) The Building Inspector and the Plan Commission may consider written opinions of the owners of neighboring properties in making determinations under this section.
- (f) Any installation of special use systems which cannot meet the size, locational or installation requirements above may be authorized only by the Board of Adjustment in accordance with the procedures outlined for such appeals in this chapter.
- (g) If any special use system is no longer functional and ceases to be used, it shall be removed upon written order of the Building Inspector.

17.32 - PRIOR PERMIT.

- (1) CONSTRUCTION PERMITTED. Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of this chapter and the construction of which shall have been substantially started within 6 months from the date of such permit.
- (2)

SUBSEQUENTLY NONCONFORMING. Any such use which does not conform to the use regulations of the district in which it is located shall, however, subsequently be considered a legal nonconforming use.

DISTRICTS

17.40 - ESTABLISHMENT OF DISTRICTS.

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

- (1) C-1 Conservancy District.
- (2) E-C Environmental Corridor District.
- (3) A-1 Agricultural District.
- (4) A-2 Rural Home District.
- (5) A-3 Suburban Estate District.
- (6) R-1 Residential District.
- (7) R-2 Residential District.
- (8) R-3 Residential District.
- (9) P-1 Public District.
- (10) B-1 Restricted Business District.
- (11) B-2 Local Business District.
- (12) B-3 General Business District.
- (13) Q-1 Quarrying District.
- (14) M-1 Limited Industrial District.
- (15) M-2 General Industrial District.

17.41 - ZONING MAP.

- (1) DISTRICTS MAPPED. The boundaries of the districts are shown upon a zoning map of the Town, which map is made a part of this chapter and all the notations, references and other information shown thereon shall be as much a part of this chapter as if the matters and information set forth by such maps were all fully described herein. Such map shall be kept on file in the offices of the Town and the copies attached hereto are correct only as of the date of publication and are for general informational purposes only.
- (2) DETERMINATION OF BOUNDARIES. District boundaries shall be determined by measurement from and as shown on the official zoning map, and in case of any questions as to the interpretation of such boundary lines, the Plan Commission shall interpret the map according to

the reasonable intent of this chapter.

- (a) Unless otherwise specifically indicated or dimensioned on the maps, the district boundaries are normally lot lines existing at the time of adoption of this chapter; section, quarter section or sixteenth section lines; or the centerlines of streets, highways, railways or alleys.
- (b) The boundaries of conservancy districts as drawn are intended to represent the edge of swamp, marsh, and floodland, or the high-water line along a stream or watercourse and shall be finally determined by the actual conditions in each specific situation, provided, however, that along a stream or watercourse such line shall not be less than 100 feet from the center of such stream or watercourse.

17.42 - C-1 CONSERVANCY DISTRICT.

(1) PERMITTED USES.

- (a) Grazing.
- (b) The harvesting of any wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
- (c) Hunting and fishing unless prohibited by other ordinances or laws.
- (d) Sustained yield forestry.
- (e) Dams and hydroelectric power stations.
- (f) Telephone, telegraph and power transmission lines.
- (g) Nonresidential buildings used solely in conjunction with the raising of waterfowl, minnows and other similar lowland animals, fowl or fish.

- (2) SPECIFIC PROHIBITIONS. Filling or drainage of wetlands, removal of topsoil or peat, or damming or relocating of any watercourse shall not be permitted except with the approval of the Waukesha County Department of Parks and Land Use and the Town Plan Commission.

17.43 - E-C ENVIRONMENTAL CORRIDOR DISTRICT.

Environmental Corridor District, as mapped or intended to be mapped, includes nonwetland/floodplain primary or secondary environmental corridors as defined herein, and is intended to be used to preserve, protect, enhance and restore significant woodlands, upland wildlife habitat areas, scenic overlooks, slopes exceeding 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 regional land use plan or locally adopted plan, which suggests that residential densities in such areas not exceed one unit per 5 acres for all parcels which lie entirely within the environmental corridor. Where questions arise as to the exact location of boundary of an environmental corridor, the extent and location of such corridors shall be finally determined by in-field investigation by a qualified engineer using the SEWRPC Technical Guide.

(1) PERMITTED USES.

- (a) Any uses permitted in C-1 Conservancy/Wetland Districts.
- (b) Single-family dwellings.
- (c) Keeping of poultry and domestic livestock, except that the keeping of hogs, male goats or fur-bearing animals shall not be permitted on less than 20 acres.
- (d) The following accessory buildings and uses, subject to the conditions specified:
 - 1. Private garages, when located on the same lot, and not involving the conduct of a business; provided, however, that no private garage shall be erected unless that principal building to which such garage is an accessory use has been erected or is to be erected simultaneously with said garage.
 - 2. Quarters for household or farm employees; provided, however, that such quarters shall be occupied only by individuals employed full time on the premises and their families.
 - 3. Stables, barns, or poultry houses, provided that no building housing domestic livestock or poultry shall be closer than 50 feet to any lot line.
- (e) A sign in accordance with §17.44(7)(a).
- (f) Hobby kennel in accordance with §17.44(10).

(2) BUILDING LOCATION.

- (a) Setback: 50 feet minimum.
- (b) Offset: 35 feet minimum.

(3) HEIGHT REGULATIONS.

- (a) Principal Building: 35 feet.
- (b) Accessory Building.
 - 1. *Farm*: 60 feet maximum.
 - 2. *Other*: 15 feet maximum.

(4) AREA REGULATIONS.

- (a) Floor Area.
 - 1. *Minimum Required*.
 - a. First Floor: 900 square feet.
 - b. Total: 1,500 square feet.
- (b) Lot Size.
 - 1. *Minimum Area*. The overall density of parcels lying entirely within the environmental corridor shall be not less than one dwelling unit per 5 acres of corridor area, with no lot area being less than 2 acres in size. On parcels which contain area outside of the environmental corridor or partially within the environmental corridor and in a zoning

category requiring less than a 5-acre lot, the 5-acre density requirement shall not apply and the lot can be the size required for that adjacent zoning category as long as any earth-altering activity and/or building envelopes are located outside of the corridor area and appropriately restricted as such on the face of the certified survey map, subdivision plat or other appropriate matter 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 5 acres of environmental corridor lands.

(5) PRESERVATION OF OPEN SPACE.

- (a) For parcels lying entirely within an Environmental Corridor Zoning District, no open space regulation shall apply. However, all earth-altering activities and vegetative removal including building sites and drive areas (area of disturbance) shall be no more than 15 percent of 5 acres (32,600 square feet) in the environmental corridor may be disturbed with such land disturbance.
- (b) For parcels which lie partially within and partially outside of the environmental corridor, the area of disturbance shall be limited to that area outside of the environmental corridor unless otherwise permitted by a building envelope on the certified survey map, subdivision plat or other document.

17.44 - A-1 AGRICULTURAL DISTRICT.

(1) USE REGULATIONS.

(a) Permitted Uses.

- 1. Any use as permitted in the C-1 Conservancy District.
- 2. One-family dwellings, public parks and recreation areas.
- 3. Ordinary farm uses including dairying, livestock and poultry-raising and truck farming, but not including feeding of garbage to fatten swine. The keeping of livestock or horses shall not be permitted on any lot less than 3 acres in size, and then only one head of livestock or 20 fowl are allowed. For each additional 2 acres, one head of livestock or 20 fowl are allowed. The following exceptions shall apply:
 - a. Where such use existed prior to the date of this chapter as a principal commercial or agricultural use, such use may be continued, subject to the limitations regulating a nonconforming use as regulated by §17.28.
 - b. Where such use existed prior to the date of this chapter as a legal accessory or in incidental use to the principal use of the property, such use may be continued only if there is no objection from any owner of property within 300 feet, the provisions of

§17.28 notwithstanding. Such objections shall be submitted in writing to the Town Board and a public hearing held thereon.

- c. Subject to the limitations established above, such use may be permitted on any lot provided there shall first be filed with the Town Board the written consent of the owners of all property within 300 feet and further subject to termination, after public hearing, upon written complaint to the Town Board by an owner within 300 feet of such property. When permitted, the keeping of poultry or domestic livestock shall be done under maximum practical conditions of neatness and sanitation so as not to be detrimental to surrounding residential use, and all fowl shall be kept confined or enclosed and not permitted to run at large.
4. Roadside stands, subject to the following:
 - a. Off-street parking for a minimum of 4 vehicles shall be provided.
 - b. No stand shall be closer than 30 feet to the base setback line or closer than 20 feet to any other lot line.
5. Horticulture, including greenhouses and nurseries but not to include the operation of a retail or wholesale outlet store.
6. The following accessory buildings and uses, subject to the conditions specified:
 - a. Private garages, when located on the same lot, and not involving the conduct of a business; provided, however, that no private garage shall be erected unless that principal building to which such garage is an accessory use has been erected or is to be erected simultaneously with said garage.
 - b. Private boathouse.
 - c. Stables, barns or poultry houses, provided that no building housing domestic livestock or poultry shall be closer than 50 feet to any lot line.
 - d. Guesthouses provided such structures shall not be rented, leased or used for continuous or permanent habitation and shall be subject to all provisions of §17.30 of this chapter.
7. Home occupations and professional offices as defined in this chapter, when incident to the residential use and when situated in the same dwelling, subject to the following conditions:
 - a. No name plate exceeding 3 square feet in area shall be permitted.
 - b. Such home occupation or professional office shall not occupy more than 20 percent of the floor area of the principal building.
 - c. Such home occupation or professional office shall not employ more than one person not a resident on such lot.

- d. Adequate off-street parking facilities shall be provided adjacent, or reasonably so, to the building served.
 - e. Such permitted use shall not include conduct of any retail or wholesale business on the premises or the removal of sand, gravel or stone for commercial purposes.
 - f. Such permitted use shall not include the use of any machinery, tools or other appliances which can reasonably be construed as creating an abnormal nuisance to the surrounding residential area.
8. A sign pertaining to the lease or sale of any building or land, provided such sign does not exceed 20 square feet in area. A sign not exceeding 6 square feet in area may be maintained by the owner or occupant of any land or building for the purpose of displaying the name of the owner or occupant or for the purpose of warning against trespass.
 9. Residential Cluster Developments. See §17.59.
 10. Hobby kennel. A hobby kennel accessory to an otherwise permitted use, provided such use has the specific approval of the Town Plan Commission and will not adversely affect the use of adjacent lands as may be determined by findings of the Town Plan Commission. The proposed use of parcels in such a manner shall be made by written notice to land owners within 100 feet of the subject property, and in any case to land owners immediately adjacent and across the street from such use, by certified mail from the Town Plan Commission prior to the meeting at which the Town Plan Commission will consider approval of such use. The Town Plan Commission may require such measures or provisions by the applicant as it may deem necessary to provide adequate protection of surrounding property. The Town may deny the right to a hobby kennel on the basis of a finding that such a use would be incompatible and a possible nuisance to surrounding uses and not in the public interest. Any person aggrieved by a decision of the Plan Commission relative to this provision may appeal such decision to the Board of Adjustment for review and determination as provided in §17.62 of this chapter. Where 2 or fewer dogs are kept, such use shall be considered accessory to the principal use and shall not require special approval by the Plan Commission. In any case, if the keeping of any number of dogs accessory to the principal use becomes a nuisance to the neighborhood as may be determined by the Town Plan Commission or Town Board, such use shall be terminated or the nuisance abated. Where necessary, the Town Plan Commission or Town Board may take appropriate steps to abate such nuisance.

(2) BUILDING LOCATION.

- (a) Setback: 50 feet minimum.
- (b) Offset: 20 feet minimum.

(3) HEIGHT REGULATIONS.

- (a) Principal Building. The maximum height of a residential structure shall meet the following requirements:
1. A point measured from the lowest exposed point of the proposed structure to the highest floor line shall not exceed 27 feet; and
 2. A point measured from the lowest exposed point of the proposed structure to any eave shall not exceed 36 feet; and
 3. A point measured from the lowest exposed point of the proposed structure to the highest point of any roof shall not exceed 46 feet; and
 4. On waterfront lots, no building or structure shall contain more than 3 stories when viewed from the waterfront.
- (b) Accessory Building.
1. *Farm*: 60 feet maximum.
 2. *Other*: 18 feet maximum (excepting flat roofs: 15 feet maximum).

(4) AREA REGULATIONS.

- (a) Floor Area. Minimum required.
1. *Minimum Required*:
 - a. First Floor: 900 square feet.
 - b. Total One-Family: 1,100 square feet.
 2. *Maximum F.A.R. Permitted*: 10 percent.
- (b) Lot Size.
1. *Minimum Area*: 3 acres.
 2. *Minimum Average Width*: 200 feet.
- (c) Open Space: 2-acre minimum.

17.45 - A-2 RURAL HOME DISTRICT.

(1) USE REGULATIONS.

- (a) Permitted Uses.
1. Any use permitted in the A-1 Agricultural District.
 2. One-Family Dwellings.
 3. The keeping of poultry or domestic livestock shall not be permitted on any lot less than 3 acres in size and then only one head of livestock or 20 fowl are allowed. For each additional 2 acres, one head of livestock or 20 fowl are allowed. The following exceptions shall apply:
 - a.

Where such use existed prior to the date of this chapter as a principal commercial or agricultural use, such use may be continued subject to the limitations regulating a nonconforming use as regulated by §17.28.

- b. Where such use existed prior to the date of this chapter as a legal accessory or incidental use to the principal use of the property, such use may be continued only if there is no objection from any owner of property within 300 feet, the provisions of §17.28 notwithstanding. Such objections shall be submitted in writing to the Town Board and a public hearing held thereon.
- c. Subject to the limitations established above such use may be permitted on any lot provided that there shall first be filed with the Town Board the written consent of the owners of all property within 300 feet and further subject to termination, after public hearing, upon written complaint to the Town Board by any owner within 300 feet of such property. When permitted, the keeping of poultry or domestic livestock shall be done under maximum practical conditions of neatness and sanitation so as not to be detrimental to the surrounding residential use and all fowl shall be kept confined or enclosed and not permitted to run at large.

(2) BUILDING LOCATION.

- (a) Setback: 50 feet minimum.
- (b) Offset: 30 feet minimum.

(3) HEIGHT REGULATIONS.

- (a) Principal Building. The maximum height of a residential structure shall meet the following requirements:
 1. A point measured from the lowest exposed point of the proposed structure to the highest floor line shall not exceed 27 feet; and
 2. A point measured from the lowest exposed point of the proposed structure to any eave shall not exceed 36 feet; and
 3. A point measured from the lowest exposed point of the proposed structure to the highest point of any roof shall not exceed 46 feet; and
 4. On waterfront lots, no building or structure shall contain more than 3 stories when viewed from the waterfront.
- (b) Accessory Buildings: 18 feet maximum (excepting flat roofs: 15 feet maximum).

(4) AREA REGULATIONS.

- (a) Floor Area.
 1. *Minimum Required*:
 - a. First Floor: 900 square feet.
 - b. Total: 1,500 square feet.

2. *Maximum F.A.R. Permitted:* 10 percent.

(b) Lot Size.

1. *Minimum Area:* 3 acres.

2. *Minimum Average Width:* 200 feet.

(c) Open Space: 2 acres minimum per family..

17.46 - A-3 SUBURBAN ESTATE DISTRICT.

(1) USE REGULATIONS.

(a) Permitted Uses.

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

a. Where such use existed prior to the date of this chapter as a principal commercial or agricultural use, such use may be continued subject to the limitations regulating a nonconforming use as regulated by §17.28.

b. Where such use existed prior to the date of this chapter as a legal accessory or incidental use to the principal use of the property, such use may be continued only if there is no objection from any owner of property within 300 feet, the provisions of §17.28 notwithstanding. Such objections shall be submitted in writing to the Town Board and a public hearing held thereon.

c. Subject to the limitations established under §17.44(1)(a)3., such use may be permitted on any lot provided that the written consent of the owners of all property within 300 feet has first been filed with the Town Board and further subject to termination after public hearing upon written complaint to the Town Board by any owner within 300 feet of such property. When permitted, the keeping of poultry or domestic livestock shall be done under maximum practical conditions of neatness and sanitation so as not to be detrimental to the surrounding residential use and all fowl shall be kept confined or enclosed and not permitted to run at large.

(2) BUILDING LOCATION.

(a) Setback: 50 feet minimum.

(b) Offset: 25 feet minimum.

(3) HEIGHT REGULATIONS.

(a) Principal Building.. The maximum height of a residential structure shall meet the following requirements:

1. A point measured from the lowest exposed point of the proposed structure to the highest floor line shall not exceed 27 feet; and

2.

A point measured from the lowest exposed point of the proposed structure to any eave shall not exceed 36 feet; and

3. A point measured from the lowest exposed point of the proposed structure to the highest point of any roof shall not exceed 46 feet; and
4. On waterfront lots, no building or structure shall contain more than 3 stories when viewed from the waterfront.

(b) Accessory Building. 18 feet maximum (excepting flat roofs: 15 feet maximum).

(4) AREA REGULATIONS.

(a) Floor Area.

1. *Minimum Required:*
 - a. First Floor: 900 square feet.
 - b. Total: 1,500 square feet.
2. *Maximum F.A.R. Permitted:* 10 percent.

(b) Lot Size.

1. *Minimum Area:* 2 acres.
2. *Minimum Average Width:* 175 feet.

(c) Open Space: 75,000 square feet minimum per family.

17.47 - R-1 RESIDENTIAL DISTRICT.

- (1) PERMITTED USES. Any use permitted in the Suburban Estate District, except that the keeping of poultry or domestic livestock shall not be permitted on any lot less than 3 acres in area except under the following conditions:
 - (a) Where such use existed prior to the date of this chapter as a principal commercial or agricultural use, such use may be continued subject to the limitations regulating a nonconforming use as regulated by §17.28.
 - (b) Where such use existed prior to the date of this chapter as a legal accessory or incidental use to the principal use of the property, such use may be continued only if there is no objection from any owner of property within 300 feet, the provisions of §17.28 notwithstanding. Such objections shall be submitted in writing to the Town Board and a public hearing held thereon.
 - (c) Subject to the limitations established under §17.44(1)(a)3., such use may be permitted on any lot provided the written consent of the owners of all property within 300 feet has first been filed with the Town Board and further subject to termination after public hearing upon written complaint to the Town Board by any owner within 300 feet of such property. When permitted,

the keeping of poultry or domestic livestock shall be done under maximum practical conditions of neatness and sanitation so as not to be detrimental to surrounding residential use, and all fowl shall be kept confined or enclosed and not permitted to run at large.

(2) BUILDING LOCATION.

(a) Setback: 50 feet minimum.

(b) Offset: 20 feet minimum.

(3) HEIGHT REGULATIONS.

(a) Principal Building. The maximum height of a residential structure shall meet the following requirements:

1. A point measured from the lowest exposed point of the proposed structure to the highest floor line shall not exceed 27 feet; and
2. A point measured from the lowest exposed point of the proposed structure to any eave shall not exceed 36 feet; and
3. A point measured from the lowest exposed point of the proposed structure to the highest point of any roof shall not exceed 46 feet; and
4. On waterfront lots, no building or structure shall contain more than 3 stories when viewed from the waterfront.

(b) Accessory Buildings: 18 feet maximum (excepting flat roofs: 15 feet maximum).

(4) AREA REGULATIONS.

(a) Floor Area.

1. *Minimum Required*.
 - a. First Floor: 900 square feet.
 - b. Total: 1,300 square feet.
2. *Maximum F.A.R. Permitted*: 15 percent.

(b) Lot Size.

1. *Minimum Area*: One acre.
2. *Minimum Average Width*: 150 feet.

(c) Open Space: 30,000 square feet per family.

17.48 - R-2 RESIDENTIAL DISTRICT.

(1) PERMITTED USES. Any use as permitted in the R-1 Residential District, except Residential Cluster Developments.

(2) BUILDING LOCATION.

(a) Setback: 50 feet minimum.

(b) Offset: 20 feet minimum.

(3) HEIGHT REGULATIONS.

(a) Principal Building. The maximum height of a residential structure shall meet the following requirements:

1. A point measured from the lowest exposed point of the proposed structure to the highest floor line shall not exceed 27 feet; and
2. A point measured from the lowest exposed point of the proposed structure to any eave shall not exceed 36 feet; and
3. A point measured from the lowest exposed point of the proposed structure to the highest point of any roof shall not exceed 46 feet; and
4. On waterfront lots, no building or structure shall contain more than 3 stories when viewed from the waterfront.

(b) Accessory Buildings: 18 feet maximum (excepting flat roofs: 15 feet maximum).

(4) AREA REGULATIONS.

(a) Floor Area.

1. *Minimum Required*.
 - a. First floor: 900 square feet.
 - b. Total: 1,200 square feet.
2. *Maximum F.A.R. Permitted*: 15 percent.

(b) Lot Size.

1. *Minimum Area*: 30,000 square feet.
2. *Minimum Average Width*: 120 feet.

(c) Open Space: 25,000 square feet minimum per family.

17.49 - R-3 RESIDENTIAL DISTRICT.

(1) PERMITTED USES.

- (a) Any use as permitted in the R-2 Residential District.
- (b) Two-family dwelling pursuant to §17.19(9).

(2) BUILDING LOCATION.

- (a) Setback: 50 feet minimum.
- (b) Offset: 20 feet minimum.

(3) HEIGHT REGULATIONS.

(a) Principal Building. The maximum height of a residential structure shall meet the following requirements:

1. A point measured from the lowest exposed point of the proposed structure to the highest floor line shall not exceed 27 feet; and
2. A point measured from the lowest exposed point of the proposed structure to any eave shall not exceed 36 feet; and
3. A point measured from the lowest exposed point of the proposed structure to the highest point of any roof shall not exceed 46 feet; and
4. On waterfront lots, no building or structure shall contain more than 3 stories when viewed from the waterfront.

(b) Accessory Buildings: 18 feet maximum (excepting flat roofs: 15 feet maximum).

(4) AREA REGULATIONS.

(a) Floor Area.

1. *Minimum Required*.
 - a. First Floor: 900 square feet.
 - b. Total: 1,100 square feet.
2. *Maximum F.A.R. Permitted*: 15 percent.

(b) Lot Size.

1. *Minimum Area*: 20,000 square feet.
2. *Minimum Average Width*: 120 feet.

(c) Open Space: 15,000 square feet minimum per family.

17.50 - P-1 PUBLIC DISTRICT.

- (1) INTENT OF DISTRICT. This district is intended to include publicly owned facilities which serve a public use, such as education, recreation, medical care or government.
- (2) PERMITTED USES. Those uses related to the public facility subject to any restrictions imposed by the owner or municipality.
- (3) CONDITIONAL USES. Any structure or use pursuant to §17.19(18).
- (4) BUILDING LOCATION.
 - (a) Setbacks.
 1. *From Public Road Right-of-Way*: 50 feet minimum.
 2. *From Lake, Floodplain or Conservancy District*: 75 feet minimum.
 - (b) Offsets: 50 feet minimum.

17.51 - B-1 RESTRICTED BUSINESS DISTRICT.

- (1) PERMITTED USES.

- (a) Any use as permitted in the R-3 Residential District.
 - (b) The following retail or customer service establishments of a restrictive nature, provided the location, building and site plan and plan of operation have been submitted to and approved by the Plan Commission as being in keeping with the character of the surrounding area.
 - 1. Boarding or lodging houses.
 - 2. Delicatessen.
 - 3. Florist shop.
 - 4. Funeral home.
 - 5. Gift shop.
 - 6. Interior decorator.
 - 7. Professional office or studio.
 - 8. Tea room or restaurant.
 - 9. Tourist home.
 - 10. Any similar use subject to the approval of the Plan Commission.
 - (c) Signs related to the use of the premises, subject to the following:
 - 1. No sign shall exceed 40 square feet in area and where it is illuminated the sign shall not exceed 25 square feet in area.
 - 2. No freestanding sign shall exceed 10 feet in height from the ground, and no sign attached to a building shall project above an eave, cornice or top parapet line of such building.
 - 3. Only one sign shall be permitted for any such permitted use.
 - 4. No sign shall include illuminating devices or be constructed of illuminated material or be specifically illuminated except by properly shielded cove or back lighting of a nonintermittent type on an opaque background, such source of light not to be more than 2 feet from the vertical face to be illuminated.
- (2) BUILDING LOCATION.
- (a) Setback: 50 feet minimum.
 - (b) Offset: 20 feet minimum.
- (3) HEIGHT REGULATIONS.
- (a) Principal Buildings: 35 feet maximum.
 - (b) Accessory Buildings: 18 feet maximum (excepting flat roofs: 15 feet maximum).
- (4) AREA REGULATIONS.
- (a) Floor Area.
 - 1. *Minimum Required for Residential Purposes.*

- a. First Floor: 900 square feet.
 - b. Total One-Family: 1,000 square feet.
2. *Maximum F.A.R. Permitted:* 20 percent.
- (b) Lot Size.
1. *Minimum Area:* 20,000 square feet.
 2. *Minimum Average Width:* 120 feet.
- (c) Open Space: 15,000 square feet minimum per family.

17.52 - B-2 LOCAL BUSINESS DISTRICT.

(1) PERMITTED USES.

- (a) Any use as permitted in the B-1 Restricted Business District.
- (b) The following retail and customer service establishments, provided the location, building and site plan and plan of operation have been submitted to and approved by the Plan Commission as being in keeping with the character of the surrounding area.
 1. Art shop.
 2. Appliance store.
 3. Bakery (not over 10 employees).
 4. Barber shop.
 5. Beauty shop.
 6. Bank or savings and loan office.
 7. Clinic.
 8. Clothing or dry goods store.
 9. Confectionery store.
 10. Drug store.
 11. Furniture store.
 12. Book or stationery store.
 13. Fruit and vegetable market.
 14. Grocery or Other Food Products Store.
 15. Hardware store.
 16. Ice cream store.
 17. Jewelry store.
 18. Retail liquor store or tavern.
 19. Meat and fish market.

20. Music and radio store.
21. Newsstand.
22. Notion or variety store.
23. Parking lot.
24. Pharmacy.
25. Radio and television sales and repair shop.
26. Photographer.
27. Restaurants with or without the sale of liquor.
28. Shoe store.
29. Soda fountain.
30. Tailor/dressmaking shop.
31. Telegraph office and telephone office and exchange.
32. Utility offices.
33. Any similar use subject to the approval of the Plan Commission.

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

(d) Signs related to the use of the premises subject to the following conditions:

1. No sign shall exceed 40 square feet in area.
2. Illuminated signs shall not exceed 25 square feet in area. Signs which contain, include or are illuminated by any flashing, intermittent or moving light are prohibited, except those giving public service information such as time, date, temperature, weather or similar information.
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, and no attached sign shall be higher than 4 feet above the top of the roofline or in any case exceed 35 feet in height.

(2) BUILDING LOCATION.

(a) Setback: 50 feet minimum.

(b) Offset.

1. *Buildings Used Solely for Commercial Purposes*: 10 feet minimum.
2. *Buildings Used in Whole or Part for Residence Purposes*: 20 feet minimum.

(3) HEIGHT REGULATIONS.

(a) Principal Building: 35 feet maximum.

(b) Accessory Buildings: 18 feet maximum (excepting flat roofs: 15 feet maximum).

(4) AREA REGULATIONS.

(a) Building Floor Area.

1. *Minimum Required Solely for Residence Purposes.*
 - a. First Floor: 900 square feet.
 - b. Total One-Family: 1,000 square feet.
2. *Buildings Used for Both Residence and Business Purposes:* 900 square feet per family.
3. *Maximum F.A.R. Permitted:* 40 percent.

(b) Lot Size.

1. *Minimum Area:* 20,000 square feet.
2. *Minimum Average Width:* 120 feet.

(c) Open Space: 15,000 square feet minimum per family.

17.53 - B-3 GENERAL BUSINESS DISTRICT.

(1) PERMITTED USES.

- (a) Any uses permitted in the B-2 Local Business District, except residential use shall be permitted only in conjunction with or accessory to an otherwise permitted use.
- (b) The following business and trades of a more general nature, normally serving a larger trade area, provided the location, building and site plan and plan of operation have been submitted to and approved by the Plan Commission as being in keeping with the character of the surrounding area.
 1. Wholesalers and distributors.
 2. Theaters, dance halls, arcades and other amusement places.
 3. Used car lots.
 4. Dry cleaning and dyeing establishments.
 5. Automobile sales rooms, repair shops and storage yards. Garages for equipment, supplies or vehicles but not including the storage of junked or wrecked automobile parts.
 6. Printing and publishing houses.
 7. Dairies and bottling plants.
 8. Hotels.
 9. Laundries.
 10. Private vocational schools and colleges.
 11. Lockers and cold storage plants.
 12. Any similar use subject to the approval of the Plan Commission.

(c)

Signs related to the use of the premises subject to the following conditions:

1. No sign shall exceed 100 square feet in area.
2. Illuminated signs shall not exceed 50 square feet in area. Signs which contain, include or are illuminated by any flashing, intermittent or moving light are prohibited, except those giving public service information such as time, date, temperature, weather or similar information.
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 and no attached sign shall be higher than 4' above the top of the roofline or in any case exceed 35 feet in height.

(2) BUILDING LOCATION.

- (a) Setback: 50 feet minimum.
- (b) Offset.
 1. *Buildings used Solely for Commercial Purposes*: 10 feet minimum.
 2. *Buildings Used in Whole or in Part for Residence Purposes*: 20 feet minimum.

(3) HEIGHT REGULATIONS.

- (a) Principal Building: 35 feet maximum.
- (b) Accessory Buildings: 18 feet maximum (excepting flat roofs: 15 feet maximum).

(4) AREA REGULATIONS.

- (a) Floor Area.
 1. *Minimum Required for Residence Purposes*: 900 square feet per family.
 2. *Minimum F.A.R. Permitted*: 50 percent.
- (b) Lot Size.
 1. *Minimum Area*: 20,000 square feet.
 2. *Minimum Average Width*: 120 feet.
- (c) Open Space: 15,000 square feet minimum per family.

17.54 - Q-1 QUARRYING DISTRICT.

(1) USE REGULATIONS.

- (a) Permitted Uses.
 1. Any use as permitted in the A-1 Agricultural District, except that residential use shall be permitted only in conjunction with or accessory to another permitted use.
 - 2.

Quarrying, subject to the provisions of §17.19(20), except that the establishment of a Quarrying District shall be construed to have determined the appropriateness of quarrying use in such area and the grant of the quarrying permit shall be conditioned only on compliance with the standards and regulations as set out in §17.19(20).

3. The following related operations where accessory to the permitted quarrying operation, subject to the regulations as set out in §17.19(20).

- a. The manufacture of concrete building blocks or other similar blocks.
- b. Production of ready-mixed concrete.

(b) Prohibited Uses. Restaurants and taverns.

(2) BUILDING LOCATION.

(a) Setbacks.

1. *Quarrying Operations*: As required by §17.19(20).
2. *Other Permitted Uses*: 20 feet minimum.

(b) Offsets.

1. *Quarrying Operations*: As required by §17.19(20).
2. *Other Permitted Uses*: 50 feet minimum.

(3) HEIGHT REGULATIONS.

(a) Principal Building: 35 feet maximum.

(b) Accessory Buildings.

1. *Quarrying Operations*: 60 feet maximum.
2. *Other Permitted Uses*: 15 feet maximum.

(4) AREA REGULATIONS.

(a) Floor Area.

1. *Minimum Required for Residential Purposes*.
 - a. First Floor: 900 square feet.
 - b. Total One-Family: 1,000 square feet.
2. *Maximum F.A.R. Permitted*: 10 percent.

(b) Lot Size.

1. *Minimum Area*: 3 acres.
2. *Minimum Average Width*: 200 feet.

(c) Open Space: 2-acre minimum per family.

17.55 - M-1 LIMITED INDUSTRIAL DISTRICT.

(1) PERMITTED USES.

- (a) Any use as permitted in a B-3 General Business or A-1 Agricultural District, except that residential use shall be permitted only in conjunction with or accessory to an otherwise permitted use.
- (b) Trades or industries of a restrictive character which are not detrimental to the district or to the adjoining residential areas by reason of appearance, noise, dust, smoke or odor, provided the location, building and site plan and plan of operation have been submitted to and approved by the Plan Commission, but not including any use enumerated under §17.55(1)(b) or any of the following:
 1. Junkyards and salvage yards.
 2. Drop forges, foundries, refineries, tanneries or any similar use, the normal operation of which causes objectionable noise, odor, dust or smoke.
 3. Signs as permitted in the B-3 General Business District.

(2) BUILDING LOCATION.

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

(3) HEIGHT REGULATIONS.

- (a) Principal Building: 60 feet maximum.
- (b) Accessory Buildings: 60 feet maximum.

(4) AREA REGULATIONS.

- (a) Floor Area.
 1. *Minimum Required for Residence Purposes*: 900 square feet.
 2. *Maximum F.A.R. Permitted*: 60 percent.
- (b) Lot Size.
 1. *Minimum Area*: One acre.
 2. *Minimum Average Width*: 150 feet.
- (c)

Open Space : 15,000 square feet per acre.

17.56 - M-2 GENERAL INDUSTRIAL DISTRICT.

(1) PERMITTED USES.

- (a) Any use as permitted in the M-1 Limited Industrial District.
- (b) Quarrying, subject to §17.19.(20).
- (c) Any other commercial or industrial use not otherwise prohibited by law, provided their location, building and site plan, and plan of operation have been submitted to and approved by the Plan Commission, except the following:
 - 1. Cement, lime, gypsum or plaster of paris manufacture.
 - 2. Acid manufacture.
 - 3. Manufacture of explosives, but not including the making of small arms ammunition.
 - 4. Storage of explosives, except as incidental to a permitted use.
 - 5. Fertilizer manufacture.
 - 6. Offal or dead animal reduction.
 - 7. Glue manufacture, fat rendering or distillation of bones.
 - 8. Stockyards or commercial slaughter of animals.

(2) BUILDING LOCATION.

- (a) Setback : 50 feet minimum, except where the opposite frontage is in a Residential or Agricultural District, a 100-foot minimum setback shall be required.
- (b) Offset : 10 feet minimum, except that where a lot abuts on a district boundary line of a more restrictive district permitting residence use the following restrictions shall apply:
 - 1. Buildings or uses permitted in the more restrictive district shall comply with offset requirements of the more restrictive district.
 - 2. Buildings or uses not permitted in the more restrictive district shall provide a 100-foot minimum offset from a Restricted or Local Business District and a 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 6 feet high and 15 feet in width.

(3) HEIGHT REGULATIONS.

- (a) Principal Building : 60 feet maximum.
- (b) Accessory Buildings : 60 feet maximum.

(4) AREA REGULATIONS.

- (a) Floor Area .
 - 1. *Minimum Required for Residence Purposes*: 900 square feet per family.

2. *Maximum F.A.R. Permitted:* 70 percent.

(b) Lot Size.

1. *Minimum Area:* One acre.

2. *Minimum Average Width:* 150 feet.

(c) Open Space: 10,000 square feet per acre.

17.59 - RESIDENTIAL CLUSTER DEVELOPMENTS.

(1) INTENT AND PURPOSE. Residential Cluster Developments are not considered a separate zoning district, and clustering of structures within major subdivision developments is a permitted use in Agricultural Districts and in the R-1 Residential District. The development plans are subject to review and approval by the Plan Commission and Town Board. Residential Cluster Development projects are limited to single-family detached residences and accessory uses, subject to the requirements of this section.

Residential Cluster Developments are intended to promote innovative development, greater development flexibility and greater design freedom consistent with the most advanced development techniques in use today. It is intended that residential cluster development will promote a more desirable use of the subdivision site, while preserving and creating environmentally sound, aesthetically pleasing and economically viable development projects than would otherwise result from the existing residential district regulations and subdivision control requirements. Residential Cluster Developments are designed to encourage the efficient and optimal utilization of land. It is further intended that adequate, useable open spaces be provided for common areas and where present, all or a significant part of any primary environmental corridor be preserved intact, with minimal disturbance of natural landscape and vegetation. The overall density of a Residential Cluster Development shall be consistent with the density factors provided for in the underlying zoning district. The purpose of the residential cluster development regulation is, among others, to:

- (a) Maintain the rural atmosphere and character of the Town;
 - (b) Preserve open space;
 - (c) Encourage efficient, economically sound housing development; and
 - (d) Protect and enhance environmentally sensitive areas within and adjacent to the project site.
- (2) PROCEDURE TO INITIATE PROJECT. The following shall govern any request for the approval of a Residential Cluster Development (RCD):
- (a) Filing Procedure. The filing procedure outlined in §18.20 of this Code shall apply to all RCDs, except that any person submitting a land division proposal shall submit both a proposed layout of the division as a conventional subdivision and as an RCD. If the development as an

RCD will better promote the public health, safety, prosperity, aesthetics and general welfare of the community, the developer will be urged to develop in that manner.

- (b) Preapplication Conference. Pursuant to the requirements of §18.20 of this Code, prior to the filing of an application for the approval of an RCD, the developer shall consult with the Town Planner in order to obtain the planner's advice and assistance. Plans for the conventional subdivision and the RCD shall be discussed during this preapplication conference.
- (c) Application. If the developer elects not to pursue an RCD, the procedures of Chapter 18 shall apply. If the developer elects to pursue an RCD, following the preliminary consultation with the Town Planner, an official submittal shall be made to the Plan Commission. The Plan Commission shall give a conceptual, preliminary approval or reject the proposal for an RCD, after which the developer may proceed toward conventional subdivision development pursuant to Chapter 18 of this Code. Upon receiving a conceptual, preliminary approval, a formal application for an RCD project shall be submitted to the Plan Commission by the owner, or his agent, of the property proposed for such development and for the approval of a specified plan with a specified density factor under the provisions of this section. This formal submittal for a specific RCD shall be accompanied by a fee as provided in Chapter 18 and shall contain the following information:
1. A statement describing the general character of the intended development and the desirability of applying the RCD technique on this particular site. The statement shall include:
 - a. Statistical data on total size of project area, area of open space, density computation and proposed number and types of residential units, economic analysis, market analysis, impact upon municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
 - b. The proposed timetable for the project development and completion.
 - c. A general outline of intended organizational structure related to a property owner's association, deed restrictions and private provision of common services.
 2. A general development plan of the proposed project showing the following information or such additional information as may be required by the Plan Commission or the Town Board:
 - a. An accurate map of the project area including its relationship to surrounding properties and adjoining streets.
 - b. The size, arrangement and location of all lots, blocks and of all proposed buildings or building groups located within the common area.
 - c. The pattern of public roads and other public improvements.
 - d.

The location of recreational and open space areas and areas reserved or dedicated for use by the residents.

- e. General landscape treatment with particular attention given to the treatment and creation of buffer zone between the proposed RCD and any adjacent development, whether residential or otherwise.
 - f. Existing topography and storm drainage pattern and proposed storm drainage system showing basic topographic changes and proposed grading elevations.
- (d) Referral to and Action by Plan Commission. The Town Planner shall, within 30 days after receipt of the application, determine whether the application fulfills the requirements of this chapter. If the Town Planner determines that the application is complete and fulfills the requirements of this chapter, the Town Planner shall refer the same to the Plan Commission. If the Town Planner determines that the application is not complete and does not fulfill the requirements of this chapter, it shall be returned to the applicant. When the application meets with the Town Planner's approval, it shall be referred to the Town engineering consultants for their report and recommendation. Upon completion of necessary study and investigation, the Plan Commission shall make its recommendation to the Town Board as to the appropriateness and desirability of the proposed project with the density factor requested, the suitability of the proposed development plans, and any changes or additional conditions applicable to such plans which it may feel necessary and appropriate.
- (e) Basis for Approval. The Plan Commission, in making its recommendation, and the Town Board, in making its determination, shall give consideration to and be satisfied as to the following:
1. The Plan Commission guidelines for Residential Cluster Developments as from time to time modified and which shall be kept on file with the Town Clerk.
 2. The proposed development is consistent with the spirit and intent of this chapter and would not be contrary to the general welfare and economic prosperity of the Town, but rather that the benefits derived by utilizing the most modern residential development techniques, justifies the resultant increase in density that the RCD requirements provide, if any, and is in keeping with current economic and social considerations and justifies the application of the RCD requirements.
 3. Such development conforms to the adopted master land use plan of the Town.
 4. The size, quality and architectural design of all buildings in the project shall not be such as to have an adverse effect upon the general character of the Town or surrounding neighborhood.
 5. The functional utility and relationship of lots to 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 where primary environmental corridors are present, all or a

significant part of said primary environmental corridor shall be preserved or protected intact through the application of the standards contained in this chapter.

6. Setbacks along any boundary street of the project area shall be maintained and enhanced as required by the existing zoning district regulations and in accordance with the specific development project design reviewed and approved by the Town.
 7. No building shall be permitted closer to a side or rear project boundary lot line than that required by the applicable side or rear yard requirements of any adjoining zoning district.
 8. The RCD project approval shall be based upon satisfaction of standards of this chapter and shall include any conditions of approval applicable thereto regarding the building design, site layout and operation plans as well as all other commitments offered and required in regard to project value, character or other factors pertinent to an assurance that the proposed development will be carried out as approved.
 9. The plan will result in the preservation of open land in a manner which will enhance the total environmental setting and desirability of the development, and that adequate guarantee is provided for permanent retention as "open space" of the residual open land areas resulting from the application of these regulations, either by private reservation as an enhancement to the development or by dedication to the municipality as determined by the Town Board.
 10. Ownership and tax liability of private open space reservation areas shall be established in a manner acceptable to the Town Board and made a part of the conditions of the specific plan approval.
 11. In the event that the Plan Commission recommends to the Town Board that a particular RCD application be denied, the Plan Commission shall enumerate in writing its reasons for denying the application, and such listing of reasons shall accompany its recommendation to the Town Board.
- (f) Subsequent Change or Addition. Any subsequent change or addition to an approved plan shall first be submitted for approval to the Plan Commission and if in the Commission's opinion such change or addition is not substantial, it may recommend approval to the Town Board without public hearing. Without limitation to the Plan Commission's right to determine any other change substantial, a change in any of the following respects shall be automatically construed to be substantial.
1. An increase in the number of dwelling units from that shown in the approved comprehensive project plan.
 2. The addition of any principal uses not included in the approved comprehensive project plan.
 - 3.

A change in the basic concept of site development which would significantly alter the relationship of uses or open space to adjoining properties.

- (g) Determination. The Town Board after due consideration may deny the application, approve the application as submitted, or approve the petition subject to additional conditions. Such approval shall be by resolution and shall constitute approval to permit RCD for the specific project development plan proposed, and no other. The following requirements must be met:
1. The approval of the application for an RCD shall be based on and include as conditions thereto the building, site and operation plans for the development as approved, as well as all other commitments offered or required as to project value, character or other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plan. Detailed construction and engineering plans need not necessarily be completed at the time of application submittal, but the approval of such preliminary plans is conditioned upon the subsequent submittal to and approval by the Plan Commission and the Town Board of more specific and detailed plans as the development progresses, and no building permit shall be issued prior to such Plan Commission approval of the final detailed plans.
 2. The requirements of the subdivision control ordinance respecting improvements shall be complied with by the developer unless specific modifications have been recommended by the Town Engineer. The Town Engineer is encouraged to accept modifications that will not adversely affect the health and safety of the residents, recognizing that excessive engineering requirements can seriously hamper the viability of the project. The Town Board shall be the sole judge as to the applicability of those provisions of the subdivision control ordinance or any departmentally-recommended modification relating to improvements after recommendation by the Plan Commission and appropriate staff recommendations, if a question arises concerning their applicability to the project.
 3. The Town Board shall require the developer to furnish a bond or irrevocable letter of credit to guarantee the completion of the infrastructure in such amount and containing such terms as shall be required by the Town Board.

(3) REGULATIONS.

- (a) Density. The maximum number of dwelling units shall be determined following a site analysis which details the attributes and characteristics of the project area. Where the gross buildable area has been measured and verified, the density factor may be divided into that number to arrive at the number of dwelling units which may be allowed. The density factor shall be as shown on Table "A". If the property proposed to be developed borders a lake or other public body of water, the ratio of frontage to dwelling units shall be as follows: A minimum of 100 feet of frontage for the first such unit and 25 feet for each additional unit proposed in the RCD. Where any lowland conservancy/wetland lies within the project area, it may be used in

the calculation of dwelling density on the basis of one dwelling unit for each 5 acres so designated but shall not exceed 25 percent of the amount obtained in the computation of dwelling units within the zoned area.

As an example:

Underlying Zoning District A-1 Agricultural:

Total Project Area (excluded rights-of-way of exterior perimeter roads)	100
C-1 Conservancy/Wetland Area	<u>25</u>
Area for Computation of Density	75
Density Factor	3-5
Dwelling Units	25
Bonus Units Attributable to Wetland	<u>5</u>
Total Dwelling Units	30

See following Table A for density computations.

(b) Density shall be computed according to the following table:

Table "A"

MERTON RCD STANDARDS

						BUILDING LOCATION		
District Class	Density Factor (acres)	Minimum Aggregate Common Open Space per Lot (sq. ft.)	Minimum Lot Size (sq. ft.)	Minimum Average Width	Floor Area Ratio	Road Setback	Shore Setback	Offset

A-1	3—5	70,000	40,000	150	20%	50	75	20
A-2	3—5	70,000	40,000	150	20%	50	75	20
A-3	2	30,000	30,000	130	20%	50	75	20
R-1	1	15,000	20,000	120	20%	50	75	20
UEC ³	3—5	70,000	40,000	150	15%	50	75	20
Primary ₄ Environ. Corridor	5	160,000	40,000	150	15%	50	75	20

¹ = Density Factor: Basis upon which the building sites on a site are calculated.

² = Floor Area Ratio: For the purpose of planned unit development only, is the relationship of the total footprint area of all enclosed structures on a lot to the net area of the lot as applied to the specific building site.

³ = UEC: Upland Environmental Corridor.

⁴ = Primary Environmental Corridor: A term used to represent land areas deemed environmentally sensitive and thus worthy of an added margin of protection. While not a zoning district classification, the provisions under which the regional plan is adopted provide authority under the Waukesha County Subdivision Control Ordinance to require conformity with the 5-acre density standard cited above.

(c) Environmental Corridor Open Space. If part or all of a residential cluster development contains an area which has been designated by the Southeastern Wisconsin Regional Plan Commission as a primary environmental corridor, the developer shall be required to set aside 80 percent of the area designated a primary environmental corridor as common open space.

BOARD OF ADJUSTMENT

17.60 - CREATION.

(1) AUTHORITY.

(a)

There is hereby created a Board of Adjustment, pursuant to §62.23(7)(e), Wis. Stats., to consist of 5 members to be appointed by the Chairman of the Town Board, subject to confirmation of the Town Board for terms of 3 years.

- (b) The members of the Board shall be removable by the Town Chairman, for cause, upon written charges and after public hearing.
- (c) The Town Chairman may appoint for a term of 3 years, 2 alternate members of such Board in addition to the 5 members above provided for, who shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent. The provisions, with regard to removal and the filling of vacancies, shall also apply to such alternates.

(2) GENERAL.

- (a) All members of the Board shall reside within the Town.
- (b) The Town Chairman shall designate one of the members chairman.
- (c) A vacancy shall be filled for the unexpired term of any member, whose term becomes vacant, by appointment by the Chairman of the Town Board.
- (d) The members of the Board shall serve at such compensation to be fixed by ordinance, in addition to the actual and necessary expenses incurred by the Board in the performance of its duties.

17.61 - RULES.

The Board shall adopt rules governing its procedure consistent with the terms of this chapter. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

17.62 - APPEALS.

- (1) HOW TAKEN. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the Building Inspector. Such appeal shall be taken within a reasonable time as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment

a notice of appeal specifying the grounds thereof. The Building Inspector shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

- (2) STAYS. An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Building Inspector certifies to the Board of Adjustment after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property. In such case proceedings shall not be stayed except by a restraining order which may be granted by the Board of Adjustment or a court of record on application, notice to the officer from whom the appeal is taken and due cause shown.
- (3) TIME OF HEARING. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof as provided in §§17.80 and 17.81, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or attorney.
- (4) FEES. The fee set forth in §17.89 shall accompany the notice of appeal.

17.63 - POWERS.

The Board of Adjustment shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official of the Town in the enforcement of this chapter.
- (2) To hear and decide special exception to the terms of this chapter upon which such Board is required to pass under this chapter.
- (3) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where owing to special conditions a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.
- (4) The Board may permit, in appropriate cases and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.

17.64 - DECISION.

In exercising the above-mentioned powers, such Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal

is taken, and may issue or direct the issuance of a permit, provided that no such action shall have the effect of permitting in any district, a use prohibited in that district; of rezoning; or of granting exception to any health or sanitary codes in effect at the time. The concurring vote of a majority of the members of the Board voting shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation therefrom. The grounds of every such determination shall be stated.

17.65 - COURT REVIEW.

Any person aggrieved by any decision of the Board of Adjustment or any taxpayer, officer, department, board or bureau of the municipality, may appeal from a decision of the Board of Adjustment within 30 days after the filing of the decision in the office of the Board of Adjustment in the manner provided in §62.23(7)(e), Wis. Stats.

CHANGES AND AMENDMENTS

17.70 - AUTHORITY.

Pursuant to the provisions of §62.23(7)(d), Wis. Stats., the Town Board may amend the regulations of this chapter or change the district boundaries.

17.71 - PROCEDURE.

- (1) PETITION. A petition for amendment of this chapter or map of the zoning ordinance may be made by any property owner in the area to be affected by the amendment, by the Town Board on its own motion or by the Plan Commission.
- (2) FILING OF PETITION. Such petition other than made by the Town Board or Plan Commission shall be submitted in triplicate on printed forms provided for the purpose, and shall be filed with the Town Clerk, who shall present it to the Town Board at its next meeting for formal referral to the Plan Commission for report and recommendation back to the Town Board.
- (3) FEE. Any petition submitted by other than a governmental body or agency shall be accompanied by a fee of \$100.00 payable to the Town to defray the cost of advertising, investigation and other processing.
- (4) DATA REQUIRED. In addition to all information required on the petition form, the petitioner shall supply the following:
 - (a)

A plot map in triplicate 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.

- (b) The names and addresses of the owners of all properties within 300 feet of any part of the land included in the proposed change.
 - (c) Any further information which may be required by the Plan Commission to facilitate the making of a comprehensive report to the Town Board including a detailed description of the intended new use.
- (5) PLAN COMMISSION INVESTIGATION AND HEARING. The Plan Commission shall review all proposed changes and amendments, shall conduct the necessary investigations and shall file its report and recommendation with the Town Board. The Plan Commission may defer filing its report and recommendation with the Town Board until after the public hearing provided for in subsection (6). If the report and recommendation is deferred, the public hearing referred to in subsection (6) shall be considered a joint public hearing before both the Plan Commission and the Town Board.
- (6) HEARING. As soon as practical after receipt of the report and recommendation of the Plan Commission, the Town Board shall call a public hearing thereon. If the Plan Commission has deferred its report and recommendation, the Town Board shall call a joint public hearing and then provide a reasonable time thereafter for the Plan Commission to meet and formulate its report and recommendation. An additional public hearing shall be scheduled or the joint public hearing shall be adjourned to a date certain subsequent to the filing of the report and recommendation of the Plan Commission in order to allow public comment on the report and recommendation. Notice of the time and place of such hearing shall be given in the manner prescribed under §17.80.
- (7) TOWN BOARD ACTION. As soon as possible after the public hearing or joint public hearing, the Town Board shall cause an ordinance to be drafted effectuating its determination to adopt the rezoning. If not adopted, the rezoning does not become effective and is not required to be submitted for formal action by the County Board.
- (8) PROTEST. In case of a protest against such change, signed and acknowledged by the owners of 20 percent or more of the area of land immediately adjacent extending 100 feet therefrom or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of all the members of the Town Board.
- (9) EFFECTIVE UPON COUNTY BOARD APPROVAL.
- (a)

Any such amendatory ordinance when so adopted by the Town Board shall within 7 days thereafter be transmitted in triplicate by the Town Clerk to the Waukesha County Department of Parks and Land Use for review and recommendation to the Waukesha County Board.

(b) Any such amendatory ordinance shall become effective in the Town upon approval by the Waukesha County Board and by posting as required by law.

PUBLIC HEARING

17.80 - NOTICE.

In order that the owners of property involved and other legitimately interested parties may have fair opportunity to be heard, adequate notice shall be given of any public hearing required by the provision of this chapter stating the time and place of such hearing and the purpose for which the hearing is being held.

17.81 - PROCEDURE.

- (1) PUBLISHING. Except as may be otherwise herein specifically provided, notice of public hearing shall be given by publication once a week for 2 consecutive weeks in the official newspaper or general circulation in the area of the proposed change or conditional use.
- (2) POSTING. (Am. 5/23/16) When the hearing involves a proposed change in the zoning district classification of any property or the granting of a conditional use, one of the notices shall be posted in the vicinity of such proposed change or conditional use where practical, and notice of the public hearing shall be mailed by first class mail to the owners of all lands within 300 feet of any part of the land included in such proposed change or conditional use at least 10 days before such public hearing. The failure of such notice to reach any property owner, provided such failure be not intentional, shall not invalidate any amending ordinance or grant of conditional use.

GENERAL ADMINISTRATION

17.89 - FEES RELATING TO ADMINISTRATION OF THE ZONING CODE.

Petitioners or applicants shall pay a fee for the following listed procedures under this Code to the Town Treasurer at the time of first application for consideration, approval or hearing:

	Activity	Fee
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(1)	Board of Adjustment—Application or petition	\$250.00
(2)	Board of Adjustment—Additional hearings regarding initial application or petition	\$100.00
(3)	Applications for conditional use permits	\$150.00
(4)	Petitions or applications that require public hearings:	
	(a) Fee for public hearing	\$150.00
	(b) Petition for zoning change	\$150.00
(5)	Any application or petition to the Plan Commission not included in the above procedures	\$150.00
(6)	Additional appearances on the initial application or petition to the Plan Commission	\$ 75.00

17.90 - PLAN COMMISSION.

(1) CREATION. A Town Plan Commission is hereby established to consist of the Town Chairman who shall be its presiding officer, a Town Supervisor and 3 citizens, and until such time as the Town has a Town Engineer or a Park Board, 2 additional citizen members, so that the Board has at all times 7 members. Citizen members shall be persons of recognized experience and qualification. They may receive compensation for services on the Commission. The Town Supervisor member of the commission shall be elected by the Town Board upon the creation of the Commission and during each April thereafter. The 3 citizen members shall be appointed by the Town Chairman, subject to confirmation by the Town Board, upon the creation of the Commission, to hold office for a period ending one, 2 and 3 years respectively, from the succeeding first day of May, and thereafter annually during April one such member shall be appointed for a term of 3 years. The additional citizen members, if any shall be appointed by the Town Chairman and confirmed by the Town Board to hold office for a period ending one year from the succeeding first day of May, and thereafter annually during the month of April. Whenever a Park Board is created or a Town

Engineer appointed, the president of such board or such engineer shall succeed to a place on the Board, or such engineer shall succeed to a place on the Board when the term of an additional citizen member shall expire.

- (2) EXPENSES. The Town Plan Commission shall have power and authority to employ experts and a staff, and to pay their wages and such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made for such commission by the Town Board, or placed at its disposal through gift and subject to any ordinance or resolution enacted by the Town Board.
- (3) RULES OF PROCEDURE. The Commission may adopt rules for the transaction business and shall keep a record of its resolutions, transactions, findings and determinations which shall be a public record.
- (4) MASTER PLAN. It shall be the function and duty of the Commission to make and adopt a master plan and from time to time amend, extend or add to the master plan as provided in §62.23(2), Wis. Stats.
- (5) MISCELLANEOUS POWERS OF THE COMMISSION. The Commission may make reports and recommendations relating to the plan and development of the Town to public officials and agencies, public utility companies, civic, educational, professional and other organizations, and citizens. It may recommend to the Town Board programs for public improvements and the financing thereof. All public officials shall, upon request, furnish to the commission within a reasonable time such available information as it may require for its work. The Commission, its members and employees, in the performance of its functions, may enter upon any land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. In general, the Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning.
- (6) MATTERS REFERRED TO TOWN PLAN COMMISSION.
 - (a) In addition to matters specifically required by the ordinance to be referred to the Town Plan Commission, the Town Board shall refer to the Plan Commission for its consideration and report, before a final action is taken by it, the following matters:
 1. The location and architectural design of any public building.
 2. The location of any statue or other memorial.
 3. The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land or lease of land for any street, alley or other public way, park, playground, area for parking vehicles or other memorial or public grounds.
 4. The location, extension, abandonment or authorization for any public utility, whether publicly or privately owned.
 - 5.

All plats of land in the Town or within the territory over which the Town is given platting jurisdiction by Ch. 236, Wis. Stats.

6. The location, character and extent of acquisition, leasing or sale of lands for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children.

7. The amendment or repeal of any ordinance adopted pursuant to §62.23, Wis. Stats.

(b) Unless such report is made within 30 days, or such longer period as may be stipulated by the Town Board, the Town Board may take final action without it.

17.91 - ZONING ADMINISTRATOR.

(1) DESIGNATION. The Town Board shall appoint a Zoning Administrator for the administration and enforcement of the provisions of this chapter under its direction.

(2) DUTIES. In the administration and enforcement of this chapter, the Zoning Administrator shall perform the following duties:

(a) Accept and issue the necessary zoning and occupancy and use permits provided the provisions of this chapter and of any applicable building code have been complied with, and make or cause to be made the necessary inspections.

(b) Keep an accurate record of all zoning and occupancy and use permits issued.

(c) Keep accurate records and maps of the zoning ordinance and any amendments or changes thereto.

(3) AUTHORITY. In the enforcement of this chapter the Zoning Administrator shall have the power and authority for the following:

(a) Upon reasonable cause or questions as to proper compliance, to revoke any Zoning or occupancy and use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter, such revocation to be in effect until reinstated by the Zoning Administrator or the Zoning Board of Adjustment.

(b) In the name of the town and with authorization of the Town Board, commence any legal proceedings necessary to enforce the provisions of this chapter including the collection or forfeitures provided for herein.

17.92 - VIOLATIONS.

(1) PENALTIES. Any person who violates, disobeys, omits, neglects, refuses to comply with or resists the enforcement of any of the provisions of this chapter or any lawful cease or desist order, sometimes referred to as a Stop Order, issued by the Building Inspector, shall be subject to a forfeiture of not less than \$10.00 and not to exceed \$200.00 for each offense, together with the

costs of the action, and in default of the payment thereof shall be imprisoned in the County Jail for a period not to exceed 6 months, or until such forfeiture costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such.

- (2) ENFORCEMENT BY INJUNCTION. Compliance with the provisions of this chapter may also be enforced by injunctive order at the suit of the Town or one or more owners of real estate situated within an area affected by the regulations of this chapter. It shall not be necessary to prosecute before resorting to injunctive proceedings.
- (3) DECLARED NUISANCES. Any building erected, structurally altered or placed on a lot or any use carried on in violation of the provisions of this chapter is hereby declared to be a nuisance per se, and the Town may apply to any court of competent jurisdiction to restrain or abate such nuisance.

17.93 - REPEAL OF CONFLICTING ORDINANCES.

All other ordinances or parts of ordinances in conflict with the provisions of this chapter are hereby repealed.

17.94 - DECLARATION OF SEVERABILITY.

The sections, subsections and paragraphs of this chapter are hereby declared to be severable. If any section, subsection or 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 the chapter or of the section of which the invalid portion or paragraph may be a part.

17.95 - ADOPTION.

Section 60.62, Wis. Stats., prohibits the adoption of this chapter unless the ordinance has first been approved by the Waukesha County Board. Accordingly, though adopted by way of a codification ordinance pursuant to §66.0103, Wis. Stats., this chapter will not become effective unless and until approved by the Waukesha County Board.

17.96 - EFFECTIVE DATE.

This chapter will be adopted pursuant to §66.0103, Wis. Stats., by way of a codification ordinance, which codification ordinance, notwithstanding its passage, posting and publication as required by law, shall take effect upon approval by the Waukesha County Board pursuant to §60.62, Wis. Stats.