

Chapter 82

ZONING*

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ARTICLE I.

IN GENERAL

Sec. 82-1. Intent.

(a) This chapter is enacted to regulate the height, location and size of buildings; to classify and regulate the use of buildings and lands according to their specific characteristics; to regulate the density of population and the use of lot area; to regulate and determine the areas of open space surrounding buildings; to divide the town into districts of such number, shape and area to carry out the regulations of this chapter; to provide for the administration and enforcement of this chapter; and to prescribe penalties for the violation of the provisions of this chapter.

(b) In order to amend and reenact, as hereinafter set forth, that Ordinance known as the Zoning Ordinance of the Town of Mukwonago adopted April 16, 1953, and all amendments thereto, the Town Board of the Town of Mukwonago, Waukesha County, Wisconsin, does ordain the repeal of said ordinance and in place thereof does ordain the following:

(Ord. of 5-9-1983)

Sec. 82-2. Purpose.

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

(Ord. of 5-9-1983, § 1.01)

Sec. 82-3. General information.

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 law; provided, however, that where this chapter imposes a greater restriction upon the use of building or premises, or upon the height, location, or size of a building, or upon the open space requirements, the provisions of this chapter shall govern.

(Ord. of 5-9-1983, § 1.02)

Sec. 82-4. Definitions.

(a) *General interpretation.* For the purpose of this chapter and when not inconsistent with the context; words used in this chapter, in the present tense include the future, in the singular number include the plural, and in the plural number include the singular. The term "structure" includes buildings, while the terms "occupy," "used," and "inhabit" include design or intent to be occupied, used, or inhabited, and the term "shall" is always mandatory, not merely permissive. The term "board" refers to the town board of supervisors under the jurisdiction of this chapter. Reference to the "plan commission" indicates the local town plan commission established under village powers pursuant to Wis. Stats. § 62.23, the "town park commission" established pursuant to Wis. Stats. § 60.66, or any other agency created by the town board and authorized by statute to plan planned land use. Any reference to an officer (such as "clerk," "building inspector," "engineer," or "attorney") means that officer appointed or otherwise officially designated by the town board in such capacity, unless otherwise specifically designated.

(b) *Specific words and phrases.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult cabaret means a cabaret which features topless dancers, strippers, male or female impersonators, or similar entertainers.

Adult entertainment means 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 means, 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 means 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 bookstore means an establishment having as a substantial or significant portion of its stock in trade, for sale, rent, lease, inspection or viewing, books, films, videocassettes, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or related to specified anatomical areas as defined in this section, or an establishment with a segment or section devoted to the sale, rent and display of such material.

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

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

Apartment means 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.

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

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

Base setback line means the ultimate street line as established by section 82-22, and from which all required setbacks shall be computed.

Basement means a story partly underground which, if occupied for living purposes, shall be counted as a story for purposes of height measurement, but limited as to meeting minimum floor area requirements per section 82-24.

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

Boathouse means a structure located close to the ordinary high water mark and designed for the storage of boats. Normally used in the daily use activities of lakefront property and 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 permanent foundation extending below the frost line or on a concrete slab and contain at least 200 square feet in area. Under no circumstances may the boathouse be used for human habitation.

Boat livery means a tract of land together with associated structures on land and in the water where boat mooring, anchoring and/or dry land boat storage is provided for boat owners for a fee. See *Marina*.

Building means any structure used designated or intended for the protection, shelter or enclosure of persons, animals or property.

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

Building, height of, means the vertical distance from the average established street grade in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.

Building, principal, means the main building on a lot, intended for primary use as permitted by the regulations of the district in which it is located. Any building intended to be used for human habitation shall constitute the principal building.

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

District means a section of the town for which the regulations governing the height, area and the use of building and premises are the same.

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

Dwelling, multiple, means a building or portion thereof designed for and occupied by more than two families, including duplexes, row houses, condominiums, apartment houses and apartment hotels. (two + DU).

Dwelling, one-family, means a detached building designed for and occupied exclusively by one family (one DU).

Dwelling, two-family, means a detached or semi-detached building designed for and occupied exclusively by two families (two DU).

Family means the body of persons who live together in one dwelling unit (DU) as a single housekeeping entity.

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

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

Farm, pig, means a tract of land devoted principally to the raising and feeding of pigs and hogs.

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

Feed lot means a lot or facility used or proposed to be used for the confined feeding and/or holding of animals where the number and kind of animals exceed 75 units per acre of confined area. One animal unit shall be equivalent to 1,000 pounds of live animal weight, and the acreage used to compute the density shall include all fenced areas, pens, yards or similar uncovered structures and all covered enclosures where the animals are enclosed for 30 or more continuous 24-hour days per year. Dairy farm operations utilizing seasonal winter confinement of livestock shall be excluded from this definition unless deemed contrary by the town board. The intent of this definition is to clearly distinguish the feed lot type of farming situation which concentrates large numbers of livestock on small acreage from the more general type of farm operation in which cultivation and livestock grazing or feeding is conducted on a smaller scale. It is not the intent of this definition to prohibit these kinds of operations, but to recognize the potential as a pollution source and to effectively control it.

Flood means a temporary rise in the stream flow or change in lake level that results in water over-topping the boundaries of its channel and inundating areas adjacent to the stream channel or lake bed.

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

Floodproofing means any combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the purpose of reducing or eliminating flood damage to the properties, water and sanitary facilities, structures and contents of buildings in flood hazard areas. Any such measures shall be certified by an architect or engineer as conforming to these requirements.

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

Floodway means those floodplain areas including the channel required to carry and discharge the 100-year reoccurrence interval flood.

Floor area means the maximum horizontal projected area within the perimeter of the outside surface of walls or supports of the building or structure, and as further described in section 82-24(a).

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

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

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

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

Garage, storage, means 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, means 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.

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

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

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

Horticulture means the culture of growing and cultivating fruits, flowers and related plant material.

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

Human habitation means utilizing 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.

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

Kennel, commercial, means an establishment, structure or premises where dogs or other household pets are raised, sold, bred, boarded, trained or groomed for commercial purposes. The raising and selling of three or more litters of animals per year shall constitute a commercial kennel.

Kennel, hobby, means a noncommercial establishment, structure or premises, accessory to the principal use of the property where more than the number of regulated household pets, six months minimum of age as are permitted by right are kept for such purposes as pets, field trials, shows or hobbies. The occasional raising of not more than two litters of dogs per year on a premises for sale or disposal of such dogs, within six months of such birth shall not be considered a hobby kennel.

Living area means the occupied or usable floor area in a building designed and built with necessary ceiling, flooring, electrical, heating and plumbing facilities to accommodate normal human habitation.

Lodginghouse means a building where lodging only is provided for compensation and having not more than five sleeping rooms for this purpose.

Lot means 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. Such parcel shall be exclusive of any land lying in a public right-of-way, mil tax road, public streams, or other public water body. Where such streams or public rights-of-way divide a single described parcel into two or more parts, such severed portions shall be considered separate individual lots provided they meet the use, building location and area regulations of the zoning district in which they are located. Where such separate parcels do not meet these requirements they, in combination, shall be considered to be a single lot for regulatory purposes, computation of area requirements and other locational provisions of this chapter.

Lot area means the area of a lot and bounded by lot lines exclusive of land provided by public rights-of-way, mil tax road, public streams or other public bodies of water.

Lot depth means the mean horizontal distance measured between the street line and the opposing rear line or lines of the lot.

Lot lines means the lines bounding a lot.

Lot line, side, means a lot line extending from a street line towards the interior of the lot block and separating adjoining lots.

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

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

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

Navigable river or stream means those rivers and streams shown as perennial on the U.S. Geological Survey topographic maps of 1959 and 1960.

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

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

Patio means a flat, open, horizontal surface or platform located on the grade of the land and not considered to be a structure as defined and regulated in this chapter.

Planned unit development (PUD) means a method of developing a property through design of all components as a planned unit which satisfies the use, access, sanitation, building, and environmental regulations without the use of standardized zoning restrictions.

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

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

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

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

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

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

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

Pyramiding means the act of obtaining or providing access to public bodies of water across private lots or lands in a manner which increases the number of families which have access to the water to a greater degree than would have occurred with individual riparian owners having individual lots fronting on the water. Publicly owned access points shall not fall within this definition.

Quarrying means the removal of rock, slate, gravel, sand, topsoil, or other natural material from the earth by excavating, stripping, leveling, or any other such process for commercial purposes and personal gain.

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

Recreational vehicle means a vehicle that includes a cabin for living accommodations and is commonly used for recreational travel and touring. Vehicles included in this category include travel trailers, tent trailers and camping trailers, all of which must be towed by another vehicle, as well truck campers, motor homes and camper vehicles, all of which have a motor within the body of the vehicle and are self-propelled.

Refuse disposal site means a tract of land operated, subject to restrictions of use and under supervision, by a public or private agent where more than one family may take all types of refuse, including organic and inorganic wastes (but excluding human excretions and sewage and/or other liquid waste), for compacting and burial by sanitary landfill methods. Hard or clean fill operations involving material such as foundry sand, dirt, gravel, concrete, or other forms of clean fill material shall not be required to conform to the provisions of section 82-21.

Regulated household pets. All dogs and potbellied pigs are regulated household pets.

Remodeling means any structural alterations, additions, modifications, rebuilding or lateral enlargements of any such existing structures, 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 require structural alterations to the basic structures. Ordinary maintenance repairs, including painting, decorating, panelling, replacement of doors, windows, and other nonstructural components shall not be considered remodeling.

Restaurant means any building, room or place wherein meals or lunches are prepared, served, or sold to transients or the general public, and all places used in connection therewith. Meals or lunches shall not include soft drinks, ice cream, milk, milk drinks, ices, and confections. The serving in taverns of free lunches, consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish, or bread and butter shall not constitute such taverns to be restaurants. The term "restaurant" shall not apply to structures used by religious, social, 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.

Road means a public or private right-of-way usually affording primary access to abutting property.

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

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

(Ord. 2007-3 § 1 1/18/07)

Sand or gravel pits. See *Quarrying*.

Setback means 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, shore, means the horizontal distance between the average annual high water mark of a lake or stream, or the established floodplain location if available, and the closest point of a principal or accessory building.

Sign means any structure or device displaying advertising in the form of lettering, pictures, symbols or other media.

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

Special exception means a specific approval that may be granted by the town plan commission as specifically set forth in subsection 82-22(a)(10), to allow a property owner to deviate from otherwise applicable provisions of this chapter, in compliance with such procedures, restrictions and conditions as may apply to the special exception as described in subsection 82-22(a)(10).

Specified anatomical areas means:

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

Specified sexual activities means simulated or actual:

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

Stables means:

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

Story means that portion of a building included between the surface of a floor and the surface of the floor next above it; or, if there be no floor above it, then 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.

Street. See Road.

Street frontage means a street contiguous and parallel to a traffic artery and

affording direct vehicular access to abutting property.

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

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

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

Structural alterations means any change in the supporting members of a building or any substantial change in the roof structure or in the exterior walls.

Sustained yield forestry means the management of forested lands to provide annual or periodic crops of forest products.

Swimming pool means a structure designed to hold water more than 18 inches deep for the purpose of swimming.

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

Trailer park and mobile home park mean any tract or parcel of land upon which two or more trailers, camp cabins, house car, or other mobile homes are located, or trailer camp sites are provided, for the purpose of either temporary or permanent habitation.

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

Traffic artery. See *Highway*.

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

Use, legal nonconforming, means the use of a building or land lawfully carried on at the time of the passage of the ordinance from which this section is derived or amendments thereto, but which does not conform to the use regulations of this chapter.

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

Vegetative buffer plan means a plan designating native shoreland vegetation which is intended to treat stormwater runoff down slope of impervious surfaces or disturbed areas which is designed to remove sediment, nutrients and other particular pollutants, provide screening and privacy from neighbors and recreational waterbody users, as well as nesting places and travel corridors for wildlife.

Vision setback means an unoccupied triangular space at the street corner of a corner lot, as established by section 82-28(a)(2).
(Ord. of 5-9-1983, §§ 2.01, 2.02; Ord. No. 95-1; Ord. No. 95-3B, §§ 1, 2, 5-8-1996; Ord. No. 98-4, §§ 1, 2, 6-10-1998; Ord. No. 99-1, § 1, 5-20-1999; Ord. No. 2001-6, §§ 1--4, 10-29-2001; Ord. No. 2003-1, § 1, 1-15-2003; Ord. No. 2004-4, § 1, 3-11-2004; Ord. No. 2004-9, § 1, 6-9-2004; Ord. No. 2004-10, § 1, 8-11-2004; Ord. No. 2005-4, §§ 1--3, 7-28-2005; Ord. No. 2006-1, §§ 1--7, 1-3-2006)

Cross reference--Definitions generally, § 1-2.

Sec. 82-5. 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, and the adopted subdivision control ordinance.
(Ord. of 5-9-1983, § 3.01)

Sec. 82-6. Building and zoning permit.

(a) *Required.* No building shall be erected, structurally altered, or relocated until a building and zoning permit has been issued by the building inspector, certifying that such building, as proposed, would be in compliance with the provisions of this chapter and with the chapter 14, regarding buildings and building regulations.

(b) *Application.* An application for a building and zoning permit shall be made to the building inspector. Such application shall be in accordance with section 82-7(b).

(c) *Issuance.* Building and zoning permits shall be issued by the building inspector and conform to the provision of section 82-7(c).
(Ord. of 5-9-1983, § 3.02)

Sec. 82-7. Use permit.

(a) *Required.* No vacant land shall be occupied or used except for agricultural purposes, and no building shall be hereafter erected, structurally altered, relocated, used, or occupied until a use permit has been issued certifying that any such building, use, or occupancy complies with the provisions of this chapter. This permit shall be obtained before any change is made in the type of use or before any nonconforming use is resumed, changed, extended or granted conditional use status pursuant to section 82-32(c).

(b) *Application.* All permits shall be applied for from the building inspector. Application for a use permit shall be made prior to or at the same time as the application for a building and zoning permit. All necessary permits shall be prepared in triplicate and shall include for the purpose of proper enforcement of this chapter the following data:

- (1) A statement by the applicant as to the intended use of the premises and of any existing or proposed buildings thereon.
- (2) An accurate map of the property drawn to a reasonable scale and properly dimensioned showing:
 - a. The boundaries of the property involved.
 - b. The location of the centerline of any abutting streets.

- c. The location on the lot of any existing buildings, proposed additions or new buildings, including the measured distances between buildings, lot lines and street lines measured to the nearest portion of such buildings.
 - d. The proposed floor elevation of any proposed buildings in relation to the existing and/or established grade of any abutting streets.
 - e. The high water line of any stream or lake on which the property abuts.
 - f. The proposed locations of the septic systems and private wells.
- (3) Where the use involves human occupancy, a plan of the proposed sewage disposal system approved by the county through issuance of a county sanitary disposal permit when a private system is proposed.
 - (4) Fees shall accompany each application for a permit in accordance with the established township fee schedule, and such payment shall be made to the building inspector.
- (c) *Issuance.* Building and zoning and use permits shall be issued by the building inspector after adequate investigation as to compliance.
 - (1) *Building and 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 certification that such permit has been issued shall be posted in a prominent place on the premises during the period of any construction involved in readying the land or buildings for occupancy.
 - (2) *Use permit.* Within ten days after the notification of the completion of the erection, alteration, or relocation of a building, or of intent to commence a use, the building inspector or his deputy shall make an inspection of the premises and any buildings thereon, and if such building, use, or occupancy comply with the requirements of this chapter and chapter 14, regarding buildings and building regulations, a use permit shall be issued.
 - (d) *Expiration.* If, within six months of the date of issuance of a building and zoning permit, the proposed construction has not commenced, or if within 24 months a use permit has not been issued, such building and zoning permit shall expire, except that, upon showing of valid cause, the town board may grant an extension of such permit for a period not to exceed six months.
 - (e) *Temporary use permit.* Pending the issuance of a regular permit, a temporary permit may be issued for a period not exceeding six 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 ensure the safety of the occupants. A temporary permit shall be voided if the building fails to conform to the provisions of this chapter. (Ord. of 5-9-1983, § 3.03)

ARTICLE II.

BULK, AREA, HEIGHT AND USE REGULATIONS

Sec. 82-8. Site regulations; building must be on a lot.

Every building hereafter erected, structurally altered, or relocated shall be located on a lot and in no case, except in general business, limited industrial, general industrial, and agricultural districts, and planned unit developments, shall there be more than one principle building on a lot, except as provided below. The principal building, as herein described, shall be built first in all districts. In any district where a building other than a residence is considered principal, such construction shall be subject to the prior approval of the town board. The town board may allow the issuance of a new residential home building permit and the occupancy of an existing residential structure on a parcel for one continuous two-year period, subject to specific town board approval and the following conditions:

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

(Ord. of 5-9-1983, § 3.04(1); Ord. No 2002-8, § 1, 2-13-2002; Ord. No. 2003-8, § 1, 12-10-2003)

Sec. 82-9. Lot must abut public street for full required width; exceptions.

(a) *Generally.* A principal building shall not be permitted on a tract of land, which does not abut on a public street unless authorized by subsection (b) of this section. A lot shall only be considered to be abutting on a public street if:

- (1) The lot abuts a public street for at least 60 feet; and
- (2) Either of the following is true:
 - a. The lot meets the minimum average width requirement of the zoning district in which it is located at the building setback line; or
 - b. One-half the depth of the lot is at least the minimum average width of the zoning district in which it is located; and
- (3) Provided that a lot which has a narrow strip as part of the lot extending to the public street from the main part of the lot where the building could lawfully be placed, shall only be considered to be abutting on the public street if the narrow portion of the lot is as wide as the required minimum average width for the district in which it is located.

(b) *Exceptions; flag lots, Private Streets and Easements.* While the town will generally not permit the creation of flag lots, or the utilization of private streets or easements to access tracts of land, there are situations where the Town may allow the creation of flag lots, and there are situations existing as of December 1, 1990, in the town that the town may treat as exceptions for the prohibition against the use of private streets and there are situations existing as of January 1, 2002, in the Town of Mukwonago, or in order to implement the Town's Park and Open Space Plan or the Waukesha County County Development Plan Park and Open Space Element, may be treated by the Town as exceptions from the prohibition against the use of easements or flag lots.

- (1) *Flag lots.* Subject to the approval of the Plan Commission and Town Board, a principal building may be permitted on a tract of land which does not abut a public street, if the tract of land abuts the public street by a narrow strip of land which is an ownership strip and a part of the lot as long as, at a minimum, all of the following requirements are satisfied:
 - a) Provided such tract of land excluding the narrow portion of the same tract providing access to the public street conforms to the minimum lot area of the district in which it is located.
 - b) Provided such tract of land which has a narrow strip of land is at least 33 feet wide where it abuts the public street and for its entire length;
 - c) Provided such tract of land is recorded as a certified survey map or plat, in accordance with the Town Subdivision Control Ordinance.

- d) Provided such tract of land has or will have a paved or graveled driveway for a width of 12 feet from the road right-of-way to the area of the proposed residence and said driveway is in compliance with all applicable laws, including with regard to the grade requirements of the Town of Mukwonago Building Code, and it does not impact the natural flow of surface water, or if the narrow strip of land is to be used to access a parcel which is designated for public ownership or to be owned by a Private Conservation Organization in order to implement the Town of Mukwonago's Park and Open Space Plan or the Waukesha County Development Plan Park and Open Space Element.
 - e) Provided such tract of land does not conflict with the plans for the future development of streets in the area or the "Official Map for the Town of Mukwonago."
 - f) In the case of the access provided to implement the Town of Mukwonago's Park and Open Space Plan or the Waukesha County Development Plan Park and Open Space Element, the Town may place certain restrictions so as to prohibit a conflict with adjacent neighborhoods.
 - g) In order to determine if there is a conflict with plans or future development in the area, the Applicant may be required by the Town of Mukwonago Plan Commission to provide a neighborhood development plan showing street extensions and street patterns as they relate to topography, environmental features, drainage patterns, existing structures and parcels, and soils suitable for development for review by the Plan Commission. In no case, shall there be more than one residence allowed on such tract of land.
- (2) *Private streets.* In situations where there is as of December 1, 1990, an existing private street right-of-way of sufficient width as provided below and there are in existence separate recorded tracts of land already created fronting upon said private right-of-way, in that situation the Town may permit the private right-of-way to become legal access for these existing separate recorded tracts of land to be served by said right-of-way on the following terms and conditions:
- a) The Plan Commission determines that the subject tract of land existed as a tax key number prior to December 1, 1990.
 - b) The Plan Commission finds that it is in the best interest of the Town to certify the tract of land as a legal parcel.
 - c) The Plan Commission finds that the subject tract of land conforms to the minimum lot area, lot dimensions, lot width, lot sizes, building locations and building sizes of the district in which it is located.

- d) The Plan Commission finds that the subject tract of land has access by a permanent easement on said private street of at least 33 feet in width to a public street, or where more than one principal residence or lot is proposed, the easement for such access shall be at least 66 feet in width.
 - e) The Plan Commission has determined that the property owner has placed a deed restriction on the property in a form as approved by the Town Attorney giving notice that access is by way of a private street or way. Said deed restriction must be legally recorded with the Register of Deeds.
 - f) The Plan Commission has determined that the ownership of the private street is clearly determined, that the private street or way will be maintained, that a written property maintenance agreement in a form satisfactory to the Plan Commission is on file with the Town, and that all property owners are advised as to their responsibilities for maintenance of the private street or way. Said agreement must be legally recorded with the Register of Deeds.
 - g) The Town Board approves a certified survey map for the subject land, which is then recorded in the office of the Waukesha County Register of Deeds, unless the land division was previously made by CSM or plat, which was approved by the Town Board in accordance with the Land Division and Development Control Ordinance and recorded. (Ord. 2006-5 § 1 11-1-06)
- (3) *Easements.* In situations where there is as of January 1, 2002, an existing easement of sufficient width as provided below and there is in existence a separate recorded tract of land served by such easement, or where a land division is to occur in order to implement the Town of Mukwonago's Park and Open Space Plan or the Waukesha County County Development Plan Park and Open Space element, the Town may permit the easement to become legal access for such tract of land to be served by said easement on the following terms and conditions:
- a. The Plan Commission determines that the subject tract of land existed prior to January 1, 2002, as a legally created parcel in accordance with the requirements of the Zoning Ordinance and Land Division & Development Control Ordinance in effect at the time it was created, and was a parcel having a separate tax key number prior to January 1, 2002 or is a parcel which is to be created in order to implement the Town of Mukwonago's Park and Open space Plan or the Waukesha County County Development Plan Park and Open Space Element.
 - b. The Plan Commission finds that it is in the best interest of the Town to certify the tract of land as a legal parcel.

- c. The Plan Commission finds that the subject tract of land conforms to the minimum lot area, lot dimensions, lot width, lot sizes, building locations and building sizes of the district in which it is located or implements of the Town of Mukwonago's Park and Open Space Plan or the Waukesha County County Development Plan Park and Open Space Element.
- d. The Plan Commission finds that the subject tract of land has access by a permanent easement of at least thirty-three (33') feet in width to a public street, or where more than one principal building or lot is proposed, the easement for such access shall be at least sixty-six (66') feet in width or has adequate width in order to accommodate access to the public or for maintenance equipment on parcels which are created in order to implement the Town of Mukwonago's Park and Open Space Plan or the Waukesha County County Development Plan Park and Open Space Element.
- e. The Plan Commission determined that the property owner has placed a deed restriction on the property in a form as approved by the Town Attorney giving notice that access is by way of an easement. Said deed restriction must be legally recorded with the Register of Deeds.
- f. The Plan Commission has determined that ownership of the easement is clearly determined, that the easement will be maintained, that a written property maintenance agreement in a form satisfactory to the Plan Commission is on file with the Town, and that all property owners are advised as to their responsibilities for maintenance of the easement. Said agreement must be legally recorded with the Register of Deeds.
- g. The Town Board approves a certified survey map for the subject land, which is then recorded in the office of the Waukesha County Register of Deeds, unless the land division was previously made by CSM or plat, which was approved by the Town Board in accordance with the Land Division and Development Control Ordinance and recorded.

(Ord. of 5-9-1983, § 3.04(2); Ord. No 2002-10, § 1, 2-22-2002) (Ord. 2006-7, § 2.03, 6/21/06)

Sec. 82-10. No undesirable structures or uses.

No building or structure shall be erected, structurally altered or relocated, and no lumber, materials, furniture or other equipment shall be stacked, piled or stored in a manner which shall be of such character as to have a substantial adverse effect on the property values or general desirability of neighborhood.

- (1) The building inspector shall submit any such case in question to the plan commission for its determination.
- (2) The plan commission shall base its determination upon the following considerations:
 - a. Design or appearance of such unorthodox or abnormal character in relation to the surroundings as to be considered unsightly or offensive to the degree that would have a substantial adverse effect on the property values and general desirability of the neighborhood.
 - b. Identical design and appearance with proximate buildings to the degree that monotony and commonness would have a substantial adverse effect on the property values and general desirability of the neighborhood.
- (3) The decision of the plan commission shall be stated in writing, including the reason for refusing a permit or any conditions of approval.
(Ord. of 5-9-1983, § 3.04(3); Ord. No. 2000-1, § 1, 1-12-2000)

Sec. 82-11. Street grade.

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

(Ord. of 5-9-1983, § 3.04(4))

Sec. 82-12. 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 the natural beauty of the landscape, no change in the existing topography shall be made which would affect drainage or increase the slope to a ratio greater than three horizontal to one vertical, within a distance of 20 feet from the property line. Exceptions to this requirement, including retaining walls, may be permitted with the written consent of the abutting property owner and the approval of the plan commission. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.

(Ord. of 5-9-1983, § 3.04(5))

Sec. 82-13. Sedimentation control.

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

(Ord. of 5-9-1983, § 3.04(6))

Sec. 82-14. Junked vehicles.

A motor vehicle which is no longer licensed, which has been abandoned, disassembled, is nonoperable, disabled, junked, or wrecked shall not be stored anywhere on any premises except in an authorized salvage yard, or is completely enclosed in a structure.

(Ord. No. 2000-1, § 2(3.04(7)), 1-12-2000)

Cross References: Junked and abandoned vehicles, § 70-61 et seq.

Sec. 82-15. Drainage regulations.

(a) *Adequate drainage required.* No principal building shall be erected, structurally altered or relocated on land which is not adequately drained; subject to periodic flooding; or subject to a seasonable high groundwater where the lowest floor level will be less than one foot above the highest groundwater level. The determination of the seasonable high groundwater level shall be made by the building inspector based upon data furnished by the owner. Disagreements between the owner or his agent and the building inspector shall be sent to the board of adjustment.

(b) *Obstruction to drainage prohibited.* The damming, filling or relocating of any surface water drainage channel or natural watercourse shall not be permitted except with approval of the town board and the state department of natural resources, when applicable.

(c) *Building restricted adjacent to drainage channels or watercourses.* No building other than a bridge, dam, boathouse, or revetment, subject to approval, shall be erected, structurally altered, or relocated within 75 feet of the 100-year flood level or conservancy line.

(Ord. of 5-9-1983, § 3.05)

Sec. 82-16. Sanitation and water supply.

(a) *Safe sewage disposal possible.* No principal building shall be erected, structurally altered or relocated unless it has been certified by the building inspector or plumbing inspector that it conforms to all town ordinances and other governmental laws or regulations then applicable to sewage disposal systems, and that satisfactory evidence has been submitted to show that suitable provisions for disposal of sewage is possible. A county septic system permit shall be required for all new private systems. Certification from the county health department verifying the soil's suitability to meet standards shall be furnished when a specific system is not being proposed. (Explanatory note: While every attempt has been made, through control of minimum lot size, building location and

plumbing standards to ensure that proper disposal of sewage will be provided on any lot, it is recognized that no such standard will completely ensure adequate disposal in every situation. This section has been written for the purpose of giving the community the authority to require whatever additional provisions are necessary to prevent a sanitary problem from developing in a situation where the normal requirement will not ensure proper sewage disposal.)

(b) *Outhouses prohibited.* No outhouse or privy shall be hereafter erected.

(c) *Water supply required.* No occupancy permit shall be issued for a building used for residence purposes unless provision is made for a safe and adequate supply of water, or connection is to be made to an approved municipal or community water system.

(d) *Reduction in lot size, width, open space, floor area ratio and offset requirements.* In the case of any lot proposed to be served by a municipal or municipally approved communal sewerage system or water system, and where such service would be provided prior to any occupancy of such lot, the town board may reduce the lot size, width, open space, floor area ratio and offset requirements applicable to such lot, upon recommendation of the plan commission following public hearing. Notice of such hearing shall be given by official publication and by direct notice to owners of any contiguous property as listed on the previous tax roll, at least ten and not more than 30 days before such hearing. In making such recommendations the plan commission shall give particular consideration to the following and shall make written finding of facts relative thereto:

- (1) The suitability of soil, terrain and water level conditions with regard to effective provision of individual sewage disposal or water supply, with careful consideration of economic and practical engineering aspects involved in the future probability or necessity of providing municipal sewerage or water service in the area.
- (2) The effect of any reduction in the lot size, width, open space, floor area ratio and offset requirements on the character and value of surrounding development.
- (3) The effect of any such reduction on the overall density pattern and the economic balance of land use in the community.

In the case of reductions involving two or more lots, different provisions may be established for individual lots to meet special circumstances and to carry out the intent of the considerations listed in this section. In no case, however, shall the lot size, width, open space, floor area ratio and offset requirements be reduced by more than one-third.

(Ord. of 5-9-1983, § 3.06)

Secs. 82-17--82-19. Reserved.

ARTICLE III.

CONDITIONAL AND SPECIAL USE REGULATIONS

Sec. 82-20. Use regulations.

(a) *Uses restricted.* In any district, no building or land shall be used and no building shall be erected, structurally altered, or relocated except for one or more of the uses as stated for that district, or as permitted as a conditional use per section 82-21.

(b) *Accessory uses.* In any district, accessory buildings, structures, and uses customarily incident to the permitted uses in that district shall be permitted subject to such requirements as may be designated for that district in which they are located, or as further regulated in this chapter.

(c) *Pyramiding.* No pyramiding as defined in this chapter shall be permitted on any lands fronting on a lake except as may be specifically permitted accessory to a marina or resort and which may be allowed under the terms of a conditional use permit for a planned unit development.

(d) *Unclassified uses.* Any use not specifically listed as a permitted use shall be considered to be prohibited except as may be otherwise specifically provided per section 82-21(d)(34). In case of question as to the classification of a use, the question shall be submitted to the plan commission for determination.

(e) *Additional requirements.* Any use, in any district, which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood may require correction or improvement by such measures as are directed by the town board consistent with reasonable technological and economic practicality.

(Ord. of 5-9-1983, § 3.07)

Sec. 82-21. Conditional Uses.

(a) *Approval required.* Certain uses, which are of such a special nature, or are so dependent on the actual contemporary circumstances as to make impractical the predetermination of permissibility or the detailing in this Ordinance of the specific standards, regulations, or conditions which would permit such determination in each individual situation, may be permitted as conditional uses, subject to such requirements as determined by the Town Board or specified in this Section.

(1) Application

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

- a. A map (preferably a topographic map) in triplicate, drawn to a scale of not less than two hundred (200) feet to one (1) inch, showing: the land in question; its legal description and location; location and use of all existing buildings, sanitary systems and private water supplies on such land; the high water elevation of any navigable waters within one hundred (100) feet of the boundaries of the land in question; the 100-year floodplain or any wetlands or environmental corridors; the proposed location and use of any buildings; sanitary systems and water supplies on such land and within one hundred (100) feet of the land in question.
- b. Names and complete mailing addresses, including zip codes, or the owners of all properties within three hundred (300) feet of any part of the land included in the proposed application unless waived in writing by the Plan Commission per Section 3.
- c. Additional information as may be required by the Town Planner, Town Engineer or the Town Plan Commission.
- d. A fee, as may be established by the Town Board and periodically modified, shall accompany each application. Such fees shall be paid to the Town of Mukwonago to defray the cost of official notification and posting of the public hearing. Cost incurred by the Town in obtaining legal, planning, engineering, publication, and notice requirements, and other technical and professional advice in connection with review of the Conditional Use applications and preparation of conditions to be imposed on such uses shall be charged to the applicant, and if required by the Town, a pre-payment deposit covering the costs shall accompany the application.
- e. Where necessary, to comply with certain regulations established by applicable laws, applications shall be required to be submitted to the other governmental bodies having jurisdiction which may include the State Department of Natural Resources and/or the U.S. Army Corps of Engineers.

(2) **Public Hearing**

Upon receipt of the application, the foregoing data and fees, the Town Planner shall establish a date for a joint public hearing by the Plan Commission and Town Board, or its designee, and shall publish notice of said hearing once each week for two (2) consecutive weeks in a newspaper of general circulation in the area of the proposed Conditional Use. Notice of the public hearing shall be given by certified mail to the owners of all lands within three hundred (300) feet of any part of the land included in such Conditional Use at least seven (7) days before such public hearing unless waived by the Plan Commission as follows. If the applicant is a governmental entity or group of property owners and the area affected by the proposed Conditional Use is so large such that the Plan Commission finds the certified mail notice to the owners within three hundred (300) feet to be unnecessarily burdensome, the Plan Commission may waive the certified mail notice requirement.

A copy of the notice of public hearing along with pertinent information relative to the specific nature of the matter (copy of application and map) shall be transmitted without delay to any other governmental agencies having jurisdiction by certified mail not less than then (10) days prior to the date of the hearing. Testimony of all interested parties will be received at the public hearing and the Plan Commission shall take action within a reasonable time to either recommend approval or denial of the application along with any recommended conditions of approval or reasons for recommending denial. The action of the Plan Commission, and any conditions made applicable thereto, shall then be sent in writing to the Town Board.

(3) **Final review and approval**

The Town Board shall review the proposal as submitted along with requirements as may be established or recommended by other governing bodies having jurisdiction and the recommendation of the Plan Commission. The Town Board shall approve or deny the application. If the Town Board approves the Conditional Use, any conditions as may be deemed necessary by the Town Board shall be made an integral part of the permit. The applicant shall comply with these conditions, and any failure to comply with the conditions set forth in the permit shall constitute a violation of the terms of the Conditional Use Permit. Such violation shall constitute a violation of this Ordinance and will be subject to prosecution and penalties under the terms of this Ordinance.

(4) ***Basis of approval.***

The determination of whether to approve or deny or conditionally approve such Conditional Use shall be made by the Town Board, and shall be based on the consideration of whether or not the proposed use will:

- (1) Violate the spirit or intent of the adopted Town of Mukwonago Land Use Plan or this Ordinance;
- (2) Be contrary to the public health, safety or general welfare;
- (3) Be hazardous, harmful, noxious, offensive or a nuisance by reason of appearance, noise, dust, smoke, odor or other similar factors.

Except as may be specifically otherwise provided, any such use shall conform to any building location, height, and area regulations of the district in which it is located. The Town Board may also require compliance with such other conditions as may be deemed necessary by the specific situation. Where it is required that building plans, site plans and plan of operation be submitted to the Town Plan Commission or Town Board, such plans shall include such detail as the Town Board and Plan Commission may require, to enable the Town Board and Plan Commission to make their determination.

(5) **Determination**

The action of the Town Board shall include reasons for approval or denial. Any approval shall include: an accurate description of the use permitted, the property on which permitted, and any conditions made applicable thereto. If a Conditional Use Permit is approved, it shall be issued upon compliance with all conditions of approval and the recording of the Conditional Use Agreement in the Waukesha County Register of Deeds Office. The Conditional Use Agreement must be signed by the owner and applicant, and the Town Clerk and Town Chair. The grant of such status shall be applicable solely to the structures, use and property so described. Indication shall also be made on the Zoning Map by the appropriate code number or symbol.

(6) **Application for change or extension of Conditional Use Permits**

Any change, addition, modification, alteration and/or amendment of any aspect of a Conditional Use granted by the Town Board, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, other than as specifically authorized by the Conditional Use permit conditions, shall require a new permit and all procedures in place at the time must be followed. Unless the Conditional Use permit conditions expressly state otherwise, plans that are specifically required by the Conditional Use order may be amended upon the prior approval of the Plan Commission if the Plan Commission finds the plan amendment to be minor and consistent with the Conditional Use permit. Any change in any plan that the Plan Commission finds in its sole discretion to be substantial shall require a permit, and all procedures in place must be followed.

(7) **Termination of Conditional Use status**

Conditional Use status may be terminated as follows

- (1). The Conditional Use Permit may be terminated on request when the applicant or holder of the Conditional Use and the property owner make a request in writing to the Town Board that the Conditional Use be terminated and the Town Board agrees to terminate said Conditional Use Permit and notice of said termination of the Conditional Use Permit is recorded in the Waukesha County Register of Deeds office; or

- (2). The Conditional Use Permit may be terminated after public hearing and a class 2 notice is published, and notice is provided to the applicant or holder of the Conditional Use Permit and the owner of the subject property, upon the Town Board determining 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 if the Conditional Use itself causes it to be no longer compatible with surrounding uses.
 - c. The Conditional Use has been discontinued for a period of twelve (12) consecutive or eighteen (18) cumulative months during a three-year period. A business of seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e., summer camps, ski hills, quarries, marinas, etc.).

Upon determination or finding by the Town Board that the use must be terminated the owner of the premises shall be required to bring all lands and structures into conformity with the permitted use regulation of the Zoning District in which the property is located within sixty (60) days from such determination, unless such time is extended by mutual agreement of the Town Board and the owner. Upon determination or finding by the Town Board that changes in use or conditions of use are found to be more appropriate by the Town, any changes or required improvements or changes to use or operation as set forth by the Town Board, shall be made within sixty (60) days unless such time is specifically extended by mutual agreement of the Town and owner.

(Ord. 2006-6 § 1 2-23-09)

- (d) *Conditional uses permitted.* Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted as conditional uses in the districts specified, provided that a public hearing per section 82-267, shall be held by the town board before approval for any such conditional use is granted. All references, in this section, to residential districts shall include the rural home and suburban estate districts, unless otherwise noted.
- (1) *Adult-oriented establishments.* In the B-3 general business district, subject to the following:
- a. The building, site plan and plan of operation have been submitted to and approved by the plan commission.
 - b. A license to operate an adult-oriented establishment has been issued for the subject property.
 - c. No adult-oriented establishment shall be located within 1,000 feet of any public or private school, church, religious institution, daycare center or Public Park. No adult-oriented establishment shall be located within 500 feet of any residential district or any other adult-oriented establishment. The distances noted in this subsection shall be measured in a straight line without regard to intervening structures or objects from the closest point of the structure or portion of the structure occupied or proposed for occupancy by the adult-oriented establishment to the nearest point of the parcel of property or land use district boundary from which the proposed land use is to be separated.
- (2) *Agricultural businesses including fur farms, pea vineries, creameries, food mills, egg production facilities, commercial greenhouses and condenseries.* In agriculture, business or industrial districts subject to the following:
- a. The building plans, 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 five acres in area.
 - c. No building other than one used only for residence purposes shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.
- (3) *Airports, landing field, and take-off strips.* In all agricultural districts, provided the location, building, site plans, and plan of operation have been submitted to and approved by the town board. This use shall be permitted in the A-P and A-T districts only when agricultural in character.
- (4) *Animal hospitals and commercial kennels.* In any district other than residential, restricted business, E-C environmental corridor district, A-E exclusive agricultural district and C-1 conservancy districts.

- a. The building plans, 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 of less than three acres.
 - c. No building other than one used only for residence purposes shall be closer than 100 feet to the lot line of an adjoining lot in a district permitting residential use.
- (5) *Antique shops, gift shops, arts and craft studios and similar uses.* Such uses are permitted by right in any business district and may be allowed as conditional uses in all agricultural and residential Districts except for A-E, A-P, A-T and C-1 and E-C districts, subject to the following:
- a. The site plan, building plans, and plan of operation have been approved by the plan commission.
 - b. The planning commission shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.
- (6) *Arcades and other amusement places.* Such uses are permitted uses by right in B-3 business districts, and may be allowed as conditional uses in B-1 and B-2 districts, subject to the following:
- a. The site plan, building plans and plan of operation have been approved by the plan commission.
 - b. The plan commission shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.
- (7) *Automobile service stations.* In local business or less restrictive districts, subject to the following:
- a. The building plans, site plans and plan of operation shall be submitted to and approved by the plan commission.
 - b. No gasoline pump or other accessory equipment shall be closer than 15 feet to the base setback line.
 - c. No lighting installation shall be permitted which creates a hazard to traffic or a nuisance to surrounding property.
- (8) *Cemeteries and mausoleums for the burial of human remains only.* In any district except E-C, C-1 and A-E districts, subject to approval of the town board, follow the recommendations of the plan commission.

- (9) *Churches, synagogues, and other buildings for religious assembly.* In any district except E-C, C-1 and A-E, A-P, A-T or industrial districts, subject to the following requirements:
- a. The location building, site plan and plan of operation shall be submitted to and approved by the plan commission.
 - b. A floor area ratio of no more than 50 percent is allowed.
(Ord. 2007-2 § 1 12-01-06)
 - c. Off-street parking be provided for one automobile for each four seats providing 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 setback and offset shall be increased two for each additional foot of height in excess of the permitted maximum in the district. The height regulation shall not apply to the spire or belfry of a church except where airport safety zoned regulations specifically limit the maximum height.
- (10) *Commercial fish, bait, ponds or hatcheries.* In any district other than an environmental corridor district subject to the following:
- a. The building plans, 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 five acres in area.
 - c. No building other than one used only for residence purposes shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.
- (11) *Commercial stables.* Such uses are permitted uses by right in the EFO, A-E, A-P, A-T and A-1 districts on parcels 20 acres or greater in size, such uses are not permitted uses and may not be allowed as conditional uses on any size parcel in the C-1, R-1, R-2 and R-3 districts, such uses may be permitted as conditional uses in the EFO, A-E, A-P, A-T and A-1 districts on parcels of less than 20 acres, such uses may be allowed as conditional uses in the R-H, S-E, B-1, B-2, B-3, M-1 and M-2 districts subject to the following:
- a. The building plans, site plans, plan of operation and refuse disposal plan shall be submitted to and approved by the plan commission.
 - b. No buildings other than one used only for residential purposes shall be closer than 100 feet to the lot line of any adjoining lot in a district permitting residential use.

- c. The plan commission shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.
 - d. Generally, not more than one horse or other head of livestock should be kept for each full open acre over two acres of open lot area, unless the plan commission makes a specific finding that the subject parcel can maintain a greater number of livestock based on the proposed building plans, site plans, plan of operation and refuse disposal plan.
 - e. The keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
- (12) *Commercial truck parking.* In all residential, agricultural, B-1 and B-2 business districts, subject to the recommendation of the plan commission following an informal hearing per section 82-27(c)(3) and the following conditions:
- 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 major collector street, as defined in the county established street and highway width map.
 - b. No more than one such vehicle shall be allowed to be parked or stored on the occupant's property and no more than two additional construction vehicles (backhoes, front end loaders, grading equipment, etc.) shall be allowed. Such vehicles shall be fully operative and in active use. Where considered appropriate, one trailer may be allowed but in no case may there be more than one semi-tractor or cab unit.
 - c. No such vehicles shall be allowed to be parked or stored closer than 50 feet to any adjacent lot line and not closer than 100 feet from the base setback line. In the case of a refrigerator truck, the refrigeration unit may not be operated in the open if such truck is parked closer than 500 feet to the nearest neighboring property line.
 - d. The conditional use permit shall be reviewed every two years by the planning commission in order to determine conformance with the terms of the permit and its compatibility with the adjacent land uses. If it is determined that the conditional use permit is no longer

compatible, or that the provisions of the permit have not been complied with, the conditional use permit may be revoked or amended in accordance with the procedures outlined in this chapter.

(13) *Conservation design developments.*

- a. The conservation design development shall allow residential development the flexibility of design to preserve in perpetuity unique or sensitive natural areas such as:
 1. Groundwater recharge areas;
 2. Floodplains;
 3. Wetlands;
 4. Streams;
 5. Steep slopes;
 6. Woodlands;
 7. Wildlife habitat; and
 8. Environmental corridors.
- b. Further the design of the development shall endeavor to:
 1. Preserve historic and archeological sites;
 2. Reduce the amount of infrastructure, including paved surfaces and utility easements;
 3. Reduce soil erosion and sedimentation by minimizing land disturbance;
 4. Limit the amount of vegetation removal;
 5. Interconnect greenways and corridors;
 6. Promote contiguous green space with adjacent developments;
 7. Promote the construction of walking trails and bike paths;
 8. Conserve scenic views;
 9. Protect agricultural land; and
 10. Preserve farming as an economic activity.
- c. The two types of conservation design developments allowed under the provisions of this subsection are as follows:

1. A unified and planned development of a site, in single ownership, in a partnership, in corporate ownership, or in common ownership under the Condominium Ownership Act (Wis. Stats. § 703.01 et seq.) at the time of development, without the customary division into individual lots; and
 2. The development of the parcel into individual lots with common, corporate or public open space.
- d. The number of dwelling units, amount of open space and open space uses in a conservation design development shall be determined by a detailed analysis of the physical features of the site and surrounding land uses.
- e. Conservation design developments are not allowed in the AT, EFO, R-3, B-1, B-2, B-3, M-1, or M-2 zoning districts. In all other districts the lot size, lot width, offset, setback, open space, and floor area requirements may be modified according to the following conditions:
1. All sanitary and water provisions are in conformance with the requirements of the Waukesha County Code Regulating On-site Sewage Disposal Systems or the local sanitary district. Community septic systems are not allowed which require the town to own them or be responsible for them; and
 2. The proposed development is:
 - i. In conformity with the master plan and any local comprehensive plans component;
 - ii. In conformity with the general welfare and economic balance of the community; and
 - iii. The proposed development is such that the benefits and amenities of the resultant development justify the variation from the normal requirements of the district in which it is located.
- f. Specific project factors; residential density factors.
1. The ultimate allowable density shall be determined by the town board based upon recommendations of the plan commission and consultations with the developer and shall not be more than the density allowed in the residential density factor chart with consideration of the following factors:

- i. Traffic and capacity of public roads in the area;
 - ii. The terrain of the site and the adjacent properties;
 - iii. The adjacent land uses and their densities;
 - iv. Soil suitability of the site;
 - v. Drainage patterns and the need for area wide stormwater facilities; and
 - vi. Compliance with the town's official map.
2. The maximum allowable densities shall not be greater than those permitted in the underlying zoning district and the maximum allowable density shall be computed by dividing the total area allowable for density computations by the appropriate residential density factor. Existing public right-of-way or existing public open space easements may not be included in the area for density computation.
 3. The following residential density factors shall be utilized to compute the maximum number of dwelling units in accordance with the following table:

RESIDENTIAL DENSITY FACTOR CHART

<i>Zoning Classification</i>	<i>Maximum Residence Density Factor</i>	<i>Minimum Lot Size</i>
A-P	35 acres/dwelling unit	3/4 Acre
R-H	5 acres/dwelling unit	3/4 Acre
EC	5 acres/dwelling unit	3/4 Acre
A-1	3.2 acres/dwelling unit	3/4 Acre
S-E	3.2 acres/dwelling unit	3/4 Acre
R-1	1 acre/dwelling unit	3/4 Acre
R-2	1 acre/dwelling unit	3/4 Acre

4. Other zoning districts not listed above shall not be used to increase the calculation of density of a conservation design development other than the conservancy and A-E exclusive agricultural district which may be used to augment the otherwise applicable density of a conservation design development in one of the two following ways, whichever allows the least additional density:

- i. Twenty percent of the area of lands which are zoned conservancy or A-E exclusive agricultural district within the project may be used to augment the conservancy design development; or
- ii. Five percent of that part of the total project area, which is zoned other than conservancy or A-E exclusive agricultural district, may be used to augment the conservation design development project density.

Example:

Existing conditions:

Total area of project
("Total Area"): 180 acres

Total conservancy and exclusive agriculture lands
("Total Protected Area"): 60 acres

Total area minus total protected area
("Developable Area"): 120 acres

Conservancy and exclusive agriculture zoned lands comparison:

Twenty percent of the total protected area (60 acres)
= 12 acres

Five percent of the developable area (120 acres) =
Six acres

Analysis:

Six is less than 12, so six acres can be added to the developable area.

One hundred and twenty acres developable area + six acres = 126 acres. Assuming the developable area is zoned A-1 and A-1 allows one dwelling unit per 3.2 acres, then $126 \div 3.2 = 39$ units.

5. Required standards as established by the town relative to road design, drainage or other engineering parameters may be modified as part of conditions of approval as long as modifications are consistent with good practice and approval of the town board.
6. A conservation design development, in the judgment of the town board after recommendation by the plan commission, shall meet the following standards:

- i. Provide valuable and important open space;
 - ii. Assure attractive and appropriate building improvements and configurations;
 - iii. Allow improvements and facilities necessary to serve the residents and/or users of the development;
 - iv. Have adequate area for on-site sewage disposal and water facilities for each dwelling unit;
 - v. Provide adequate area for on-site drainage systems such as porous pavement, rain gardens and infiltration swales and area wide stormwater facilities;
 - vi. Are compatible with adjacent land uses; and
 - vii. Preserve groundwater recharge areas designated by the Southeastern Wisconsin Regional Planning Commission or the state department of natural resources by promoting on-site sustainable land use and integrated water resource management practices.
- g. Open space in conservation design developments. Conservation design developments shall have a minimum of 40 percent of the site in common or public open space. The open space may be in public ownership, private conservation organization ownership or an undividable interest acceptable to the town board, or private ownership with an open space easement to assure that the open space will be permanent. The open space area shall be conveniently accessible to all residential dwelling units within the conservation design development, and be a meaningful and useful area for such intended open use. It is the intent of this subsection to ensure that all lot owners are in close proximity to the open space, and to maintain a maximum amount of open space.
- 1. In a conservation design development the open space must include all the following physical features of the site:
 - i. 100-year floodplain;
 - ii. Wetlands;
 - iii. A minimum 75-foot buffer along all perennial or intermittent streams or public bodies of waters;
 - iv. All slopes over 20 percent in at least 5,000 square feet of contiguous area;

- v. Known populations of endangered or threatened species and habitat;
 - vi. Archeological sites; and
 - vii. Environmental areas as designated on the town master plan and park and open space plan.
2. While every attempt is being made to protect the environmental characteristics of the site, a maximum of two percent of such open space areas may be impervious, which may be used for limited construction of recreationally related structures, roads, parking areas and trails. The town plan commission and the town board may modify this maximum requirement in conformance with the overall intent of these provisions while also protecting the public interest.
3. The open space areas may be used for:
- i. Conservation type uses;
 - ii. Passive recreational activities;
 - iii. Trails;
 - iv. Preservation of archeological and historical sites;
 - v. Agricultural, horticultural and other pasture uses, which follow all applicable best management practices to minimize environmental impact, subject to approval of the town board as part of the conditional use grant;
 - vi. Dedication to a public entity or nonprofit conservation organization in accordance with the adopted town park and open space plan; and
 - vii. Community facilities such as swimming pools, tennis courts, play structures or equestrian facilities.
4. Leasing of common open space may require restrictions on the access of the residents. It relieves the homeowners of the responsibility of maintenance of the green space and may generate income. The open space may be leased to a farmer for agricultural activities conducted according to acceptable terms. A conservation easement or restrictive covenants must detail the operation and maintenance responsibilities associated with the ownership and

enforcement responsibilities of holders of said easement or restrictions.

5. No more than 20 percent of the required open space may be C-1 or A-E zoned lands.
 6. Adequate guarantees shall be provided for permanent retention of the open space resulting from these regulations either by private reservation for the use of the residents of the development or others as may be specifically provided for (i.e., farmer's use of open space, dedication to a public entity or transfer to a conservation organization). Buildings or uses for noncommercial, recreational or accessory facilities may be permitted in such open space, subject to a conditional use permit. Perpetual care and maintenance of such open space and structures shall be provided for, and an operational plan shall be submitted for specific approval and inclusion in the terms of the permit. Ownership and tax liability of the open space shall be established in a manner acceptable to the town board and town attorney, and shall be made a part of the conditions of approval.
 7. The developer shall enter into a developer's agreement with the town to guarantee the implementation of the developments of the open space according to the terms or the conditions established as part of the development plan approval.
 8. Perpetual care and maintenance of the open space shall be provided for by an agreement recorded with the county register of deeds office. The agreement shall include an operation plan, which shall preserve the natural qualities of the environmentally sensitive lands. Agreements shall be submitted to and approved by the town plan commission, the town board and the town attorney.
- h. Application procedures.
1. *Filing procedure to initiate projects and preapplication conference.* The following information shall be submitted prior to any requests for approval of any type of conservation design development. The applicants are required to submit a site analysis map at the time they submit an application for a preapplication conference. The purpose of the site analysis map is to ensure that the important site features have been adequately surveyed and identified and this information has been or will be incorporated into the site design. This will give the town plan commission, town board, town planner and the town engineer the necessary information to understand the

physical features of the site in their review of the sketch plan and make recommendations for changes before the applicant has invested in the final site design. The site analysis map should show:

- i. Property boundaries;
 - ii. All streams, rivers, lakes, wetlands and other hydrological features;
 - iii. Topographic contours with intervals of two feet or less;
 - iv. Each primary and secondary environmental corridor labeled by type;
 - v. General vegetation characteristics;
 - vi. General soils types by group;
 - vii. The planned boundaries of protected open space, in compliance with subsection (d)(13)g.1 of this section;
 - viii. Existing roads and streets;
 - ix. Open space and trails traversing, or adjacent to the site, whether existing or planned. Any other site information reasonably necessary for the town plan commission or the town board to make a determination;
 - x. All class I and II soils for agricultural uses;
 - xi. Aerial photographs with a scale of one inch equals 100 feet; and
 - xii. Any groundwater recharge area designated by the Southeastern Wisconsin Regional Planning Commission or the state department of natural resources.
2. *Site visit.* The applicant is encouraged to hold a site visit on the subject property, prior to filing an application, as part of the preapplication process. The applicant can make arrangements for a site visit by contacting the town planner. The purpose of the site visit is to provide an opportunity for everyone involved in the subdivision proposal to familiarize themselves with the property's existing conditions and special features, to identify potential site

design issues, and to discuss design concepts, including the general layout of designated conservation areas, if applicable, and potential locations for proposed buildings and street alignments. This part of the preapplication conference is optional, but is perhaps the most critical of the entire design and review process; because it enables the applicants, the staff, and the town plan commission and town board to work together to fully understand the site and its potential for carefully designing a development around an open space network. The goal of the site visit is to ensure that the features mapped on the site analysis maps have been designed around and protected. If a site visit is scheduled, those invited shall include the town staff, the town plan commission, and the town board, along with the applicant and the general public. Notice of the site visit shall include all notices as may be required by the state open meetings laws, and the site visit shall be conducted in compliance with such laws. The town, its boards, commissions, officers, agents and staff are not required to attend a scheduled site visit, and a properly noticed site visit can occur even if less than a quorum of any invited governing body attends. Comments made by town officials, agents or staff during a site visit shall be understood and interpreted as being only informal and suggestive, and shall not be binding on either the town or the applicant. It should be understood by all parties that no formal recommendations can be offered, and no decisions can be made at the site visit, which is essentially an outdoor workshop session. Nothing that transpires during the site visit shall relieve the applicant from the obligation to fully comply with the application, submittal and review procedures of this Code and the town land division and development ordinance and other laws. The town, its boards, commissions, officers, agents and staff shall not be deemed to have formal, actual or implied notice of existing features of the property or the surrounding environs that must be shown or disclosed in the application and review process, even if such features were observed or were readily observable during a site visit.

3. *Sketch plans.*
 - i. The applicant shall also submit the following sketch plans:
 - (aa) A sketch plan of a conventional subdivision layout, which complies with the zoning district requirements and the town land division and development control ordinance;

- (bb) A sketch plan of a planned unit development complying with all open space regulations, densities and lot size requirements of this chapter and with the town land division and development control ordinance; and
 - (cc) A sketch plan of a conservation design development which shall have of a minimum of 40 percent of the subject property in open space meeting all open space regulations, all density requirements and complies with the town land division and development control ordinance.
 - ii. The individual sketch plan shall be prepared by using a four-step process, which includes the following:
 - (aa) A detailed site analysis of all the physical features and resources of the subject property;
 - (bb) Submit a map showing the number and location of the individual house sites as allowed by the density of the applicable zoning district;
 - (cc) Locate the proposed roads to accommodate all proposed home sites while preserving the physical features of the site and complying with the road standards in the town land division and development control ordinance; and
 - (dd) Designate lot lines for the house sites in accordance with the minimum lot size requirements of this chapter.
- 4. *Application.* Following the preapplication conference, an official submittal shall be made to the town clerk and shall include 15 copies each of the conventional layout and proposed conservation design development map, preferably on a topographic map, drawn at a scale of 100:1, showing the following:
 - i. The size, arrangement, and location of all lots, blocks, and all proposed buildings or building groups located within the common area;

- ii. The pattern of public streets, existing and proposed utility easements, and other public improvements;
- iii. The location of recreational open space and areas reserved or dedicated for use by the residences;
- iv. The general landscape treatment with particular attention given to the treatment and creation of buffer zones between the proposed cluster development and any adjacent development whether residential or otherwise;
- v. Existing topography and stormwater drainage, and proposed stormwater drainage systems, showing basic topographic changes and proposed grading elevations;
- vi. All physical features of the site, such as wetlands, primary and secondary environmental corridors, isolated natural areas, and historic features;
- vii. All types and locations of trees greater than eight-inch caliper in the buildable area. This requirement may be waived by the plan commission if it is determined during a site visit that no public or private improvements will occur on areas on the site containing the trees;
- viii. A completed town land division review checklist;
- ix. Statistical data on the total size of the project area, area of the open space, density computations, proposed number and types of residential units, an economic and market analysis, impact on municipal services, wetlands, groundwater and other environmentally sensitive areas and any other pertinent data required by the town plan commission or town board;
- x. A general summary of financial factors such as value of the structures, estimated improvement costs, amounts proposed for landscaping and special features, and total anticipated development cost of project;
- xi. Anticipated amounts of impervious surface including all proposed public and private improvements;

- xii. General outline of intended organizational structure related to property owner's association, architectural review committee, deed restrictions, and provision of utility and other services;
- xiii. A project staging plan which outlines a timetable for project development including, but not limited to, road cutting, utility hookups, building constructions, landscaping, and open space/recreational areas provisions; and
- xiv. An environmental impact assessment of loss of plant species and animal habitat, farmland, wetlands, soil erosion, surface and groundwater hydrology, water quality, aquatic species and air resources may be required if deemed reasonably necessary by both the town board and the plan commission.

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

i. *Approval procedures.*

1. *Referral for action by the town plan commission.* The town planner shall, within 30 days after receipt of the application, determine whether the application fulfills the requirements of this section. If the staff determines that the application is complete and fulfills the requirements of this section, the staff shall refer the same to the town plan commission to schedule a public hearing, in accordance with section 82-267. If the staff determines that the application is not complete and does not fulfill the requirements of this section, they shall return the application to the applicant. When the application meets the staff's approval, it shall be referred to the town plan commission and the town engineering consultants for their report and recommendation. Upon completion of the necessary study and investigation, the town plan commission shall make its recommendation, as to the appropriateness and desirability of the proposed project

with the density factor requested, the suitability of the proposed development, and any changes or additional conditions applicable to such plans, which they may feel are necessary and appropriate.

2. *Basis for approval.* The town plan commission, in its action, shall give consideration to and be satisfied as to the following:
 - i. The proposed development is consistent with the spirit and intent of this chapter and will not be contrary to the general welfare and economic prosperity of the town, but rather that the benefits derived by utilizing the conservation design development and, in keeping with the current economic and social consideration, justifies the application of the conservation design development technique;
 - ii. Such development conforms to the adopted master plan of the town and its components;
 - iii. The size, quality, and architectural design of all buildings in the project shall not be of such as to have an adverse effect upon the general character of the town or the surrounding neighborhood;
 - iv. Functional utility and relationship of the lots or units to the common open space and facilities provided shall be of such quality, size, and aesthetic value as to meet the purpose and intent of this chapter, and that all other required preserved areas are preserved or protected unless disturbed to accommodate a road as designated on the town's official map;
 - v. The 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 operational plans, as well as all other commitments offered and required in regard to project value, character, or other factors pertinent to an insurance that the proposed development will be carried out as approved;
 - vi. The plan will result in preservation of open land in a manner, which will enhance the total environmental setting and desirability of the development and of the neighborhood and that adequate guarantee is

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

- vii. Ownership and tax liability of the private open space preservation areas shall be established in a manner acceptable to the town attorney and made a part of the conditions of this specific plan approval.
3. *Approval by town board.* The town board, after receiving the recommendation of the planning commission, conducting of public hearing per section 82-267, and due consideration, may deny, approve, or approve subject to additional conditions the conditional use permit.
 4. *Application for residential development permit.* Upon approval and compliance with any conditions of the town plan commission and town board, the applicant shall be authorized to submit an application for residential development permits and the necessary allotment.
 5. *Preliminary plat or condominium plat approval.* Upon approval of the necessary residential development permits and the required allotment, the preliminary plat or condominium plat may then be submitted for approval.
 6. *Conditions for preparation of final plat or condominium plat.* After issuance of a conditional use permit, the final plat or condominium plat shall be prepared in accordance with the conditions specified and the following shall be submitted:
 - i. *Developers agreement:* A contractual agreement between the town and the owners of the development outlining all of the obligations and commitments required by the town.
 - ii. *Rights-of-way, easements, exact net area.* The subdivision plat, condominium plat or certified survey map shall show all rights-of-way, easements, and the exact net area.
 - iii. *Homeowners Association bylaws:* The Homeowners Association documents of incorporation and bylaws shall be submitted to and approved by the town attorney, town planner and the town board and placed on record with the town clerk and be

recorded in the county register of deeds office. Such documents must conform with all state and local requirements for the protection of the property owners and the town.

- vi. *Utility and stormwater facility easements:* Wherever required by the town, utility companies or the county land resources division and conforming to the specifications of the town and county.
 - v. *Construction routes:* A map of the development showing the access points to be used by construction vehicles during the course of construction, and which shall become part of the contract between the town and the developer, with such provisions for enforcement as provided in the contract.
7. *Consultant and legal fees:* If the town incurs consultant or legal fees to prepare or review any aspect of the proposed development, the town will notify the petitioner of what portion of fees shall be charged to petitioner, and all such charges shall be paid in full before signing the final document, in the form of a final plat, certified survey map, or condominium plat.
 8. *Financial guarantee to complete construction of improvements in conservation design developments:* A letter of credit or cash deposit in a state financial institution or other satisfactory financial guarantee approved by the town attorney or town board to cover the cost of all improvements and facilities agreed upon in the conditional use permit and final plat, certified survey map or condominium plat.
 9. *Recording:* The conditional use shall be recorded in the county office of the register of deeds to affect the real estate upon which the conditional use is granted.
 10. *Subsequent changes or additions:* Any subsequent changes or additions to an approved plan shall first be submitted for approval to the town plan commission and, if it is the commission's opinion such change or addition is not substantial, it may recommend approval to the town board. The following shall automatically be construed to be substantial:
 - i. An increase in the number of dwelling units from that shown in the approved project;

- ii. A significant change in the size, value, or type of structure from that indicated in the approved conditional use;
- iii. The addition of any principal uses not included in the approved conditional use; and
- iv. Any change in the basic concept of the site development, which would significantly alter the relationship of uses or open space to adjoining properties

(14) *Conversions.*

- a. Where permitted, as outlined in subsection (d)(11)b of this section, rentals of existing barns and farm buildings for the storage of machinery, equipment, vehicles, boats, furniture and similar items, under the circumstances described in the following sentence, may be permitted as a conditional use in the A-1 agricultural district where the parcel was the original farmstead and is not a lot in a recorded subdivision plat. This conditional use permit is required whenever items that are not owned by the lot owner or by a person lawfully residing on the lot, are stored in existing barns or farm buildings in the A-1 agricultural district, and for which storage the owner of the items pays rent, provides goods or services, or provides other consideration.
- b. Conditions under which the conversion will be permitted. Conditional use status will not be granted to any conversion for the use of an existing barn or farm building for the storage of machinery, equipment, vehicles, boats, furniture or similar items, unless all of the following conditions are met:
 1. No such use shall be permitted on parcels less than ten acres in size.
 2. The use, if it is allowed, will be allowed only in buildings as they exist on the premises on the effective date of the ordinance from which this section is derived, except as otherwise described in this chapter.
 3. No additional buildings or additions may be made without the expressed approval of the planning commission in accordance with the terms of the applicable ordinances. No new buildings will be allowed for the purpose of rental storage.
 4. A certified survey map must be submitted with the application for the conditional use detailing the size, offsets and use of all existing structures on the subject parcel.
 5. The parcel must have access to an arterial or collector street as defined on the County Street and highway width map.
 6. There shall be no outside storage allowed. Storage of machinery, vehicles, equipment, boats, furniture or other similar items outside overnight shall be considered a violation of the terms of any conditional use permit issued under this subsection and grounds for termination of such permit.

7. Water supply facilities and the necessary septic system shall be in accordance with the rules of the county department of parks and land use, environmental health division and the state department of commerce.
8. There shall be no commercial signs associated with the proposed use.
9. A detailed landscaping plan indicating the size, type, location and time table, for installation shall be submitted and approved by the planning commission prior to issuance of the conditional use permit.
10. The buildings and grounds shall be maintained in a neat, attractive and orderly way.
11. The property shall comply with all rules and regulations of the town, the appropriate state building code and the local fire department regulations, including submission to routine inspections by the town and fire department.
12. In determining whether or not the proposed conditional use permit shall be recommended, a "determination of compatibility" with adjacent land uses shall be made by the planning commission who shall forward that recommendation to the town board. The town board shall then, upon consideration of the planning commission's recommendation and all other relevant factors, make a determination of compatibility. In making this determination both the planning commission and the town board shall consider the town master plan to determine whether there will be any potential conflicts with future development, which may occur in accordance with the town master plan.
13. The location, building, and site plan and plan-of-operation must be submitted to and approved by the planning commission.
14. When the proposed use includes the storage of equipment and vehicles normally associated with an ongoing business, the use shall be explicitly for storage. There shall be no office permitted on such premises, nor shall the building be occupied for any reason other than periodic pickup and return of equipment on a seasonal basis.

15. If there are complaints about unusual noise inconsistent with the normal operations of such storage buildings, the planning commission may recommend to the town board that a public hearing shall be held upon due notice and shall make reasonable rules and regulations in regards to rectifying the conflicts with adjacent land uses or terminate the use.
 16. Any building used for such storage shall be at least 50 feet from all side and rear lot lines.
 17. The town board may impose additional reasonable conditions upon the issuance of the conditional use permit. As a condition precedent to the issuance of the conditional use permit, the petitioner is required to accept the terms and conditions of the conditional use permit in its entirety, in writing.
- (15) *Drive-in establishments serving food or beverages to customers other than at a booth or table.* In local business or less restrictive districts, provided the building plans, site plans, and plan of operation have been submitted to and approved by the plan commission.
- (16) *Feed lot operation.* Feed lots, as defined in section 82-4, including livestock and poultry of all types, may be permitted as conditional uses in all agricultural districts except A-E agricultural, subject to the following: This conditional use category is created in recognition of the potential which exists in feed lot operations for uncontrolled runoff and animal waste, pollution of surface and groundwater and potential for such use to be a nuisance.
- a. General requirements:
 1. No feed lot operation shall be permitted on less than 35 acres of tillable land nor closer than 1,000 feet from any land presently zoned for a residential district.
 2. No accessory residence shall be permitted closer than 100 feet to the feed lot operation.
 3. No part of the feed lot operation shall be closer than 300 feet from the centerline of any public road nor closer than 200 feet from the lot lines of the site on which the production unit is situated.
 4. It is important that careful planning and sound management be applied to the operation of manure handling and waste runoff. Farmers are encouraged to seek advice from the county land conservation committee. A conservation plan addressing the proposed methods of manure handling and

waste runoff control shall be prepared and made a part of the plan of operation for any proposed feed lot operation.

5. Animal waste shall not be mechanically spread between December 1 and April 1 unless the manner of application has been reviewed by and approved by the town board.

b. Information to be submitted:

1. A site plan showing drainage, structures and the methods to be employed to control, contain or divert runoff of animal wastes.
2. An operation plan detailing the method of operation and the equipment necessary to accomplish safe and sanitary disposal of animal wastes.
3. A statement of the number of animals to be contained in the proposed animal feed lot. This plan shall include numbers, type and weights. Any change in the number of animal units for a period of more than 30 days shall be reported to the plan commission.
4. A statement detailing the method of animal collection, storage and disposal to be employed.
5. A conservation plan prepared by the county land conservation committee, with approval by the plan commission.

(17) *In-law units.* In the A-P, R-H, E-C, A-1, S-E, R-1, R-2, R-3, B-1, B-2, B-3, subject to the restrictions as set forth in section 82-200, M-1, subject to the restrictions as set forth in section 82-230, M-2, subject to the restrictions as set forth in division 18, and all planned unit developments subject to the following:

- a. The location, building and site plans shall be submitted to and approved by the plan commission.
- b. The county health department shall certify that the septic system will accommodate the proposed use.
- c. The maximum living area in an in-law unit shall not exceed 800 square feet for a one bedroom unit and 900 square feet for a two bedroom unit.
- d. There shall be an additional parking space for the in-law unit.

- e. The architecture of the residence shall be compatible with the adjacent residential neighborhood and should appear to be a single-family residence.
 - f. The plan commission may determine that it is appropriate to have an interior door between the living units.
 - g. A deed restriction shall be filed in the county register of deeds' office prior to issuance of the building permit indicating that this living unit is for family members of the principal dwelling unit only.
- (18) *Laboratories for testing, experimental or analytical purposes.* In any district other than residential, environmental corridor or restricted business districts, subject to the following:
- a. The building plans, site plans and plan of operation shall be submitted to and approved by the plan commission.
 - b. No building other than one used only for residence purposes shall be closer than 50 feet to the line of an adjoining lot in a district permitting residential use.
 - c. Off-street parking shall be provided as required for office building and customer service establishments.
- (19) *Legal nonconforming uses.* In any district as provided by section 82-32(b)(2).
- (20) *Marinas and boat deliveries.* To be allowed as a permitted use by right in B-3, M-1 and M-2 districts and a conditional use in all other districts except A-P, A-E and E-C subject to the following:
- a. Such use shall be located at least 500 feet from the nearest public bathing beach or park.
 - b. Such use is designed and constructed so as not to interfere with the adjacent riparian owners use of the water for swimming, fishing or boating nor interfere or obstruct the public's free navigation.
 - c. The minimum lot area shall be one acre with a minimum lake frontage of not less than 150 feet.
 - d. The building plans, site plans and plan of operation shall be submitted to and approved by the plan commission.
 - e. Sewage disposal field shall be located not closer than 50 feet from the normal high water mark of the body of water.

- f. Fuel pumps shall be located two feet above the normal high water mark elevation. Fuel storage tanks shall be located not less than 100 feet from the normal high water mark and shall be located aboveground and shall be adequately screened and fireproofed. The offset requirements for fuel pumps and storage tanks shall be at least 50 feet from any side lot line and all other locational requirements as required by the local fire department.
- g. No lighting installation shall be permitted which creates a hazard to traffic or nuisance to surrounding properties.
- h. The aggregate length of all piers shall not exceed one-half of the total width of lakeshore as measured at the meander line of the premises. Piers shall not be constructed closer to the side lot line than the length of its pier.
- i. Mooring of boats shall only be permitted in a way which will not necessitate maneuvering beyond the extended lot lines.
- j. Land storage may be permitted based upon the size of the parcel and its compatibility with the other uses of the premises.
- k. Any other requirements which may be deemed necessary by the planning commission and board.

(21) *Mobile home parks and trailer camps.* In any district other than C-1, A-E, A-T, E-C, A-P, residential or restricted business districts, provided the site plan and plan of operation have been submitted to and approved by the plan commission subject to the following:

- a. No such use shall be permitted on a parcel less than five acres in area.
- b. No buildings shall be located closer than 50 feet to the lot line of an adjoining residential district.
- c. The provisions of all county, state and local regulation on trailers, mobile homes and mobile home parks shall be met.
- d. A county septic system permit, or permits, shall be required to accommodate all proposed units.
- e. Mobile home parks developed to permit privately owned lots must be designed and built in accordance with the PUD requirements.

(22) *Motels.* In any district other than a residential, C-1 and E-C, A-P, A-E, A-T or restricted business districts, subject to the following:

- a. The building plans, 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 three 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.

(23) *Multifamily units and condominiums.* In R-2, R-3, B-1, B-2, or planned unit developments, subject to the following:

- a. The minimum lot area shall be determined by the number of units to be constructed on one parcel. When the units are to be served by private waste disposal system, each unit shall have a minimum of 15,000 square feet of open space on suitable soils for septic system operation. Where the use will be served by municipal sewer, the open space requirements can be reduced to a minimum of 10,000 square feet per unit. The width of the lot shall be increased as the size of the lot increases in order to avoid excessively long, narrow lots and shall, however, be no less than 180 feet in width.
- b. The manner in which the units are to be serviced with sewage disposal is subject to the approval of the state department commerce and the county health department, prior to approval by the Town.
- c. The minimum floor area per unit shall be as set forth in the basic underlying district in which the property is located.
- d. Architectural review of the project may be required by the planning commission.
- e. There shall be at least two off-street parking spaces per unit, one of which is interior.
- f. The offset, setback and landscape requirements are subject to modification by the plan commission and board. However, the offset requirements shall not be reduced to less than 20 feet from the lot line of an adjoining residential district. The setback shall be a minimum of 50 feet. The maximum height shall not exceed 35 feet. Additional height may be permitted if the offset and setback requirements are increased by one foot for each additional one foot in height beyond 35 feet.

- (24) *Outdoor theaters.* In any district other than residential, restricted business, C-1, E-C, A-E, A-T or A-P districts, subject to the following:
- a. The building plans, 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 six 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.

- (25) *Planned unit development.* The PUD planned unit development use is permitted in any zoning district subject to review and approval of the development plans by the planning commission and the town board. No structures shall be allowed in the conservancy or A-E districts. Any use permitted in an underlying basic district may be permitted in the planned development.
- a. *Intent and purpose.* The regulations in this subsection are intended to allow for greater flexibility and design freedom than would be permitted by standard application for normal district regulations. Such uses will only be permitted on parcels of 20 acres or more when appropriately located and where the unified and plan development of such tract would allow a more desirable utilization of the site and produce a more aesthetically and economical development than would result from the application of normal district regulation. It is then intended that appropriate; open spaces be provided and the overall density of the project not be greater than that permitted in the underlying district.
 - b. *Application and regulations.*
 1. The unified and planned development of a site, in single, corporate ownership, or common ownership under the Condominium Ownership Act (Wis. Stats. § 703.01 et seq.) at the time of development, may be permitted in a planned development without the customary division into individual lots and without requiring strict compliance to the specific district regulations, subject to the requirements of this subsection. Lot size, offset, setback, open space, and floor area requirements may be modified according to the following conditions:
 - i. All sanitary and water provisions are in conformance with the requirements of the state division of health, the county health department, and the local sanitary district.
 - ii. The proposed development is in conformity with the master plan and any local comprehensive plans, when applicable, is not contrary to the general welfare or economic balance of the community and that the benefits and amenities of the resultant development justify the variation from the normal requirements of the district in which it is located.
 - iii. All other requirements of the planned development are met as set forth in this subsection 82-21(d)(25).

2. Required standards as established by the town relative to road design, drainage or other engineering parameters may be modified subject to the conditions of approval as long as such modifications are consistent with good engineering practice and the approval of the town board.
3. The application of these regulations will be classified as follows:
 - i. Rural-residential PUD: Defined as areas that utilize private waste disposal and water systems.
 - ii. Urban-residential PUD: Defined as areas that utilize public waste disposal and water systems. (A private sewerage disposal plant will not be accepted as an alternative to the public facility required.)
 - iii. Commercial/industrial PUD: Permitted only in areas zoned for these uses and utilizing either public or private waste disposal and water systems.
 - iv. Mixed PUD:
 - (aa) The proposed mixture of commercial and residential uses shall produce a unified composite which is compatible both within itself and with the surrounding neighborhood.
 - (bb) The mixed uses shall conform to the general requirements applicable to each of them as set forth in this subsection.
 - (cc) The maximum allowable dwelling unit density shall be computed using only the residential portion of the total planned development area.
 - v. Size of parcel: In order to assure that it is of appropriate size for a planned development, the parcel shall meet the following standards:
 - (aa) Provide valuable and important open space.
 - (bb) Assure attractive and appropriate buildings and improvements configurations.

- (cc) Allow improvements and facilities necessary to serve the residents and/or users of the development.
 - (dd) Provide for all required sewage waste and water facilities.
 - (ee) Guarantee adequate drainage systems.
 - (ff) Be compatible with adjacent land uses.
 - (gg) In no event shall a rural-residential or urban-residential PUD, as defined in this section, contain any lot less than 1 1/2 acres in size.
- vi. Common open space: All residential planned developments shall provide permanent common open space. The open space may be in public ownership, corporate ownership or in private ownership with an open space easement to assure that the open space will be permanent. The common open space area shall be conveniently accessible to all residential dwelling units within a planned development, available to all occupants of dwelling units for whose use the space is intended, and should provide meaningful and useful area for such intended open use. It is the intent of this subsection to ensure equitable distribution of various land uses to all owners and maintain a maximum amount of open space. Common open space does not include: private lots, street rights-of-way (public or private), public lands or land determined unsuitable by the town board due to accessibility, common benefit or proposal intent. Ownership, maintenance and tax liability of common open space shall be established in a manner acceptable to the town and made a part of the conditions of the project approval.
- c. *Specific project regulations.*
- 1. *Residential density factors.*
 - i. The maximum allowable densities shall not be greater than those permitted in the underlying zoning district. The ultimate allowable density shall be determined by the town board based upon recommendations of planning commission and consultations with developer.

- ii. The specific allowable maximum number of dwelling units shall be computed by dividing the total area allowable for density computations by the appropriate residential density factor. Existing public right-of-way or existing public open space easements may not be included in the area for density computation.
- iii. The following residential density factors (RDF) shall be utilized to compute the maximum dwelling units (DU) density requirements of the planned unit development.

<i>Zoning Classifications</i>	<i>RDF</i>
A-P	130,680 square feet/DU
R-H	217,800 square feet/DU
E-C	217,800 square feet/DU
A-1	139,392 square feet/DU
S-E	130,680 square feet/DU
R-1	130,680 square feet/DU
R-2	130,680 square feet/DU
R-3	130,680 square feet/DU
B-1	20,000 square feet/DU
B-2	20,000 square feet/DU
B-3	20,000 square feet/DU
M-1	43,560 square feet/DU
M-2	43,560 square feet/DU

- 2. *Absolute minimum lot size.* The following table shall be utilized to determine the absolute minimum lot size which may be utilized for the platting of lots in the planned development.

<i>Rural-Residential PUD</i>	
<i>Zoning Classification</i>	<i>Absolute Minimum Lot Size</i>
A-P	65,340 square feet/DU
R-H	65,340 square feet/DU
A-1	65,340 square feet/DU
S-E	65,340 square feet/DU
R-1	30,000 square feet/DU
R-2	30,000 square feet/DU
R-3	20,000 square feet/DU
Urban Residential P.U.D.	15,000 square feet/DU
Commercial/Industrial PUD	15,000 square feet/DU

The plan commission shall have the right to require selected lots to be substantially larger than the minimum for the purposes of blending into and with surrounding subdivisions and other developments.

3. *Absolute minimum average lot width.* The following table shall be utilized to determine the absolute minimum average lot width which may be utilized for the individual lots within the planned development.

<i>Rural-Residential PUD</i>	<i>Absolute Minimum Average Lot Width</i>
A-P	200 feet
R-H	200 feet
A-1	200 feet
S-E	200 feet
R-1	120 feet
R-2	120 feet
R-3	120 feet
Urban-residential PUD	100 feet
Commercial/Industrial PUD	100 feet

4. *Use of structures for housing.* Use of structures may permit either single-family or multifamily housing, provided the proposed population composition will not result in an adverse effect upon the town's capability to provide municipal services or school facilities.
5. *Diverse lot sizes.* Residential lot size diversity shall be encouraged within a planned development provided that there is a consistent quality among the different lot sizes, and that the diversity of lot sizes does not detract from each specific lot size and from the development as a whole.
6. *Densities.* Conservancy and A-E exclusive agricultural district lands may be used to augment the otherwise applicable density of a planned unit development project in one of the two following ways, whichever allows the least additional density:
 - i. Twenty percent of the area of lands which are zoned conservancy or A-E exclusive agricultural district within the project may be used to augment the planned unit development project density; or
 - ii. Five percent of that part of the total project area which is zoned other than conservancy or exclusive agriculture may be used to augment the planned unit development project density.

Example:

Existing conditions:

Total area of project
("Total Area"): 180 acres

Total conservancy and exclusive agriculture lands
("Total Protected Area"): 60 acres

Total area minus total protected area
("Developable Area"): 120 acres

Conservancy and exclusive agriculture zoned lands
comparison:

20 percent of the total protected area (60 acres) = 12
acres

Five percent of the developable area (120 acres) =
Six acres

Analysis:

Six is less than 12, so six acres can be added to the developable area. 120 acres developable area + six acres = 126 acres. Assuming the developable area is zoned A-1 and A-1 allows one dwelling unit per 3.2 acres, then $126/3.2 = 39$ units.

7. *Guarantee for retention of open space.* An adequate guarantee shall be provided for permanent retention of open area resulting from these regulations, either by private reservation for use of the residents within the development or by public dedication. Buildings or uses for noncommercial, recreational or accessory facilities may be permitted in such open space area, subject to specific grant in the conditional use permit. Perpetual care and maintenance of such open space areas and structures shall be provided for, and an operational plan shall be submitted for specific approval and inclusion in the terms of the permit. Ownership and tax liability of the open space areas shall be established in a manner acceptable to the town and shall be made a part of the conditions of approval.
 8. *Agreement with the town.* The developer shall enter into a developer's agreement with the town to guarantee the implementation of the development according to the terms of the conditions established as part of the development plan approval.
- d. *Basis for approval.* The planning commission in making its recommendations, and the town board in making its determination, as to the approval or denial of the conditional use permit for the planned development, shall give consideration to the purposes set forth in this subsection, and be satisfied as to the following:
1. That the proposed development is consistent with the spirit and intent of this subsection, is in conformity with the general character of the town, and, would not be contrary to the general welfare and economic prosperity of the town or of the immediate neighborhood.
 2. The benefits from the anticipated improved design of the resultant development shall justify the variation from the normal requirements of this subsection through the application of this subsection.
 3. That the size, quality and architectural design of all buildings in the project will not have an adverse effect upon the general character of the town and surrounding neighborhood.

4. That the provisions and facilities of the open space areas being provided are of such quality, size and aesthetic value to justify the approval of the project.
 5. That the setbacks shall be maintained along any boundary street of the project area, as required by the existing underlying basic district.
 6. That no building shall be permitted closer to a side or rear boundary lot line of the project area than required by the applicable side or rear yard requirements of the adjoining underlying basic district.
 7. The approval of a petition for conditional use shall be based on and include as conditions thereto the basic architectural design, the site plan, the operational plans for the development as approved, as well as all other commitments offered as required in regard to project value, character or other factors pertinent to an assurance that the proposed development will be carried out basically as presented for the project.
 8. After all conditions of a planned development project are certified by the town board as being completed, the conditional use status of such completed development shall be changed to a permitted use in the district in which it is located.
- e. *Application procedures.*
1. *Filing procedure to initiate projects and preapplication conference.* The following information shall be submitted prior to any requests for approval of any type of a planned unit development. The applicants are required to submit a site analysis map at the time they submit an application for a preapplication conference. The purpose of the site analysis map is to ensure that the important site features have been adequately surveyed and identified and this information has been or will be incorporated into the site design. This will give the plan commission, town board, town planner and the town engineer the necessary information to understand the physical features of the site in their review of the sketch plan and make recommendations for changes before the applicant has invested in the final site design. The site analysis map should show:

- i. Property boundaries;
 - ii. All streams, rivers, lakes, wetlands and other hydrological features;
 - iii. Topographic contours with intervals of two feet or less;
 - iv. Each primary and secondary environmental corridor labeled by type;
 - v. General vegetation characteristics;
 - vi. General soils types by group;
 - vii. The planned boundaries of protected open space;
 - viii. Existing roads and streets;
 - ix. Open space and trails traversing, or adjacent to the site, whether existing or planned. Any other information reasonably necessary for the plan commission or the town board to make a determination;
 - x. All class I and II soils for agricultural uses;
 - xi. Aerial photographs with a scale of one inch equals 100 feet; and
 - xii. Any groundwater recharge areas designated by the Southeastern Wisconsin Regional Planning Commission or the state department of natural resources.
2. *Site visit.* The applicant is encouraged to hold a site visit on the subject property, prior to filing an application, as part of the preapplication process. The applicant can make arrangements for a site visit by contacting the town planner. The purpose of the site visit is to provide an opportunity for everyone involved in the subdivision proposal to familiarize themselves with the property's existing conditions and special features, to identify potential site design issues, and to discuss design concepts, including the general layout of designated conservation areas, if applicable, and potential locations for proposed buildings and street alignments. This part of the preapplication conference is optional, but is perhaps the most critical of the entire design and review process, because it enables the

applicants, the staff, and the town plan commission and town board to work together to fully understand the site and its potential for carefully designing full density development around an open space network. The goal of the site visit is to ensure that the features mapped on the site analysis maps have been designed around and protected. If a site visit is scheduled, those invited shall include the town staff, the town plan commission, and the town board, along with the applicant and the general public. Notice of the site visit shall include all notices as may be required by the state open meetings laws, and the site visit shall be conducted in compliance with such laws. The town, its boards, commissions, officers, agents and staff are not required to attend a scheduled site visit, and a properly noticed site visit can occur even if less than a quorum of any invited governing body attends. Comments made by town officials, agents or staff during a site visit shall be understood and interpreted as being only informal and suggestive, and shall not be binding on either the town or the applicant. It should be understood by all parties that no formal recommendations can be offered, and no decisions can be made at the site visit, which is essentially an outdoor workshop session. Nothing that transpires during the site visit shall relieve the applicant from the obligation to fully comply with the application, submittal and review procedures of this Code and the town land division and development ordinance and other laws. The town, its boards, commissions, officers, agents and staff shall not be deemed to have formal, actual or implied notice of existing features of the property or the surrounding environs that must be shown or disclosed in the application and review process, even if such features were observed or were readily observable during a site visit.

3. *Sketch plans.*
 - i. The applicant shall also submit the following sketch plans:
 - (aa) A sketch plan of a conventional subdivision plat, which complies with the zoning district requirements and the town land division and development control ordinance;
 - (bb) A sketch plan of a planned unit development complying with all the open space regulations, densities and lot size requirements of this chapter and with the town land division and development control ordinance; and

- (cc) A sketch plan of a conservation design development which shall have of a minimum of 40 percent of the subject property in open space meeting all open space regulations, all density requirements and complies with the town land division and development control ordinance.
 - ii. The individual sketch plans shall be prepared by using a four-step process, which includes the following:
 - (aa) A detailed site analysis of all the physical features and resources of the subject property;
 - (bb) Submit a map showing the number and location of the individual house sites as allowed by the density of the applicable zoning district;
 - (cc) Locate the proposed roads to accommodate all proposed home sites while preserving the physical features of the site and complying with the road standards in the town land division and development control ordinance; and
 - (dd) Designate lot lines for the house sites in accordance with the minimum lot size requirements of this chapter.
- 4. *Application.* Following the preapplication conference, an official submittal shall be made to the town clerk and shall include 15 copies each of the conventional layout and proposed planned unit development map, preferably on a topographic map, drawn at a scale of 100:1, showing the following:
 - i. The size, arrangement, and location of all lots, blocks, and all proposed buildings or building groups located within the common area;
 - ii. The pattern of public streets, existing and proposed utility easements, and other public improvements;
 - iii. The location of recreational open space and areas reserved or dedicated for use by the residences;

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

- xiii. A project staging plan which outlines a timetable for project development including, but not limited to, road cutting, utility hookups, building constructions, landscaping, and open space/recreational areas provision; and
 - xiv. An environmental impact assessment of loss of plant species and animal habitat, farmland, wetlands, soil erosion, surface and groundwater hydrology, water quality, aquatic species and air resources may be required if deemed reasonably necessary by both the town plan commission and town board.
5. *Fees.* A fee, as set by town board resolution from time to time, shall accompany each application. Such fee shall be paid by cash, check, or money order to the Town of Mukwonago to defray the costs of review. The costs incurred by the town in obtaining legal, planning, engineering, and other technical and professional advice in connection with the review of the application and preparation of conditions for such uses shall be charged to the applicant and, if required by the town, a fee covering such costs shall accompany the application.
6. *Procedure.*
- i. *Referral for action by the town plan commission.* The town planner shall, within 30 days after receipt of the application, determine whether the application fulfills the requirements of this section. If the staff determines that the application is complete and fulfills the requirements of this section, the staff shall refer the same to the town plan commission to schedule a public hearing, in accordance with section 82-267. If the staff determines that the application is not complete and does not fulfill the requirements of this section, they shall return the application to the applicant. When the application meets the staff's approval, it shall be referred to the town plan commission and the town engineering consultants for their report and recommendation. Upon completion of the necessary study and investigation, the town plan commission shall make its recommendation, as to the appropriateness and desirability of the proposed project with the density factor requested, the suitability of the proposed development, and any

changes or additional conditions applicable to such plans, which they may feel are necessary and appropriate.

- ii. *Basis for approval.* The town plan commission, in its action, shall give consideration to and be satisfied as to the following:
 - (aa) The proposed development is consistent with the spirit and intent of this chapter and will not be contrary to the general welfare and economic prosperity of the town, but rather that the benefits derived by utilizing the planned unit development and, in keeping with the current economic and social consideration, justifies the application of the planned unit development technique;
 - (bb) Such development conforms to the adopted master plan of the town and its components;
 - (cc) The size, quality, and architectural design of all buildings in the project shall not be of such as to have an adverse effect upon the general character of the town or the surrounding neighborhood;
 - (dd) Functional utility and relationship of the lots or units to the common open space and facilities provided shall be of such quality, size, and aesthetic value as to meet the purpose and intent of this section, and that all other required preserved areas are preserved or protected unless disturbed to accommodate a road as designated on the town's official map;
 - (ee) The 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 operational plans, as well as all other commitments offered and required in regard to project value, character, or other factors pertinent to an insurance that the proposed development will be carried out as approved;

- (ff) The plan will result in preservation of open land in a manner, which will enhance the total environmental setting and desirability of the development and of the neighborhood and that adequate guarantee is provided for permanent retention as common open space of the residential open land areas resulting from the application of these standards. These are by private reservation or by dedication to the public; and
 - (gg) Ownership and tax liability of the private open space preservation areas shall be established in a manner acceptable to the town attorney and made a part of the conditions of this specific plan approval.
- iii. *Approval by town board.* The town board, after receiving the recommendation of the planning commission, conducting of public hearing per section 82-267, and due consideration, may deny, approve, or approve subject to additional conditions the conditional use permit.
 - iv. *Application for residential development permit.* Upon approval and compliance with any conditions of the town plan commission and town board, the applicant shall be authorized to submit an application for residential development permits and the necessary allotment.
 - v. *Submission of preliminary plat.* Upon submittal of the necessary residential development permits and the required allotment, the preliminary plat may then be submitted for approval.
 - vi. *Conditions for preparation of final plat.* After issuance of a conditional use permit, the final plat shall be prepared in accordance with the conditions specified and the following shall be submitted:
 - (aa) *Developers agreement:* A contractual agreement between the Town and the Owners of the development outlining all of the obligations and commitments required by the Town.

- (bb) *Rights-of-way, easements, exact net area:* The subdivision plat or certified survey map shall show all rights-of-way, easements, and the exact net area.
 - (cc) *Homeowners Association bylaws:* The Homeowners Association documents of incorporation and bylaws shall be submitted to and approved by the town attorney, town planner and the town board and placed on record with the town clerk and be recorded in the county register of deeds office. Such documents must conform with all state and local requirements for the protection of the property owners and the town.
 - (dd) *Utility and stormwater facility easements:* Wherever required by the town, utility companies or county land resources division and conforming to the specifications of the town and county.
 - (ee) *Construction routes:* A map of the development showing the access points to be used by construction vehicles during the course of construction, and which shall become part of the contract between the Town and the Developer, with such provisions for enforcement as provided in the contract.
- vii. *Consultant and legal fees:* If the town incurs consultant or legal fees to prepare or review any aspect of the proposed development, the town will notify the petitioner of what portion of fees shall be charged to petitioner, and all such charges shall be paid in full before signing the final document, in the form of a final plat, certified survey map, or condominium plat.
- viii. *Financial guarantee to complete construction of improvements in planned unit development:* A letter of credit or cash escrow in a state financial institution or other satisfactory financial guarantee approved by the town attorney or town board to cover the cost of all improvements and facilities agreed upon in the conditional use permit and final plat or certified survey map.

- ix. *Recording:* The conditional use shall be recorded in the county office of the register of deeds to affect the real estate upon which the conditional use is granted.

- x. *Subsequent changes or additions:* Any subsequent changes or additions to an approved plan shall first be submitted for approval to the town plan commission and, if it is the commission's opinion such change or addition is not substantial, it may recommend approval to the town board. The following shall automatically be construed to be substantial:
 - (aa) An increase in the number of dwelling units from that shown in the approved project;
 - (bb) A significant change in the size, value, or type of structure from that indicated in the approved conditional use;
 - (cc) The addition of any principal uses not included in the approved conditional use; and
 - (dd) Any change in the basic concept of the site development, which would significantly alter the relationship of uses or open space to adjoining properties.

- (26) *Private clubs and outdoor recreational facilities, such as gun clubs, recreational camps, golf courses, bathing beaches, riding academies, resorts.* In any district, subject to the following:
- a. The building plans, 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 three 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 or restaurant, except as may be specifically authorized in the grant of permit.
 - f. No more than 15 percent of the environmental corridor district may be disturbed or vegetation removed, as part of the development of the site for the proposed use. This includes the structures, parking, walkways, recreational uses, septic system location, etc.
- (27) *Private stables.* Such uses are permitted uses by right in the EFO, A-E, A-P, A-T and A-1 districts on parcels 20 acres or greater in size, and such uses are permitted uses by right in the EFO, A-E, A-P, A-T and the A-1 districts on parcels of less than 20 acres provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of open lot area, such uses are not permitted uses and may not be allowed as conditional uses on any size parcel in the C-1, R-1, R-2 or R-3 districts, such uses are permitted uses in the R-H and S-E districts provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of open lot area, such uses may be allowed as conditional uses in the B-1, B-2, B-3, M-1 and M-2 districts subject to the following:
- a. The building plans, site plans, plan of operation and refuse disposal plan shall be submitted to and approved by the plan commission.
 - b. No buildings other than one used only for residential purposes shall be closer than 100 feet to the lot line of any adjoining lot in a district permitting residential use.

- c. The plan commission shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.
 - d. Generally, not more than one horse or other head of livestock should be kept for each full open acre over two acres of open lot area, unless the plan commission makes a specific finding that the subject parcel can maintain a greater number of livestock based on the proposed building plans, site plans, plan of operation and refuse disposal plan.
 - e. The keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
- (28) *Public and commercial refuse disposal sites.* In any district other than residential, agricultural, land preservation, conservancy, environmental corridor or exclusive agricultural conservancy districts, subject to the following:
- a. The building plans, site plan, plan of operation (including the description of the types and sources of refuse to be disposed of) and plan of restoration shall be submitted to and approved by the town board following recommendation by the plan commission.
 - b. The facility shall in all respects conform with the Wisconsin Administrative Code requirements pertinent to such facilities (i.e., NR180) and in conformance with the applicable sections of the Wis. Stats. ch. 281.
 - c. All existing refuse disposal operations shall be registered with the clerk by the operator within 50 days after the adoption of the ordinance from which this subsection is derived. Registration shall include pertinent data relative to present operation including the boundaries of the actual operation and ownership. Conditional use status shall be granted to such existing operations provided the plan of operation is approved by the town board. A plan of restoration shall be submitted by the operator within one year of the adoption of this chapter. Such operation and restoration plans shall not impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from the operations prior to enactment of this chapter.
 - d. The operation and facilities shall conform to all related requirements for quarrying per section 82-21(d)(30), or as otherwise directed by the town board. A quarrying permit shall be required.

- e. Submittal of performance maintenance bonds meeting approval of the town attorney covering operations and restoration requirements.
- (29) *Public and semi-public structures and uses.* In any district subject to the following:
- a. The building plan, site plan, and plan of operation shall be submitted to and approved by the plan commission;
 - b. Such use or structure shall conform to the setback, height, and double the offset requirements of the district in which it is located; and
 - c. The height limitation shall be extended to a maximum of 50 feet; provided, the minimum required setbacks and offsets shall be increased 2 feet for every additional foot in height in excess of the permitted maximum of the district.
- (30) *Quarrying.* As defined in this chapter in any district other than a conservancy, environmental corridor, residential or restrictive business districts, 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. Such permit shall be for an initial period as is deemed appropriate to the specific situation but not exceed five years, and may be renewed thereafter for periods not to exceed three years provided application therefor shall be made at least 60 and no more than 120 days before 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 clerk and shall be accompanied by:
 - i. A fee in accordance with the established fee schedule to defray the cost of notification and holding of public hearings, review of application and referrals to affected public agencies.

- ii. A description of all phases of the contemplated operation and the type of machinery or equipment which may 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.
- iii. 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.
- iv. A topographic map of the area at a minimum contour interval of five feet extending beyond the site to the nearest public street or highway or to a minimum distance of 300 feet on all sides.
- v. A site restoration plan conforming to county conservation committee requirements.
- vi. An environmental and economical impact assessment for the proposed facilities satisfying local and regional review agency requirements.

b. *Procedures for action on applications.*

- 1. *Referral to plan commission.* The application and all data pertaining thereto shall be referred to the plan commission for review and consideration per standard conditional use procedures.
- 2. *Public hearing.* Within 65 days after an application has been filed, a public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing as provided in section 82-267, notices shall be sent through the mail to all land owners within a half-mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed or delivered at least ten days prior to the date of hearing.
- 3. *Action by town board.* The town board shall within 35 days after receipt of the recommendation of the plan commission, take action to approve or disapprove the application for the proposed quarrying operation. Such determination shall be guided by consideration of the public health, safety and welfare and shall give particular consideration to the following factors:

- i. The effect of the proposed operation on existing roads, traffic movements, safety and efficiency.
- ii. The effect of the proposed operation on drainage and water supply.
- iii. The possibility of soil erosion as a result of the proposed operation.
- iv. The effect of dust and noise as a result of the proposed operation.
- v. The practical possibility of restoration of the site and its reuse.
- vi. The effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area.
- vii. The most suitable land use for the area with particular consideration for future residential value.
- viii. Any other factors deemed necessary by the town board.

4. *Renewals.* The procedure as designated in subsections b.1, b.2 and b.3 of this section shall apply to applications for renewal of a permit. Determination in regard to renewal shall be based on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the town.

c. *Requirements.*

1. General requirements. No part of the quarrying operation or buildings shall be permitted closer than 500 feet to a district zoned rural home, suburban estate or residential except with the written consent of the adjacent owners, but in no case shall such operation be permitted closer than 200 feet to a residential district.
2. Setback requirements. No part of the quarrying operation or buildings shall be located closer than 100 feet to the base setback line along any street or highway.

3. Offset requirements. No part of the quarrying operation or buildings shall be permitted closer than 50 feet to any property line except with the written consent of the owner of the adjoining property.
4. Operational requirements.
 - i. Fencing or other suitable barriers shall be erected and maintained around the site or around portions of the site where in the determination of the town board such facilities are necessary for the protection of the public. The type and extent of the fencing shall be approved by the town board.
 - ii. All machinery and equipment used in the operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in dust-free condition by surfacing or treatment as directed by the town board.
 - iii. The crushing, washing, refining or processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit.
 - iv. In stone quarries the production, manufacturing or storage of veneer stone, sills, lintels, cut flagstone, hearth stones, paving stone and similar architectural or structural stone shall be considered a permissible part of the operation.
 - v. The manufacture of concrete building blocks, lime products, ready-mixed concrete and any similar production or manufacturing processes shall not be permitted.
 - vi. The washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity or may seriously affect the supply for other uses in the area.
 - vii. Landscaping shall be provided where deemed necessary by the plan commission to screen the operation from normal view, to enhance the general appearance and generally to minimize the affect of the operation on the beauty and character of the surrounding countryside. Such plantings shall be started as soon as practicable, but no later than one year after quarrying operations have begun and

shall be done according to the recommendations of the plan commission.

- viii. The proposed hours of operation shall be submitted to and approved by the town board. Such hours shall be posted at the site when deemed necessary by the town board.

5. Restorative requirements.

- i. In order to ensure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the town board a plan for such restoration in the form of the following: 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 approved by the county land conservation committee showing the proposed contours after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished; a cash escrow, certified check or other financial guarantee satisfactory to the town attorney in an amount sufficient in the opinion of the town board to secure the performance of the restoration agreement. Such agreement and financial guarantee shall be in a form approved by the town attorney.
- ii. In the event of the applicant's failure to fulfill this agreement, such check or other financial guarantee shall be deemed forfeited for the purpose of enabling the town to perform the restoration.
- iii. Restoration shall proceed as soon as practicable, upon order and direction of the town board. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years.
- iv. At any stage during restoration the plan may be modified by mutual written agreement between the town and the owner or operator.

- v. Where there is any backfilling, the material or method used shall not create a health hazard nor be objectionable because of odor, combustibility or unsightliness. In any case the finished grade of the restored area except for rock faces, outcroppings, water bodies or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth and contain a minimum topsoil thickness of four inches.
- vi. Within one year after the cessation of the operation, all temporary structures, stock piles, rubbish heaps or other debris shall be removed or backfilled into the excavation to leave the premises in a neat and orderly condition.
- vii. In any restoration procedure which takes place in sand or gravel pits, no slope shall be left which is steeper than a ratio of two horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.

6. Exceptions.

- i. The provisions of this subsection shall not apply to the removal of sod.
- ii. When the operation is limited to the removal of topsoil, the plan commission may modify any or all of the provisions of this subsection, provided however, that in no case shall such operation be permitted closer than ten feet from any property line, be to a depth in excess of 18 inches or so as to adversely affect the drainage of the area.
- iii. The provisions of this subsection shall not apply to an operation which is accessory to the legitimate use of the premises; however, where such operation involves the commercial disposal of the material removed, the approval of the town board shall be required and such operation shall be limited to a maximum period of six months.
- iv. In a general industrial district, the town board may, consistent with the intent of these regulations, permit a reduction in the required setback or offset. But in no case shall the setback be less than 100 feet, nor the offset be less than 50 feet.

d. *Application to existing operations.*

1. Permits. Within 60 days after the adoption of the ordinance from which this subsection is derived all existing quarrying operations shall be required to register with the clerk submitting pertinent data relative to the present operation, boundaries of the actual operation and of the ownership. A quarrying permit shall be granted to such existing operation subject to compliance with the operational requirements of this chapter where they can be reasonably applied under existing circumstances.
2. Plan for restoration. There shall be required within one year after adoption of the ordinance from which this section is derived, the submission of a plan for restoration of the site of any existing quarrying operation. The plan for restoration in such case shall not impose requirements which are economically unreasonable with respect to conditions resulting from operations prior to enactment of the ordinance from which this section is derived.
3. Renewal permit. Within three years after the date of the ordinance from which this section is derived, any such existing operation shall be required to make application for a renewal permit.

- (31) *Restaurants, supper clubs, lake resorts, taverns and similar uses.* In all other districts except C-1, A-E, A-T and A-P, these uses shall be considered conditional uses subject to the following:
- a. The minimum lot area shall be at least three acres and at least 200 feet in minimum average width.
 - b. Adequate off-street parking shall be provided within 200 feet of the building in which such use is occurring, but offset 20 feet from any lot line or adjacent property zoned agricultural or residential. The amount of space shall be in accordance with the parking provisions of this chapter.
 - c. A planting screen or fence of at least six feet in initial height shall be provided and maintained between any abutting residential district and the proposed conditional use. Additional screening may be required by the plan commission and/or town board.
 - d. The proposed building shall be offset at least 50 feet from any adjoining residential district and 100 feet from the high water mark of any lake or navigable body of water.
 - e. No more than 15 percent of the environmental corridor district may be disturbed or vegetation removed, as part of the development of the site for the proposed use. This includes the structures, parking, walkways, recreational uses, septic system location, etc.

(32) *Towers.*

- a. All freestanding licensed amateur radio operator towers, ornamental towers, spires, and masts exceeding the height limit allowed for an accessory structure in the underlying zoning district and all roof-mounted licensed amateur radio operator antennas exceeding ten feet in height from the roof: In any district subject to the tower or structure meeting all industry construction standards and subject to landscaping plan approval by the plan commission as deemed necessary and subject to the height regulations contained in section 82-23.
- b. All freestanding towers for use by other than licensed amateur radio operators, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, and necessary mechanical appurtenances exceeding the height limit allowed for an accessory structure in the underlying zoning district: In agricultural, business, industrial or park districts, subject to the towers and structures meeting all industry construction standards and subject to landscaping plan approval by the plan commission as deemed necessary and subject to the height regulations contained in section 82-23.

(33) *Wrecking and salvage yards.* In any agricultural district except A-P, A-T or A-E. General industrial district subject to the following:

- a. The building, site plan, and plan of operation have been submitted to and approved by the plan commission.
- b. No such use shall be permitted on a lot less than ten acres in area.
- c. The junked materials shall be screened from view by a sight-obscuring, unpierced fence at least six feet in height.
- d. No part of the wrecking operation shall take place closer than 200 feet to any residential district.
- e. All requirements of the Wisconsin Administrative Code shall be met.

- (34) *Other uses.* Other uses or situations not specifically provided for in this conditional use section and which may be determined to be acceptable under the provisions of this chapter. Such determination shall be made by the plan commission and board to meet the intent of the conditional use provisions as set forth in this section.

(Ord. of 5-9-1983, § 3.08; Ord. No. 86-3, 3-13-1986; Ord. No. 95-3B, § 2, 9-13-1995; Ord. No. 95-5, § 1, 10-11-1995; Ord. No. 96-2, §§ 2, 3, 5-8-1996; Ord. No. 98-4, § 3, 6-10-1998; Ord. No. 99-4, § 1, 9-8-1999; Ord. No. 2000-6, § 2, 9-11-2000; Ord. No. 2001-6, §§ 6, 7, 10-29-2001; Ord. No. 2004-8, § 1, 6-9-2004; Ord. No. 2006-1, §§ 8--10, 1-3-2006)

Sec. 82-22. Building location.

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

- (3) No principal building or its accessory buildings shall be erected, altered or placed so that any roofed or enclosed portion is closer to the base setback line than the setback distance hereinafter specified by the regulations for the district in which such building is located with the following exceptions applicable only where the setback requirements of the properties involved are identical:
- a. Where the nearest existing building on one side of such building is within 500 feet and has less than the required setback, the average between such existing setback and the required setback shall apply.
 - b. Where the nearest buildings on both sides of such building are within 500 feet of such buildings but not closer than 300 feet to each other and have less than the required setback, the average of such existing setbacks and the required setback shall apply.
 - c. Where the nearest buildings on both sides of such building are within 300 feet of each other and have less than the required setback, the average between such existing setbacks shall apply.
 - d. In the case of a proposed addition to an existing building which has less than the required setback, such existing building may be considered the "nearest existing building" in order to apply the aforesaid exceptions in determining required setback for the proposed addition.
- (4) No other structures of any kind, except necessary highway and traffic signs, public utility lines, drainage structures, rural mailboxes and newspaper boxes shall be erected, altered or placed within such base setback areas. Private retaining walls, guard posts or other landscape structures shall not be permitted unless placed below the street centerline elevation. Mailboxes and newspaper boxes shall not be permitted on the circle portion of the cul-de-sac.
- (5) In the vision setback area no structure of any kind shall be permitted which exceeds a height of three feet above the elevation of the center of the intersection, except for necessary highway and traffic signs, public utility lines and open fences through which there is clear vision, nor shall any plant material be permitted which obscures safe vision of the approaches to the intersection.
- (6) Additions to and replacements of existing structures may be made within the established setback areas, subject to approval of the plan commission and provided the owner will file, with the town an agreement in writing to the effect that the owner will remove all new construction, additions and replacements created after the adoption of the ordinance from which this section is derived at his expense, when necessary for the improvement of the highway.

- (7) In all cases where any of the highways for which setback lines are established by this section are located on municipal boundaries, such establishment shall apply only within the unincorporated area.
- (8) On corner lots of record as such, as of the date of the ordinance from which this section is derived, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than 30 feet.
- (9) Shore setback lines shall be a minimum of 75 feet from the established floodplain line, conservancy line, or the average annual highwater mark when such established lines are not available. Attached open decks shall maintain a minimum shore setback distance of 80 percent of the distance to the existing principal building or 60 feet, whichever is the shorter distance. A boathouse may be exempt from these provisions per subsection (b)(1)a of this section.
- (10) In the case of a lot abutting a dedicated but unimproved right-of-way that terminates at a public water body, the town plan commission may grant a special exception as to the setback from such dedicated but unimproved right-of-way, subject to the following procedures, requirements and conditions:
 - a. Procedure. A property owner may apply for a special exception and the special exception may be considered as follows:
 1. The property owner shall submit a petition to the town clerk. The petition shall include building and site plans, which include elevations along with such additional information as may be required by the building inspector and the plan commission. The building and site plan shall depict the proposed construction and the location of the proposed construction on the lot, including its location in relationship to existing structures on the lot and on adjacent lots within 100 feet. If the petition is for an addition to an existing structure, the application shall include recent photographs of all structures on the parcel. The petition shall be accompanied by payment of such application fees as may be established from time to time by the town board by separate resolution and shall be submitted to the town clerk no later than 3 weeks prior to the town plan commission meeting at which they are to be scheduled.
 2. Upon receipt of the complete application, required plans and application fees, the town clerk shall provide a copy of the petition and plans to the town building inspector and town planner and shall place the matter on an upcoming town plan commission agenda for consideration.

3. Prior to the town plan commission meeting when the matter will be heard, the town planner shall review the request and discuss the matter with the town building inspector, view the proposed location, and shall submit a written recommendation to the town plan commission. Along with the recommendation, the town planner shall advise the town plan commission as to whether the proposed construction would be in full compliance with all applicable federal, state, county, and town codes, statutes, rules, regulations and ordinances if the special exception were granted.
 4. The town plan commission shall consider the matter at the scheduled plan commission meeting. The petitioner shall be given an opportunity to be heard regarding the matter at that meeting.
 5. The town plan commission shall approve, deny, or conditionally approve the special exception petition, in accordance with the requirements and conditions of this subsection 82-22(a)(10). The town plan commission shall issue its decision in writing.
- b. Requirements and conditions. In order to approve or conditionally approve a special exception petition, the town plan commission must find all of the following to be true regarding the proposed construction:
1. The proposed construction must be at least five feet from the dedicated but unimproved right-of-way setback line.
 2. The proposed construction must be in compliance with all applicable federal, state, county, and town codes, statutes, rules, regulations and ordinances, if the special exception is granted.
 3. The proposed construction must be compatible with the surrounding neighborhood.
 4. If the property for which the special exception is requested contains legal non-conforming structures, legal nonconforming use of structures or lands, or is a legal nonconforming lot, the plan commission shall require the petitioner to file a deed restriction, as follows. The deed restriction shall state that if the structure that is the subject of the special exception petition is damaged or repaired beyond 50 percent of the full equalized assessed value at the date of completion of the construction, the structure can only be repaired or rebuilt in full compliance with all then-

current requirements of the town zoning code. Such deed restriction shall be recorded with the county register of deeds in a form that is subject to the approval of the town attorney.

5. The plan commission must find that the special exception will not be adverse to the public health, safety or general welfare, and will not be in conflict with the spirit and intent of the town zoning code, and will not otherwise be detrimental to the town or the immediate neighborhood where the constructions would be located.
6. The plan commission may require additional conditions and restrictions, including but not limited to conditions related to screening and landscaping.
7. If approved, a deed restriction in a form approved by the town attorney shall be filed in the county register of deeds office prior to the issuance of any building permit, indicating the special exception has been granted and recording any conditions of approval, including a statement that the structure may only be used for personal use and cannot be used for any type of commercial purposes unless otherwise permitted by the town zoning code.

- (b) *Offsets.*
- (1) No principal building or its accessory buildings shall be erected or altered so that any roofed or enclosed portion thereof is closer to any lot line than the offset distance hereinafter specified by the regulations for the district in which such building is located, with the following exceptions:
- a. On a lake shore lot one boathouse may be permitted not within five feet of the ordinary highwater line.
 - b. In the case of any lot of record which has a minimum average width of less than 120 feet, the side lot offset may be reduced proportionately to the ratio between the actual minimum average width and 120 feet, provided that no offset shall in any case be less than ten feet. Exceptions to these offsets may be permitted for detached accessory buildings on lots of 100 feet in width or less which may be reduced to five feet; provided, that no detached accessory building shall be located closer than ten feet to any structure used for residential purposes. Further reduction in offsets of detached accessory buildings to less than five feet must be approved by the plan commission; but in no case shall the offset be reduced to less than three feet. Attached open decks and patios shall be permitted to within 40 percent of the limits in this subsection.
 - c. The offset may be reduced on lots 1 1/2 acres or less for one detached accessory building, which is less than 200 square feet to a minimum of five feet from the lot line, unless otherwise regulated under any other provisions of this chapter.
- (2) For a lot that abuts a district boundary line; the offset from such lot line shall be not less than the offset applicable to the district in which the lot is located, or the offset applicable in the abutting district, whichever offset is larger. (Ord. 2007-2 § 2 12-01-2006)
- (3) In the case of multiple family or commercial use structures, the offsets may be modified as follows:
- a. Two or more buildings on adjoining lots may be erected with common or directly adjoining walls, provided the requirements of the applicable state administrative code relative to such construction are complied with, and provided that at both ends of such "row" type buildings the applicable offset requirements shall be complied with.

- b. 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 such property 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 (b)(3)a of this section.

(c) *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.

(d) *Accessory building location.* No detached accessory building shall be erected, structurally altered, or placed on a lot so that any roofed or enclosed portion thereof is closer than ten feet to the principal building on such lot, or as otherwise permitted by chapter 14, relative to buildings and building regulations. (Ord. of 5-9-1983, § 3.09; Ord. No. 2004-4, § 2, 3-11-2004)

Cross References: Buildings and building regulations, ch. 14.

Sec. 82-23. Height regulations.

(a) *Maximum height restricted.* In any district, no building or structure shall be, after the effective date of the ordinance from which this subsection is derived, erected or structurally altered to a height in excess of that specified by the regulations for that district except as otherwise set forth in this section.

(b) *Exceptions; no plan commission approval required.* The following should be exempted from the height regulations of all districts, but are subject to all other regulations of the town:

- (1) Chimneys and flues.
- (2) Accessory farm buildings, not to exceed 60 feet in height, on lots of three acres or more in area.
- (3) Electrical transmission and distribution facilities.
- (4) Roof-mounted television and radio receiving antennas not exceeding ten feet in height from the roof and roof-mounted licensed amateur radio operator antennas not exceeding ten feet in height from the roof.

(c) *Exemptions; plan commission approval required.* The following shall be exempted from the height regulations of all districts, subject to the approval of the plan commission, but are subject to all other regulations of the town: Cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, masts, free standing towers, roof-mounted licensed amateur radio operator antennas ten feet or more in height from the roof, aerial and necessary mechanical appurtenances.

(d) *Increase permitted.* All other buildings or structures not exempted by subsections (b) and (c) of this section may be increased by not more than ten 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.
- (Ord. of 5-9-1983, § 3.10; Ord. No. 96-2, § 1, 5-8-1996)

Sec. 82-24. Area regulations.

- (a) *Floor area.*
- (1) Any building intended in whole or part for residential purposes shall provide a minimum floor area as specified by the regulations for the district in which such building is located. Such minimums are stated in terms of the minimum total floor area required for a building and that portion of the total which must be provided on the first floor level. Such minimum total shall be increased by 200 square feet for any building not having a basement of at least 300 square feet in area.
 - (2) The maximum total floor area of the buildings on a lot shall not exceed that permitted under the floor area ratio as specified by the regulations for the district in which such buildings are located unless allowed per section 82-16(d). Basements shall not be included in determining permitted floor area ratio.
 - (3) Floor area shall be measured at each level from the outside edge of a wall to the outside edge of wall and for purposes of computing total minimum floor area shall not include garages; other outbuildings, open porches or basements. Breezeways, exposed basements, split levels and the secondary floors of multistoried residences may be included in computing total minimum floor area according to the following schedule:
 - a. One-half of the floor area of a breezeway if walled-in from floor joist to rafters but not heated. All of the breezeway may be included if walled-in from floor joists to rafters and heated by the central heating system. Open breezeways shall not be included.
 - b. That portion of the basement of an exposed basement residence or split level which has been designed as an integral part of the living area of the home may be included in computing total minimum floor area when at least one side is exposed and access has been provided to the outside at grade level by means of at least one door. Such computations shall maintain a minimum basement floor area of 300 square feet.
 - c. That portion of the secondary floors of multistoried buildings, which have a minimum distance between the ceiling face and the top of the lower floor ceiling joist of seven feet, may be included in computing the total minimum floor living area, provided there are permanent stairways leading from each floor to the next floor.
 - d. In a split level building the first floor area shall include all area which is not over another living area of the building.

- (4) 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 the chapter, would not be of such character or quality as to depreciate the property values of the surrounding area, and provided that in no case shall a minimum floor area of less than 900 square feet be permitted.
- (b) *Lot size.*
 - (1) No lot shall be created, and no building shall be erected on a lot of less area or of minimum average width less than specified by the regulations of the district in which such building is located, unless permitted per section 82-16(d) or is a preexisting legal lot of record.
 - (2) For the purpose of this section, the lot area shall be measured from the base setback line.
 - (3) The lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the lot depth.
 - (4) No lot area shall be reduced by any means to create a lot of less than the required size, or so that the existing offsets, setbacks, 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 by section 82-16(d).
 - (5) Where a lot has less land area or width than required for the district in which it is located and was of record at the time of the passage of the ordinance from which this section is derived, 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 in no case shall the setback and offset requirements be reduced except by order of the board of adjustment after due hearing or as otherwise provided in this chapter. It shall be further required that a minimum of 10,000 square feet of open space shall be provided on such lots of record. Such substandard lot shall also be in separate ownership from abutting lands. If abutting lands and the substandard lot are in the same ownership, the substandard lot shall not be sold or developed unless it has a minimum width of 100 feet and a minimum area of 20,000 square feet.
- (c) *Open space.*
 - (1) No building shall be erected, structurally altered or placed on a lot so as to reduce the useable open area of such lot to less than that specified by the regulations for that district, except as provided by section 82-16(d).

- (2) To be considered useable, 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, etc. Crop, pasture and wooded land may be included in computing such open area.
 - (3) 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 provided for planned unit developments.
- (Ord. of 5-9-1983, § 3.11)

Sec. 82-25. Accessory buildings and structures.

(a) *Size and location.*

(1) No accessory buildings shall be erected, structurally altered or placed on a lot in any district so that any portion thereof is closer than ten feet to the principle building or other accessory buildings and structures on such lot unless it complies with all local building code requirements.

(2) Square Footage and Number of Accessory Buildings

(a) In all Districts, the aggregate floor area of accessory buildings shall not exceed the maximum per lot square footage as outlined in the following table. Accessory buildings shall also not exceed the floor area ratio requirements for the applicable district. Temporary buildings shall be included in calculating the square footages for any lot.

EFO	500 square feet
AE	500 square feet
AT	500 square feet
RH	2,000 square feet
EC	720 square feet
A-1	1,300 square feet
SE	1,300 square feet
R-1	720 square feet
R-2	500 square feet
R-3	500 square feet
B-1	1,000 square feet
B-2	1,000 square feet

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

1. Except in the “EC” Environmental Corridor District and subject to the applicable district floor area ratio requirements, the maximum square footage for accessory buildings shall be increased by 50 sq. ft. for every ½ acre of land that the subject property exceeds the district minimum lot size.
2. For parcels of three (3) acres of more in size in any zoning district other than the Environmental Corridor District, the accessory building areas may be greater than those requirements set forth in subsection 2(a), if the Town Board in its discretion, upon consideration of a recommendation from the Plan Commission, grants a special exception and makes all of the following findings:
 - a. That one or more rural accessory buildings(s) as defined herein, are located on the property;

- b. That such rural accessory buildings(s) is (are) not a nuisance or detriment to the existing neighborhood;
- c. That the property is in compliance with the floor area ratio requirements of the District in which it is located; and
- d. That the total floor area of all accessory buildings, excluding the floor area of such rural accessory building(s), is in compliance with the requirements set forth in subsection 2(a).

3. Environmental Corridor District Accessory Buildings

- a. For any size parcel in the EC Environmental Corridor District, the Town Board, may in its discretion, grant a special exception to the maximum square footage requirements for accessory building set forth in subsection 2(a) after receiving a recommendation from the Plan Commission where all of the following criteria have been met;

- 1. The Building Inspector determines that no more than 32,600 sq. ft. of land disturbance has or will occur for all structures, septic systems, driveways and parking areas, patios, decks, pools, lawns and play areas. For purposes of this section, the areas of disturbance shall include any area where, due to development, the natural vegetation has previously been removed or land altering activities have previously occurred and areas where, due to any proposed accessory building(s), natural vegetation will be removed or land altering activities will occur.
- 2. Only one accessory building will be allowed on a parcel which is entirely within the Environmental Corridor District.
- 3. The use of the accessory building is for personal use only by the person(s) occupying the subject parcel.
- 4. The location of the proposed accessory building is not high quality environmental corridor or wildlife habitat area. The Town Board or Plan Commission may require the applicant to provide an environmental assessment by a qualified professional as to the impact the proposed accessory building and any associated vegetative disturbance or land altering may have on the environmental quality of the corridor.

- b. If a special exception is granted under subsection (A) above for a parcel in the EC Environmental Corridor District, the Board may designate a specific location for the accessory building to eliminate any unnecessary vegetative disturbance or land altering activity.

- (3) In no case shall any accessory structure in any agricultural or residential zoning district be used for commercial or industrial purposes except with a conditional use permit.
 - (4) A polystructure, subject to the dimensional regulations of the this chapter, shall only be allowed for the purposes of housing plant materials associated with a nursery or greenhouse operation, whether retail, wholesale or private and shall not be used for storage of any other types of materials not directly related to the nursery or greenhouse operation unless otherwise specifically authorized as part of a conditional use under article III. This subsection does not apply to the use of a polystructure as part of a general farm operation as defined in section 82-4 on a parcel of 35 acres or more.
- (b) *Garages.*
- (1) *Required.* A private garage at least 240 square feet in area shall be required for each dwelling unit hereinafter erected. Such structures shall be either attached or detached and conform to the offset and setback requirements of the district involved.
 - (2) *Attached garage maximum size.* Attached residential garages hereinafter erected shall be no larger than 50 percent of the first floor square footage of a ranch-style residence and no larger than 70 percent of the first floor square footage of a two-story style residence, unless a special exception is granted as described in subsection (b)(3), below.
 - (3) *Special exception.* Upon petition from a property owner, the plan commission may grant a special exception to the maximum attached garage size limitations of subsection (b)(2) of this section or maximum accessory building square footages allowed in the table in subsection (a)(2) of this section as follows:
 - a. The petitioner shall submit a petition to the town clerk. The petition shall include building and site plans, which include elevations, along with such additional information as the plan commission may require. The building and site plans shall depict the proposed construction and the location of the proposed construction on the lot, including the location in relation to existing structures on the lot and adjacent lots. The petition shall be accompanied by payment of such application fees as may be established from time to time by the town board by separate resolution.
 - b. Upon receipt of the complete petition, required plans, and application fees, the town clerk shall provide a copy of the petition and plans to the building inspector and the plan commission, and shall place the matter upon an upcoming plan commission agenda for consideration. The town clerk shall notify the petitioner of the

date. The notification of neighbors is not required unless the plan commission so directs. If the plan commission so directs, notice shall be provided in such manner as the plan commission may require and a public hearing must be held prior to a decision being made.

- c. Prior to the plan commission meeting where the matter will be heard, the building inspector shall review the request, shall view the proposed location, and shall submit a written recommendation to the plan commission. Along with the recommendation, the building inspector shall advise the plan commission whether detached accessory structures are prohibited on the lot by applicable laws and deed restrictions.
- d. The following limitations apply:
 - 1. Special exceptions may be granted under this subsection only in regard to the maximum size limitation of subsections (a)(2) and (b)(2) of this section.
 - 2. Special exceptions are prohibited if the requested location, structure, or use thereof, would conflict with any applicable federal, state, county codes, statutes, rules, ordinances or lawful orders, or with any town ordinances other than the maximum size limitations of subsection (a)(2) or (b)(2) of this section. A special exception may be allowed by the town plan commission if the county board of adjustment has varied the square footage requirements of the Waukesha County Shoreland and Floodland Protection Ordinance where applicable.
 - 3. Special exceptions are prohibited from allowing garages that would have doors for more than four side-by-side vehicles facing the right-of-way from which the dwelling unit has street access.
 - 4. The architecture of the attached or detached structure shall be compatible with the residence. Special exceptions are prohibited if the plan commission finds that the architecture is not compatible.
 - 5. In no case shall any attached garage or detached accessory structure in any agricultural or residential zoning district be used for commercial or industrial purposes, except with the granting of a conditional use permit by the town board.
- e. After reviewing the petition, the plans submitted, the building inspector's recommendation, and all additional information received in the matter, the plan commission shall either grant or deny the special exception, or grant the special exception upon

specified reasonable conditions including screening and landscaping if appropriate. To grant or conditionally grant the special exception, the plan commission must find that the requested attached garage or accessory structure will not be adverse to the public health, safety or welfare; will not be in conflict with the spirit or intent of this chapter; and will not otherwise be detrimental to the town or the immediate neighborhood where the structure would be located. The plan commission shall issue its decision in writing, including any conditions of approval, and shall provide a copy of the decision to the petitioner. The decision of the plan commission shall be final, and cannot be appealed to the zoning board of adjustment.

- f. In the case of the granting of a special exception to the square footage requirements of an attached garage, the grant shall be subject to an equivalent reduction being made in the square footage of accessory structures that are allowed on the lot, in accordance with subsection (a)(2) of this section.
- g. Upon approval, a deed restriction, in a form approved by the town attorney shall be filed in the county register of deeds office, prior to issuance of the building permit indicating that a special exception has been granted and recording any conditions of approval, including the reduction in the permitted square footage of accessory structures and a statement that the attached or detached accessory structure may only be used for personal use and cannot be used for any type of commercial or industrial purpose unless otherwise permitted by this chapter.

(c) *Boathouses.*

- (1) *Use permitted.* Boathouses, as defined by this chapter, are permitted in any district in which a single-family dwelling is permitted and where the property fronts on a lake, river or stream.
- (2) *Human habitation prohibited.* A boathouse must not be used for human habitation or occupancy and for only occasional maintenance. Such facilities shall not be leased or rented for human occupancy nor contain sanitary sewer facilities.
- (3) *Accessory to a single-family dwelling.* No boathouse is permitted unless a single-family dwelling is already present on the lot. Only one boathouse per lot is allowed, and it must contain a minimum of 200 square feet of boat storage area.
- (4) *Locational requirements.* Boathouses shall conform to the setback and offset requirements of the district and be of permanent construction. The one boathouse shall not be permitted within five feet of the ordinary high-water line. No metal buildings shall be permitted.

- (d) *Swimming pools.*
- (1) *Use permitted.* Above and below ground swimming pools are permitted in any district other than A-E or C-1 districts, subject to the following:
 - a. The pool must be intended to be used solely by the occupants of the principal use of the property on which the pool is intended to be located and their guests.
 - b. Any pool, together with its surrounding walks, patios, diving platforms, bathhouses and accessory structures, shall be so located that the parts of such complex are in conformity with the setback and offset requirements of the applicable district.
 - c. Walls or fences of at least four feet, but not more than six feet, in height shall be provided to restrict access by children.
 - (2) *Permit required.* No swimming pool shall be constructed unless a permit has been issued by the building inspector in accordance with chapter 14, regarding buildings and building regulations and governing the installation and maintenance of swimming pools.
- (e) *Fuel tanks.* All accessory structures involving the utilization or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and comply with all the requirements of the fire department and/or building inspector. All range from active to intense burning shall be utilized and stored only in completely enclosed structures which have incombustible exterior walls. The aboveground storage capacity of materials that produce flammable or explosive vapors shall not exceed 500 gallons unless approved by the plan commission or located within an agricultural or industrial district.
- (f) *Special use systems.*
- (1) *Use permitted.* Special use systems are permitted in any district other than A-E or C-1, when used solely by the occupants of the principal use, and subject to the following:
 - (2) *Permit required.* A separate special use permit shall be required for each system. Such permit shall be applicable solely to the systems, structures, use and property described in the permit.
 - (3) *Basis of approval.* The town board shall base their determination on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the town and specifically of the immediate neighborhood in which such use would be located.

These considerations shall include the effect on the established character and quality of the area, 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 such other factors as would be appropriate to carrying out the intent of this chapter.

(4) *Types of special uses.*

- a. *Solar energy conversion system.* Solar energy conversion system, commonly referred to as "active" or "passive" solar collection and heating systems and including systems defined by Wis. Stats. § 13.48.
- b. *Wind energy conversion systems.* Wind energy conversion systems commonly referred to as "windmills" which are used to produce electrical power.
- c. *Communication systems.* Communication systems commonly referred to as private cable televisions (disks, dishes, devices) unless exempt by federal law.
- d. *Exterior Fuel-Fired heating Devices,* Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source that is not located in the structure for which it is producing heat or energy.
(Ord. 2007-4 § 1 1-18-07)

(5) *Fees.* The town board shall by resolution establish fees for the processing and issuance of special use permits.

(6) *Permit procedure.*

- a. The town board is the agency which approves special use permits and further designates the building inspector as the official to receive, process and, following approval by the town board, issue special use permits.
- b. The permit application shall be made to the building inspector on forms provided by the town and include the name and address of the applicant, a site plan, a plan of operation, proposed improvements to site, and any additional information deemed necessary by the building inspector for proper review of the application.
- c. The building inspector shall review the application and, if the application is complete and contains all required information, shall refer it to the town board.

- d. Determination: Following public hearing per section 82-267, when deemed necessary by the town board, and necessary study and investigation, the town board shall as soon as practical render its decision in writing. Such decision shall include an accurate description of the special use permitted, of the property on which permitted and any and all conditions made applicable thereto, or if disapproved, shall indicate the reasons for disapproval. The town board may impose any conditions or exemptions necessary to minimize any burden on any persons affected by granting the special use permit.
- e. Termination: When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the town board following a public hearing per section 82-267.
- f. Special Requirements:
 - a. No Exterior Fuel-Fired Heating Devices shall be allowed on any parcel one (1) acre or less in size.
 - b. In addition to the general standard requirements as stated in this section, such Special Uses shall be subject to more specific standards and requirements pertinent to the particular use, which standards and requirements may be set in a supplementary guide for a Special Use regulation adopted by the Town Board, and modified from time to time in order that they reflect the best and most contemporary regulatory practices.

(7) *Standard requirements.*

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

(8) *Special requirements.*

- a) No Exterior Fuel-Fired Heating Devices shall be allowed on any parcel one (1) acre or less in size.
- b) In addition to the general standard requirements as stated in this section, such Special Uses shall be subject to more specific standards and requirements pertinent to the particular use, which standards and requirements may be set in a supplementary guide for a Special Use regulation adopted by the Town Board, and modified from time to time in order that they reflect the best and most contemporary regulatory practices. (Ord. 2007-4 § 2 1-18-07)

(9) *Modification of regulations.* Requirements applicable to uses by the regulations of this chapter may be modified or waived by the board in their application to special use if in the board's opinion they are not appropriate or necessary to the proper regulation of the special use, and where such modification or waiver would not, in the board's opinion, result in adverse effect upon the surrounding properties.

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

(Ord. of 5-9-1983, § 3.12; Ord. No. 86-3, 3-13-1986; Ord. No. 99-1, § 2, 5-20-1999; Ord. No. 2002-9, § 2, 2-13-2002; Ord. No. 2003-1, § 2, 1-15-2003; Ord. No. 2003-7, § 1, 12-10-2003; Ord. No. 2005-4, §§ 4, 5, 7-28-2005)

Sec. 82-26. Utility cabinets.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

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

Small utility cabinets means pedestals, loaders, junction boxes, cross connect boxes and any similar facilities which relate to the provision of telephone, electric, natural gas, cable television, cable Internet, or similar public services, and which are owned by the providers of such services, and for which there are no more than three such small utility cabinets on any lot, which shall be no greater than the following: One cable company cabinet being no more than 35 inches (height) by 32 inches (width) by 17 inches (depth), one electrical facility cabinet being no more than 40 inches (height) by 38 inches (width) by 30 inches (depth), and one telephone company cabinet being no more than 60 inches (height) by 24 inches (width) by 12 inches (depth).

(b) *Small utility cabinets.* Small utility cabinets shall be considered a permitted use by right regardless of whether they are in fact accessory to other uses on the property or whether there are principal structures on the lots where they will be located; and will not require a building permit; and will not have to meet the setback and offset requirements of this chapter; provided that the small utility cabinet shall either (i) be placed within a town road right-of-way in compliance with the town right-of-way regulations in chapter 62, article II, including any amendments that may be made thereto in the future; or (ii) be placed within a public road right-of-way under the jurisdiction of the county or the state, in compliance with all applicable laws and subject to obtaining all necessary approvals as required by the governing bodies having jurisdiction; or (iii) be placed within a private road right-of-way with the proper easements; or (iv) be placed on private property with proper lease or easements.

(c) *Large utility cabinets.* Large utility cabinets shall be considered a special use, will require a special use permit as described in this subsection, and building permit; and will be prohibited within any public or private right-of-way, except with town board approval, except that the town board may grant specific approval on a case-by-case basis provided that the large utility cabinet shall either (i) be placed within a town road right-of-way in compliance with right-of-way regulations in chapter 62, article II, including any amendments that may be made thereto in the future; or (ii) be placed within a public road right-of-way under the jurisdiction of the county or the state in compliance with all applicable laws and subject to obtaining all necessary approvals as required by the governing bodies having jurisdiction; or (iii) be placed within a private road right-of-way with the proper lease or easements. Large utility cabinets will not have to meet the offset and setback requirements of the zoning district in which any such large utility cabinet is proposed to be located, but shall be subject to vision corner easement requirements, and must not interfere with safe sight distances from public streets accesses. Large utility

cabinets may be allowed by the town board in any district as described in this subsection and may require screening from existing, adjacent residential uses.

- (1) *Permit required.* A separate special use permit shall be required for each property on which one or more large utility cabinet is proposed. Such permit shall be applicable solely to the cabinet, structure, use and property described in the permit.
- (2) *Basis of approval.* The town board shall base their determination on general considerations as to the effect such grant may have on the health, general welfare, safety and economic prosperity of the town and specifically on the immediate neighborhood where such use will be located. These considerations shall include the effect on the established character and quality of the areas, physical attractiveness, the demand for related services, the possible hazards, harmful, noxious, offensive or nuisance effect as a result of noise, glare, dust, smoke or odor and other factors as may be appropriate to carry out the intent of this chapter.
- (3) *Fees.* The town board shall establish fees for the processing and issuance of special use permits on an annual basis by separate resolution.
- (4) *Permit procedure.*
 - a. The town board is the designated agency, which approves special use permits and further designates the building inspector as the official to receive, process and following approval by the town board, issue special use permits.
 - b. The permit application shall be made to the building inspector on forms provided by the town and contain the following:
 1. The name and addresses of the applicant, the owner of the property, and all contiguous properties.
 2. A site plan specifying the exact location of the easement or leased area, cabinets, cross boxes, loaders, junction boxes, power pedestals or any other associated facilities.
 3. A detailed description of the cabinets and facilities.
 4. Specifications for screening or fencing, which is to surround the subject cabinet facilities, or a landscaping plan, as may be required by the town board.
 5. A plan of operation.
 6. Proof of an easement or lease agreement with the property owner.

7. An erosion control permit issued from the county department of parks and land use land resource division, if necessary.
 8. Documentation from the building inspector whether the facility requires state approved plans.
 9. An abandonment plan, which shall clearly state that within 90 days after discontinuance of the use of the facilities, the access roads, concrete paths and all other appurtenances will be removed and the site will be restored to its natural condition.
 10. A schematic of the cabinet that shows where on the utility cabinets there will be a permanent placard that identifies the carrier and provides an emergency telephone number where accidents or public concerns may be reported.
- c. The building inspector shall review the application and if the application is complete and contains all required information shall refer it to the town board.
 - d. Following a public hearing per section 82-267, if deemed necessary by the town board, and after the necessary study and investigation, the town board shall as soon as practicable render its decision in writing. Such decision shall include an accurate description of the special use permitted, of the property on which it is permitted and any and all conditions made applicable thereto or if disapproved, shall indicate the reasons for disapproval. The town board may impose any conditions or exemptions necessary to minimize any burden on any person affected by granting a special use permit.
- (5) *Standard requirements.* Except as may be specifically allowed otherwise by this chapter, any such large utility cabinet shall not have to conform to the building location, and open space, requirements of the zoning district in which it is located and be no more than six feet high. Any cabinet more than six feet high may be authorized under the provisions of section 82-21(d)(29).
 - (6) *Modification of regulations.* Requirements applicable to large utility cabinets by the regulations of this section may be modified and/or waived by the town board in their review of an application for a special use if in the board's opinion they are not appropriate or necessary to the proper regulation of the special use and where such modification would not, in the board's opinion, result in an adverse effect on the surrounding properties.

- (7) *Termination.* When a special use permit has been issued for a large utility cabinet and it does not continue in conformity with the conditions of the original approval, or of the use itself causes the original special use permit to no longer be compatible with the surrounding areas or for similar cause, based upon consideration of the public welfare, a special use permit may be terminated or amended by action of the town board following a public hearing per section 82-267.

(Ord. No. 2003-3, § 1, 2-26-2003)

Sec. 82-27. Off-street parking.

(a) *Spaces required.* Any building erected or structurally altered after the effective date of the ordinance from which this section is derived shall be provided with off-street vehicle parking spaces, not more than 200 feet at the nearest point from the building served and to be used exclusively by the residents, patrons, or employees of such building. A parking space shall be generally interpreted to be equivalent to 300 square feet of parking, ingress, and egress area. The following schedule shall be utilized to determine the number of parking spaces required for the various uses.

- (1) Two spaces per residential dwelling unit: Garage space can be used to satisfy this requirement.
- (2) Auditoriums, churches, theaters, community centers and other places of public assembly: One space for four seats.
- (3) Retail business establishments, 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.
- (4) Wholesale and other general business establishments: One space for each two employees during any 12-hour period.
- (5) Office buildings: One space for each 300 square feet of floor area, with a minimum of one space for each two employees.
- (6) Medical and dental clinics: Three spaces for each doctor and one space for each employee.
- (7) Industrial buildings and warehouse buildings: One space for each two employees during any 12-hour period.
- (8) Sanitariums, institutions, rest homes, nursing homes: One space for each five beds plus one space for every three employees.
- (9) Hospitals: One space for each two beds plus one space for every three employees.
- (10) Hotels and motels: One space for each guestroom plus one space for every three employees.
- (11) Colleges, vocational and night schools, secondary and elementary schools: One space for each employees plus one space for every two students. At elementary and secondary schools the number of stalls for student parking shall be determined by the plan commission after consultation with the administration of that school and appropriate provisions will be made consistent with the intent of this provision.

(12) Multiple use facilities: Shall be based upon a maximum space requirement as determined by the plan commission.

(b) *Residential parking.* Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests. Vans, motor homes, recreational vehicles, or pick-up trucks used for private and recreational use, or one similar vehicle used in a business for transportation to and from a place of employment, may be parked on a residential property as long as such use does not become a nuisance to the neighborhood.

(c) *Parking of trucks and equipment.* No other vehicular equipment of a commercial or industrial nature, as excepted in subsection (b) of this section, shall be parked or stored for more than three consecutive hours and six accumulative hours during any 24-hour period on any lot in any zoning district, except business or industrial districts, or as follows:

- (1) Agricultural equipment (such as farm tractors, plows, seeders, combines, cultivators, farm trucks, etc.) used in a farm operation and located within an agricultural or rural home district.
- (2) 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 planning commission indicates it has no objection to the increase in the number of such vehicles. No limitation shall be placed on vans or pick-up trucks if they are used for private non-business or noncommercial recreational purposes.
- (3) Consideration for issuance of a conditional use permit, pursuant to section 82-21(d)(10) may be given to allow the parking of commercial or industrial type vehicles in any zoning district, except C-1 conservancy and A-E exclusive agricultural. This determination shall be made by the plan commission after conducting an informal hearing and notifying all property owners within 300 feet of such a hearing. In business or industrial districts where such vehicles are accessory to an otherwise permitted business or commercial use, a conditional use permit will not be required and there are no limitations as to the number of such vehicles which may be parked on the property except as may be established under the provisions of the applicable zoning district.
- (d) *Surfacing.* Any off-street parking area, other than that provided for a residence, having a capacity for more than four vehicles shall be surfaced and maintained in a dustless condition.
- (e) *Screening.* Any off-street parking area, other than that provided for a residence, which abuts or faces a residence district shall provide a planting screen, landscaped fence, or wall at least four feet in height along the side abutting or fronting on a residence district.

- (f) *Offset.* In any off-street parking area, other than that provided for a residence, which abuts a residence district, no vehicle shall be allowed to park closer than ten feet to the abutting residential lot line.
- (g) *Setback.* No vehicle shall be parked closer than ten feet to the base setback line.
- (h) *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.

(Ord. of 5-9-1983, § 3.13; Ord. No. 90-5, § 1, 8-13-1990)

Cross reference--Traffic and vehicles, ch. 70.

Sec. 82-28. Off-street loading and unloading.

- (a) *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.
- (b) *Areas.* Each such loading space shall have an area at least ten feet wide by 45 feet long and with a minimum of 14 feet of height clearance.

(Ord. of 5-9-1983, § 3.14)

Cross reference--Traffic and vehicles, ch. 70.

Sec. 82-29. Signs.

(a) *Use restricted:* Signs are prohibited in all zoning districts in the Town except: (1) One or more sign may be specifically authorized by a duly issued Conditional Use Permit; (2) One or more sign is permitted to the extent specifically authorized by the applicable zoning district regulations. (Ord. 2006-2 § 2 12-13-06)

(b) *Setbacks and offsets.* In any district, no sign other than those permitted in a residence 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, unless otherwise approved by the town board upon recommendation of the plan commission.

(c) *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.

(d) *Directional signs.* A sign, not to exceed 12 square feet in area for the purpose of advertising and directing patrons to an establishment off the main traveled highway may be permitted in any district other than a residential district upon recommendation of the plan commission and approval of the town board.

(e) *Heights.* No free standing 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.

(f) *Temporary signs.* All portable signs used for commercial purposes shall conform to the standards of this section and receive plan commission and town board approvals if installed for a continuous period of at least 14 days but less than six months. Campaign signs placed within the base setback areas shall be removed within 72 hours of the closing of polls.
(Ord. of 5-9-1983, § 3.15; Ord. No. 86-3, 3-13-1986)

Sec. 82-30. Airport safety zone.

(a) *Maximum height.* No buildings or objects of natural growth located within two miles of the boundaries of any existing airport landing field or landing and take-off strip, and within a band 500 feet on each side of the centerline extended of any runway, shall be erected, altered, or permitted to grow after the effective date of the ordinance from which this section is derived to a height above the elevation of the nearest point of such runway greater than one-fifteenth of the distance from such point.

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

(c) *Exceptions.* The regulation in this section shall not apply to growing field crops which are harvested at least once a year, nor to fences not over five feet high. (Ord. of 5-9-1983, § 3.16)

Sec. 82-31. Mobile homes and recreational vehicles.

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

(b) *Human habitation allowed.* A permit for one continuous six-month period allowing the human habitation of a mobile home or a recreational vehicle on lands other than an approved mobile home park may be granted by the town board provided:

- (1) The habitation is an accessory to the current construction of a principal structure owned by the same person who is the applicant for the permit; and
- (2) The waste disposal facilities and water supply facilities for the property upon which the mobile home or recreational vehicle is to be located have been approved by the county health department.

(c) *Storage permitted.* One (1) mobile home or recreational vehicle may be stored outside of a building provided the following conditions are satisfied:

- (1) The overall length of the mobile home or recreational vehicle including the towing tongue shall not exceed 35 feet.
- (2) The mobile home or recreational vehicle shall be registered or licensed with the State of Wisconsin.
- (3) The condition of the mobile home or recreational vehicle does not constitute a nuisance as determined by the plan commission. (Ord. of 5-9-1983, § 3.17; Ord. No. 96-3, § 3, 5-8-1996) (Ord. No. 2010-2, § 1, 8-25-2010).

Sec. 82-32. Legal non-conforming uses, structures and lots.

(a) *Continuance of Use, Generally,*

- 1) Any lawfully established construction of a building or structure at the time of the enactment of this chapter 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 chapter 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 chapter 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 chapter 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 Ordinance may be continued as a legal non-conforming structure, although the structure size or location does not conform to all the requirements of this Ordinance, however:
 - a. A legal non-conforming structure containing conforming uses may be totally rebuilt if, and only if, such reconstruction is identical in all respects to the size, shape, height, location, footprint, style and use of the original structure.
 - b. A legal non-conforming structure containing conforming uses, subject to approval of the Town Plan Commission, 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 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.

- d. Regardless of the foregoing provisions in this subsection, the footprint of a legal non-conforming primary residence with conforming uses, subject to the Town Plan Commission approval, may be expanded into areas of the lot where the expansion fully complies with all offset and setback requirements of the district in which it is located, provided that the expansion is otherwise in compliance with all other applicable laws. In passing upon such matter, the Town Plan Commission shall consider all the following factors: the size of the lot; the size and location of the existing legal non-conforming structure; the size and location of any other structure on the lot; the size and location of the proposed expansion; the impact, if any, that the expansion may have upon neighboring properties; whether the proposed expansion would violate the intent of the Zoning Ordinance and such other matters as the Town Plan Commission finds to be relevant in the interest of the public health, safety, welfare, and be compatible with other properties in the area of the Town.
- (2) *Nonconforming Use of Structures and Lands.* A lawful use which existed at the time of the adoption or amendment of this chapter 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 chapter, however:
- a. No such use shall be expanded or enlarged.
 - b. Upon petition to and approval of the Town Board, such use may be changed to another use provided the Town Board determines that the new use would not result in a greater degree of non-conformity than the current use.
 - c. When any such use is discontinued for twelve (12) consecutive months or eighteen (18) cumulative months during a three-year period, any future use of the land or structure shall conform to the use regulations of the applicable district. Seasonable uses shall be excluded from this provision.
 - d. When a structure which houses such non-conforming use is damaged beyond 50 percent of its present equalized assessed value, it shall be restored for any use in conformity with the applicable district regulations.
 - e. Total structural repairs or alterations to a structure housing a non-conforming use shall not exceed, on an accumulative percentage basis, 50 percent of the present equalized assessed value of the structure.
- (3) *Nonconforming lots.* The size and shape of such lots shall not be altered in any way which would increase the degree of such non-conformity to the applicable district regulations.

- (c) *Conditional use status.* Subject to the provisions of section 82-21, 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 Plan Commission and Town Board to be: not adverse to the public health, safety, or welfare; not in conflict with the spirit or intent of the Ordinance; and not otherwise detrimental to the community and particularly the surrounding neighborhood. Such conditional use status shall be granted only with the recommendation of the Plan Commission and approval of the Town Board following a joint public hearing in the manner provided in section 82-267.
(Ord. of 5-9-1983, § 3.18)

- (d) *State Law:* Any applicable restriction in this Ordinance which prohibits restoration of a damaged or destroyed non-conforming structure shall not apply to the extent that 2005 Wisconsin Act 112 applies to such restoration, including such amendments and renumbering of the applicable statutes referred to therein as may be made from time to time.
(Ord. 2006-2 § 12-01-06)

Sec. 82-33. Prior permit.

(a) *Construction permitted.* Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of the ordinance from which this section is derived and the construction of which shall have been substantially started within six months from the date of such permit.

(b) *Subsequently nonconforming.* Any such use which does not conform to the use regulations of the district in which it is located shall, however, subsequently be considered a legal nonconforming use.
(Ord. of 5-9-1983, § 3.19)

Secs. 82-34--82-49. Reserved.

ARTICLE IV.

DISTRICTS

DIVISION 1.

GENERALLY

Sec. 82-50. Establishment of districts.

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

C-1	Conservancy District
EFO	Existing Floodplain Overlay District
A-E	Exclusive Agriculture District
A-P	Agricultural Land Preservation District
A-T	Agricultural Land Preservation Transition District
R-H	Rural Home District
A-1	Agricultural District
S-E	Suburban Estate
R-1	Residential District
R-2	Residential District
B-1	Restricted Business District
B-2	Local Business District
B-3	General Business District
M-1	Limited Industrial District
M-2	General Industrial District

(Ord. of 5-9-1983, § 4.01; Ord. No. 86-3, 3-13-1986)

Sec. 82-51. Zoning map.

(a) *Districts mapped.* The boundaries of the zoning districts are shown upon a zoning map of the town, which map is made part of this section, and all the notations, references and other information shown thereon shall be as much a part of this section as if the matters and information set forth by such map were all fully described herein. Such map shall be kept on file in the office of the clerk. For the purpose of local administration, a copy of the appropriate section map shall also be kept on file in the office of the building inspector. (Ord. No. 2009-9 § 1, 5/14/2010)

(b) *Determination of boundaries.* District boundaries shall be determined by measurement from and as shown on the official zoning maps and, in case of any questions as to the interpretation of such boundary lines, the plan commission shall interpret the map according to the reasonable intent of this chapter.

- (1) Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section or 16th section lines; or the centerlines of streets, highways, railways or alleys.
- (2) 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.
- (3) The boundaries of the environmental corridor district are intended to include all non-wetland/floodplain primary or secondary environmental corridors, such as significant woodlands, upland wildlife habitat areas, scenic overlooks and slopes exceeding 12 percent. Where questions arise as to the exact location or boundary of an environmental corridor district, the extent and location of such corridor shall be finally determined by an infield investigation by the Southeastern Wisconsin Regional Planning Commission Staff Biologist or his designee.

(Ord. of 5-9-1983, § 4.02; Ord. No. 2000-6, § 4, 9-11-2000)

Secs. 82-52--82-59. Reserved.

Revised 5/14/2010

DIVISION 2.

C-1 CONSERVANCY DISTRICT

Sec. 82-60. Permitted uses.

The following shall be permitted uses in the C-1 conservancy district:

- (1) Grazing.
- (2) The harvesting of any wild crops such as marsh hay; ferns, moss, berries, tree fruits and tree seeds.
- (3) Hunting and fishing unless prohibited by other ordinances or laws.
- (4) Sustained yield forestry.
- (5) Dams and hydro-electric power stations.
- (6) Telephone, telegraph and power transmission lines.
- (7) Nonresidential buildings used solely in conjunction with the raising of waterfowl, minnows and other similar lowland animals, fowl or fish.
- (8) Telephone and electric distribution substations.
- (9) Park and recreational structures or facilities.

(Ord. of 5-9-1983, § 5.01(1))

Sec. 82-61. Specific prohibited activities.

Filling or drainage of wetlands, removal of top soil or peat, or damming or relocating of any watercourse shall not be permitted in the C-1 district except with recommendation of the plan commission and approval of the town board.

(Ord. of 5-9-1983, § 5.01(2))

Sec. 82-62. Height regulations.

Height regulations for the C-1 conservancy shall be as follows:

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

(Ord. No. 96-2, § 4, 5-8-1996)

Sec. 82-63. Area regulations.

There are no specific minimum lot size requirements that apply to conservancy zoned land. Lands which are zoned conservancy that lie within a larger parcel or tract of land, the remainder of which is zoned either A-P agricultural land preservation district or A-T agricultural land preservation transition district and have a minimum parcel size of 35 acres, shall be eligible for the agricultural preservation tax credit program.
(Ord. No. 86-3, 3-13-1986)

Secs. 82-64--82-69. Reserved.

DIVISION 3.

EFO EXISTING FLOODPLAIN OVERLAY DISTRICT

Sec. 82-70. Purpose and intent.

(a) The purpose and intent of the EFO existing floodplain overlay district is to provide for the continued use of improved properties that lie within the floodplain and which are considered prohibited structures. It is recognized that these improvements represent the substance of many families' estates and principal residences. Therefore, the principal intent of this division is to recognize existing uses and structures and regulate them in accordance with sound floodplain management practices while protecting the overall water quality of the river system.

(b) Another intent of the provisions in this division is to regulate and diminish the proliferation of nonconforming structures and uses in floodplain areas through control of reconstruction, remodeling, conversion and repair. The basis behind these controls is to lessen the potential danger to life, safety, health and welfare of persons whose lands are subject to the hazards of floods.

(c) The provisions for the EFO existing floodplain overlay district shall apply to all floodplains where specifically mapped and where structures are in existence as of the date of adoption of this provision of this chapter.

(d) The degree of flood protection intended to be provided by this division is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. This division does not imply that areas outside the 100-year recurrence interval floodplain or land uses permitted within such areas will always be totally free from flooding or flood damages, nor shall this division create a liability on the part of or a cause of action against the town or any officer or employee thereof for any flood damage that may result from reliance on this chapter.

(Ord. of 5-9-1983, § 6.01)

Sec. 82-71. Permitted uses.

The following shall be permitted uses in the EFO existing floodplain overlay district:

- (1) Any use as permitted in the C-1 conservancy district or the A-E exclusive agricultural district.
- (2) Structures and uses, including principal as well as accessory uses and structures existing at the time of adoption of the ordinance from which this provision is derived, subject to compliance with the following:
 - a. In the event of damage, including fire, wind or other natural causes, to any such existing structures, the valuation of which to repair such damage would exceed 50 percent of its present equalized assessed value (as computed over the life of the structure

and including past improvements) such structure may be reconstructed, remodeled or rebuilt if the following standards are met:

1. The structure is not located in a floodway as defined in this chapter.
2. The first floor of the structure shall be placed at or above the flood protection elevation and reconstruction may occur on the same foundation or newly constructed foundation which represents no greater an encroachment or extension of the previously existing structure other than vertically. Such foundation shall be floodproofed and certified as set forth herein.

Fill shall be used to elevate the first floor to meet the requirements of this subsection. This fill shall not be less than one foot below the flood protection elevation for the particular area and shall extend at such elevation for a distance of at least 15 feet beyond the limits of the structure. Where such distance cannot be achieved because of lot lines or other similar constraints, such fill elevation shall extend as far as is practicable resulting in no slope conditions at its terminus which may adversely affect surface water drainage on adjacent properties.

Where the 15 feet of fill cannot be achieved as set forth in this subsection, the structures shall be floodproofed to the flood protection elevation in accordance with the methods set forth herein and shall be certified as such by an architect or professional engineer registered in the state. Other methods may be used, as long as they are certified as set forth in this section. All floodproofing measures shall provide anchorage to resist flotation and lateral movement, and ensure that the structural walls and floors are watertight. To ensure that adequate measures are taken, the applicant shall submit a certified plan or document verifying that the proposed floodproofing measures are adequately designed to protect the structure to the flood protection elevation for the subject area.

3. There shall be dry land access to all structures affected by the regulations in this division. Such lands shall be contiguous lands outside or above the floodplain elevation where the depth and duration of floodwaters do not adversely affect rescue and relief operations during a flood. Normally inundations of not more than one foot of water above the roadways is considered adequate to meet the intent of this requirement.

4. All on-site waste disposal systems and private wells shall be floodproofed to the flood protection elevation and shall conform with the provisions of the county sanitary code and/or Wisconsin Administrative Codes where applicable to such facilities.
 5. The basement or crawl space elevation shall not be more than two feet below the flood protection elevation, unless a community-wide exemption allowing floodproofing of basements has been granted by the Federal Insurance Administration (FIA) of the Federal Emergency Management Administration (FEMA). Heating and electrical equipment shall be at or above the flood protection elevation.
 6. A structure may be reconstructed or rebuilt where the offset, setback, building footprint and impervious surface regulations outlined in the R-3 district can be met. If the offset, setback and building footprint requirements do not allow a minimum of an 1,140 square foot building envelope to accommodate a 900 square foot first floor and a 240 square foot garage, the applicant may apply for a special exception in accordance with section 82-175.
 7. Where more than one principal building, as defined in this chapter, exists on a single property and one or more of such buildings would be destroyed or damaged beyond 50 percent of their present equalized assessed value as heretofore set forth, the reconstruction, rebuilding or repair of only one of such buildings would be allowed. Where only one principal building on a property where more than one principal building exists, is destroyed or damaged as set forth in this subsection, the reconstruction or repair of that building would not be allowed unless all other principal buildings were removed. The intent of this provision is to allow for the reasonable use of the developed floodplain lands but not to the degree of intensity which may have existed prior and so that the intensity of use of floodplain lands will be diminished.
- b. Where a structure lies within the floodplain but outside of the floodway, no modification or addition to such structure shall be permitted unless it conforms, with the following standards: (For the purpose of this section, the words "modification" and "addition" shall include, but not be limited to, any structural alteration, addition, modification, conversion of space for living purposes, rebuilding or lateral enlargement of any such existing structure, principal or accessory. Ordinary maintenance repairs,

including painting, decorating, paneling, replacement of doors, windows and other nonstructural components, shall not be subject to these provisions.)

1. The modification or addition to a structure may not decrease floodwater storage capacities. Such modification or addition to a structure shall not extend laterally from the structure so as to extend into the floodplain but may be allowed to go above existing floors of the structure. An accessory building may be permitted on existing grades, as long as it is not enclosed on its sides. It shall, however, meet all other offset, setback and floor area ratio requirements.

A garage may be permitted accessory to the existing principal use. When attached, the garage floor shall be at or above the flood protection elevation and when detached shall be at least one foot below the flood protection elevation and shall meet the fill requirements, per subsection (2)a.2. of this section, locational and floor area ratio criteria of this chapter.

2. The building footprint and impervious surface limits in section 82-174(a), and the building location requirements in section 82-172 must be met.
3. The provisions of subsection (2)a.2., 3., 5., 6. and 7. of this section, shall be complied with. Only one principal structure on a lot will be allowed to be modified or altered in accordance with the intent of subsection (2)a.7. of this section.
4. The provisions of subsection (2)a.4 of this section shall be complied with. Where a modification or addition requires a larger waste disposal system than what exists (i.e., additional bedrooms), it shall be demonstrated to the building inspector that a new or expanded waste disposal system can be provided which complies with the requirements of the county sanitary code and the Wisconsin Administrative Code. Such documentation shall be provided prior to the issuance of a building permit for such alterations to the structure. The new, improved or enlarged waste disposal system shall be installed concurrently with the construction or prior to occupancy of the altered structure.

The intent of this provision is to allow only those additions and modifications which can be accommodated with an onsite or public waste disposal system which will comply with contemporary standards, be adequately protected from flooding and will accommodate such structures.

- c. Conversion of residences from seasonal use to year round use will not be allowed unless all of the conditions set forth in subsection (2)b. of this section are met. Conversions of this nature will require a building permit and inspection to determine conformance with subsection (2)b. of this section.
- d. The provisions set forth in this section and related to reconstruction, modification, remodeling and additions, shall conform with all other requirements and provisions of this chapter.
- e. Lateral extension of buildings or other exceptions which may be prohibited in this section may be allowed only with approval by the board of adjustment in accordance with the procedures established in this chapter. The board of adjustment in granting such extension shall determine whether the spirit and intent of the chapter will be upheld.

(Ord. of 5-9-1983, § 6.02; Ord. No. 2006-1, §§ 11, 12, 1-3-2006)

Sec. 82-72. Height regulations.

Height regulations for the EFO existing floodplain overlay district shall be as follows:

- (1) Principal building
 - (A) A point measured from the lowest point of the exposed structure to the highest floor line shall not exceed 12 ft.
 - (B) A point measured from the lowest point of the exposed structure to any eave line shall not exceed 24ft.
 - (C) A point measured from the lowest point of the exposed structure to the highest point of any roof shall not exceed 34 ft.
 - (D) It is the intent of this section that no more than 2 stories of habitable space shall exist when viewed from the waterfront.
(Ord. 2007-2 § 3 12-01-2006)

- (2) Accessory buildings: 60 feet maximum.
(Ord. No. 96-2, § 5, 5-8-1996)

Secs. 82-73--82-79. Reserved.

DIVISION 4.

A-E EXCLUSIVE AGRICULTURAL CONSERVANCY DISTRICT

Sec. 82-80. Purpose.

(a) This district is intended to apply to those areas presently in agricultural use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and the presence of natural vegetation indicative of wet soils. The intent of the A-E exclusive agricultural conservancy district is to preserve and maintain agricultural uses on lands suited for such purposes. These lands often include lands poorly suited for urban or suburban development while being particularly well suited for some types of agricultural use either with or without a higher level of soil management.

(b) In this district structures related to farm operations, including dwellings, are deemed consistent with the purpose of this division where the location of buildings associated with the permitted agricultural operation is found to conform with health, sanitation and safety provisions of this and any other state regulation or local ordinance. Determination of such suitability shall be evidenced by onsite examination and evaluation. The intent for mapping purposes is that lands within the A-E exclusive agricultural conservancy district shall have exhibited those agricultural uses in the past. It is not the intent of this division to promote or permit the conversion of wetlands. (Ord. of 5-9-1983, § 7.01)

Sec. 82-81. Permitted uses.

The following shall be permitted uses in the A-E exclusive agricultural conservancy district:

- (1) Any use permitted in the C-1 conservancy district.
- (2) Ordinary farm uses, including dairying, livestock, poultry raising and truck farming.
- (3) Accessory uses within buildings normally associated with permitted agricultural operations and shelters for housing animals, except that no structure shall be located in a floodplain or upon lands not suited due to soil limitations. Any structures within floodlands must conform to division 3 of this article.
- (4) Nurseries, greenhouses and hatcheries limiting the retail sales of such produce to that which is produced by the farm operator.
- (5) Roadside stands.

- (6) Signs not to exceed 12 square feet in area displaying the name of the farm or farm organization.
- (7) Sod farming in conformance with section 82-645.
- (8) Private stables and commercial stables subject to the following:
 - a. Private stables on parcels of less than 20 acres subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of lot area and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
 - b. Private stables on parcels 20 acres or greater in size subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town.
 - c. Commercial stables on parcels 20 acres or greater in size subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town.
 - d. Commercial stables on parcels of less than 20 acres are not permitted but may be allowed as conditional uses pursuant to section 82-21(d)(11) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

(Ord. of 5-9-1983, § 7.02(1); Ord. No. 98-4, § 4, 6-10-1998; Ord. No. 2001-6, §§ 8, 9, 10-29-2001)

Sec. 82-82. Conditional Uses.

Commercial stables on parcels less than 20 acres in size shall be a conditional use in the A-E exclusive agricultural conservancy district pursuant to section 82-21(d)(11) provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
(Ord. of 5-9-1983, § 7.02(2); Ord. No. 2001-6, § 10, 10-29-2001)

Sec. 82-83. Building location.

Building location requirements for the A-E exclusive agricultural conservancy district shall be as follows:

(1) Setback: 50 feet minimum.

(2) Offset: 50 feet minimum.

(Ord. of 5-9-1983, § 7.03)

Sec. 82-84. Height regulations.

Height regulations for the A-E exclusive agricultural conservancy district shall be as follows:

(1) Principal building: 35 feet maximum.

(2) Accessory structures: Farm, 60 feet; other, 15 feet, except that this height limit may be increased to allow structures up to 100 feet where the setback and offset are equal to or exceed the height of the structure itself.

(Ord. of 5-9-1983, § 7.04)

Sec. 82-85. Area regulations.

(a) *Minimum required floor area.* The minimum required floor area for the AE exclusive Agricultural Conservancy District shall be as follows:

Single Family

Bedrooms/D.U.	Single Family-Total Area (Sq Ft)	First Floor (Square Foot)
One	1,400	1,100
Two	1,400	1,100
Three	1,600	1,100
Four (+)	1,800	1,100

(Ord. 2007-2 § 4 12-01-2006)

(b) *Maximum floor area ratio permitted.* The maximum floor area ratio permitted in the A-E exclusive agricultural conservancy district shall be ten percent.

(c) *Lot size.* The lot size requirements in the A-E exclusive agricultural conservancy district shall be as follows:

(1) Minimum parcel size: 35 acres, except as may be provided in section 82-92(4) for those residual existing dwellings and parcels that result due to farm consolidation and section 82-93(2).

(2) Minimum average width: 600 feet, except as provided in section 82-92(4) or section 82-93(2).

(Ord. of 5-9-1983, § 7.05; Ord. No. 86-3, 3-13-1986; Ord. No. 95-5, § 2, 10-11-1995)

Secs. 82-86--82-89. Reserved.

DIVISION 5.

A-P AGRICULTURAL LAND PRESERVATION DISTRICT

Sec. 82-90. Purposes.

The purposes of the A-P agricultural land preservation district are to:

- (1) Preserve productive agricultural lands for the production of food and fiber.
- (2) Preserve productive farms by preventing land use conflicts between incompatible uses.
- (3) Control the cost of public services through efficient extension of those services.
- (4) Maintain a viable agricultural base and associated agricultural supportive uses.
- (5) Pace and shape development in the changing rural landscape.
- (6) Implement the provisions of the county agricultural land preservation plan when and if adopted.
- (7) Comply with the provisions of the Wisconsin Farmland Preservation Act which permits eligible land owners to receive tax credits under Wis. Stats. § 71.60.

(Ord. of 5-9-1983, § 8.01)

Sec. 82-91. Lands to be included in district.

Land to be included within the A-P agricultural land preservation district are as follows:

- (1) Lands historically exhibiting good crop yields or those capable of such good crop yields by virtue of their good soil characteristics.
- (2) Lands which have been demonstrated to be productive for dairying, livestock raising and grazing and have records of good production levels.
- (3) Other lands which form an integral part of such farm operations.
- (4) Lands used for the production of specialty crops such as onions, herbs, sod, fruits and vegetables.
- (5) Lands which are capable of productive use through economically feasible improvements such as irrigation or tile draining when wetlands are not thereby disturbed or converted.

(Ord. of 5-9-1983, § 8.02)

Sec. 82-92. Permitted uses.

The following shall be permitted uses in the A-P agricultural land preservation district:

- (1) Any permitted use as described in the A-1 agricultural district.
- (2) General farming, including, but not limited to, basic agriculture, dairying, floriculture, viticulture, forestry, livestock grazing, hay baling, grain drying from a single farm operation, and livestock raising. Such operations may include paddocks, stables, truck farms, nurseries, sod farms and other related agricultural facilities. Farm buildings housing animals, barnyards and feedlots, shall not be located within a floodland nor closer than 100 feet to any navigable water course, an existing adjacent dwelling or a residentially zoned lot.
- (3) Farm dwellings for farm owners. Farm dwellings for laborers who derive the principal portion of their income from the farm.
- (4) Existing dwellings or dwellings remaining after the consolidation of a farm enterprise. Parcels thereby created as a result of consolidation shall be not less than one acre in size and shall meet the width and setback requirements of the R-1 residential district. New non-farm dwellings are prohibited.
- (5) Private stables as follows:
 - a. Private stables on parcels of less than 20 acres subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of lot area and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
 - b. Private stables on parcels 20 acres or greater in size subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town.
 - c. Commercial stables on parcels 20 acres or greater in size subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town.

d. Commercial stables on parcels of less than 20 acres are not permitted but may be allowed as conditional uses pursuant to section 82-21(d)(11) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres. (Ord. of 5-9-1983, § 8.03(1); Ord. No. 98-4, § 6, 6-10-1998; Ord. No. 2001-6, §§ 11, 12, 10-29-2001)

Sec. 82-93. Conditional uses.

The following shall be conditional uses in the A-P agricultural land preservation district:

- (1) Commercial stables on parcels less than 20 acres in size pursuant to section 82-21(d)(11) provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
- (2) Single-family homes exceeding one per farm operating unit to be owned and occupied by a person or family earning a substantial livelihood from the existing agricultural operation may be permitted by conditional use. Residences for a living child or parent of farm operator on minimum one acre lots may also be allowed, providing that the commission finds that the proposed residence and lot will be used in a timely manner by the relative and that the resulting residential use will not adversely affect the existing agricultural uses in the neighborhood. Any such parcel created shall conform to the minimum requirements of the R-1 zoning district.
- (3) Other conditional uses as provided in section 82-21(d). (Ord. of 5-9-1983, § 8.03(2); Ord. No. 2001-6, § 13, 10-29-2001)

Sec. 82-94. Building location.

Building location requirements for the A-P agricultural land preservation district shall be as follows:

- (1) Setback: 50 feet minimum.
 - (2) Offset: 50 feet minimum.
- (Ord. of 5-9-1983, § 8.04)

Sec. 82-95. Height regulations.

Height regulations for the A-P agricultural land preservation district shall be as follows:

- (1) Principal building: 35 feet maximum.

- (2) Accessory building: 60 feet maximum, except that both principal and accessory buildings may be increased to not more than 100 feet where the setback and offset equals or exceeds the height of the structure.

(Ord. of 5-9-1983, § 8.05)

Sec. 82-96. Area regulations.

- (a) *Minimum required floor area.* The minimum required floor area in the AP (Agricultural Land Preservation District) shall be as follows:

Single Family

Bedrooms/D.U.	Single Family- (Square Footage)	First Floor (Square Foot)
One	1,400	1,100
Two	1,400	1,100
Three	1,600	1,100
Four (+)	1,800	1,100

(Ord. 2007-2 §5 12-01-2006)

- (b) *Maximum floor area ratio permitted.* The maximum floor area ratio permitted in the A-P agricultural land preservation district shall be ten percent.
- (c) *Lot size.* Lot size regulations for the AP agricultural land preservation district shall be as follows:
- (1) Minimum parcel size: 35 acres except as may be provided in section 82-92(4) for those residual existing dwellings and parcels that result due to farm consolidation and section 82-93(2).
- (2) Minimum average width: 600 feet, except as provided in section 82-92(4) or section 82-93(2).

(Ord. of 5-9-1983, § 8.06; Ord. No. 95-5, § 3, 10-11-1995)

Secs. 82-97--82-99. Reserved.

DIVISION 6.

A-T AGRICULTURAL LAND PRESERVATION TRANSITION DISTRICT

Sec. 82-100. Creation.

The A-T agricultural land preservation transition district is hereby created and shall be regulated by the provisions set out in this division.
(Ord. No. 86-3, 3-13-1986)

Sec. 82-101. Purpose and intent.

The purpose of the A-T agricultural land preservation transition district is to protect and encourage farming in areas that are anticipated to develop consistent with adopted plans for the community. The A-T agricultural land preservation transition district will serve as a holding or transition zone enabling farmers to continue in the practice of farming and making qualified farmers eligible to claim income tax credits under the state's agricultural land preservation program. Because lands in the A-T agricultural land preservation transition district are recognized as possessing development potential consistent with adopted plans for the community. It is the policy of the town to conduct a periodic comprehensive review of all A-T agricultural land preservation transition district lands at least every five years beginning in 1990. Additional stated purposes of the A-T agricultural land preservation transition district are as follows:

- (1) To preserve productive agricultural lands for the production of food and fiber.
- (2) To preserve productive farms by preventing land use conflicts between incompatible uses.
- (3) To control the cost of public services through efficient extension of those services.
- (4) To maintain a viable agricultural base and associated agricultural supportive uses.
- (5) To pace and shape development in the changing rural landscape by preventing premature development of lands intended to be served by municipal services or when such land is determined to be necessary for growth and development by the community and by virtue of other factors.
- (6) To implement the provisions of the county agricultural land preservation plan.
- (7) To comply with the provisions of the Wisconsin Farmland Preservation Act which permits eligible land owners to receive tax credit under Wis. Stats. § 71.60.

(Ord. No. 86-3, 3-13-1986)

Sec. 82-102. Lands to be included in district.

Lands to be included within the A-T agricultural land preservation transition district are as follows:

- (1) Lands historically exhibiting good crop yields or those capable of such good crop yields by virtue of their good soil characteristics.
- (2) Lands which have been demonstrated to be productive for dairying, livestock raising and grazing and have records of good production levels.
- (3) Other lands which form an integral part of such farm operations.
- (4) Lands used for the production of specialty crops such as onions, herbs, sod, fruits and vegetables.
- (5) Lands which are capable of productive use through economically feasible improvements such as irrigation or tile draining when wetlands are not thereby disturbed or converted.
- (6) Lands suited for development but which, for the present, lie beyond recognized needs to provide land for growth and development in the near term but do lie within areas recognized as needed for growth and development in the long term.

(Ord. No. 86-3, 3-13-1986)

Sec. 82-103. Permitted uses.

Permitted uses in the A-T agricultural land preservation transition district shall include any permitted use as described in the A-P agricultural land preservation district.
(Ord. No. 86-3, 3-13-1986)

Sec. 82-104. Building location.

Building location requirements for the A-T agricultural land preservation transition district shall be as follows:

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

(Ord. No. 86-3, 3-13-1986)

Sec. 82-105. Height regulations.

Height regulations for the A-T agricultural land preservation transition district shall be as follows:

- (1) Principal building: 35 feet maximum.
- (2) Accessory building: 60 feet maximum, except that both principal and accessory buildings may be increased to not more than 100 feet where the setback and offset equals or exceeds the height of the structure.

(Ord. No. 86-3, 3-13-1986)

Sec. 82-106. Floor area regulations.

The minimum required floor area for the AT (Agricultural Land Preservation Transition District) shall be as follows:

Single Family

Bedrooms/D.U.	Total Area (Square Footage)	First Floor (Square Foot)
One	1,400	1,100
Two	1,400	1,100
Three	1,600	1,100
Four (+)	1,800	1,100

(Ord. No. 86-3, 3-13-1986; Ord. No. 95-5, § 4, 10-11-1995)

(Ord. No. 2007-2 §6 12-01-2006)

Sec. 82-107. Lot size.

Lot size requirement in the A-T agricultural land preservation transition district shall be as follows:

- (1) Minimum parcel size: 35 acres, except as may be provided in, section 82-92(4) for those residual existing dwellings and parcels that result due to farm consolidation and section 82-93.
- (2) Minimum average width: 600 feet, except as provided in section 82-92(4) or section 82-93.

(Ord. No. 86-3, 3-13-1986)

Secs. 82-108, 82-109. Reserved.

DIVISION 7.

R-H RURAL HOME DISTRICT

Sec. 82-110. Permitted uses.

The following shall be permitted uses in the R-H rural home district:

- (1) One-family dwellings.
- (2) Public parks and recreation areas.
- (3) General farming on not less than ten acres and as regulated in subsections (4), (6) and (11) of this section.
- (4) Keeping of poultry provided not more than 20 fowl may be kept for each full acre over two acres of lot area.
- (5) Horticulture, including greenhouses and nurseries.
- (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 such garage.
 - b. Quarters for household or farm employees; provided, however, that such quarters shall be occupied only by individuals employed full time on the premises and their families.
 - c. Private boathouses, provided no living quarters are included in such boathouse.
 - d. Stables, barns, kennels, or poultry houses, provided that no building housing domestic livestock or poultry shall be closer than 50 feet to any lot line.
- (7) Home occupations and professional offices as defined in this section, when incident to the residential use and when situated in the same dwelling, subject to the following conditions:
 - a. No name plate exceeding three 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 adjacent to the building served.
 - e. Such permitted use shall not include conduct of any retail or wholesale business on the premises, nor 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 appertaining to the lease or sale of any building or land provided such sign does not exceed 12 square feet in area. A sign not exceeding six 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 trespasses.
- (9) Telephone, telegraph, and power transmission lines.
- (10) Hobby kennel.
- a. Number of dogs limited. The keeping of dogs by right, and the keeping of dogs by hobby kennel use permit, is limited to the number of dogs described as follows:
 - 1. One acre or less. On parcels one acre or less in size, no more than two dogs required to be licensed by statute shall be kept on the parcel. Hobby kennel use permits cannot be issued for parcels one acre or less in size.
 - 2. One to three acres. On parcels more than one acre in size, but less than three acres in size, no more than two dogs required to be licensed by statute shall be kept on the parcel. Hobby kennel use permits may be issued for parcels more than one acre in size.
 - 3. Three acres or larger. On parcels three acres or larger in size, no more than three dogs required to be licensed by statute shall be kept on the parcel. Hobby kennel use permits may be issued for parcels three acres or larger in size.
 - b. Number of potbellied pigs limited. Potbellied pigs are prohibited in the town, regardless of the size of the parcel on which the pigs would be located, except upon the issuance of a hobby kennel use permit. Hobby kennel use permits may be granted to allow keeping of potbellied pigs, up to the numbers described as follows:

1. Less than three acres. Hobby kennel use permits for potbellied pigs shall not be issued for parcels less than three acres in size.
 2. Three acres or larger. Hobby kennel use permits for potbellied pigs may be issued for parcels three acres or larger in size, subject to the regulations described in subsection (10)c of this section, and subject to the numbers of potbellied pigs being restricted to the following: the hobby kennel use permit may allow no more than two potbellied pigs on a parcel that is three acres but less than four acres in size; and no more than three potbellied pigs on a parcel that is four acres or larger.
- c. Potbellied pigs regulations. The keeping of potbellied pigs by hobby kennel use permits is subject to the following regulations, in addition to any specific conditions that may be imposed by the plan commission:
1. Potbellied pigs (as defined in this chapter) must be spayed or neutered prior to four months of age.
 2. Commercial activities such as sale or breeding of potbellied pigs (as defined in this chapter) is prohibited.
 3. Potbellied pigs (as defined in this chapter) may only be allowed by hobby kennel use permit if they are kept as household pets, residing in the residence, with only limited periods of time outdoors.
 4. Prior to the issuance of a hobby kennel use permit, all owners of potbellied pigs (as defined in this chapter) shall present proof that the potbellied pigs have been tested to be free from Pseudo rabies and Brucellosis.
 5. Potbellied pigs (as defined in this chapter) must be vaccinated no less than annually by a veterinarian who is licensed in the state.
 6. The keeper of any potbellied pig (as defined in this chapter) shall cause litter and droppings to be collected in a container or receptacle that when enclosed shall be vermin proof and fly tight, and after every such collection shall cause such container or receptacle to be kept closed. At least once a week, every such keeper shall cause all litter and droppings so collected to be disposed of in such a manner as to not permit the presence of a nuisance to the surrounding neighborhood.

- d. Hobby kennel use permits procedures. All hobby kennel use permits are subject to the following application procedures and requirements:
1. A hobby kennel must be accessory to an otherwise permitted use.
 2. A hobby kennel must have the specific approval of the plan commission.
 3. Prior to approval of a hobby kennel use permit, the plan commission must hold a public hearing.
 4. The application fee for a hobby kennel use permit shall be set by separate resolution of the town board.
 5. Written notice of the public hearing shall be sent by regular mail to the last known address of all landowners within 300 feet of the subject property.
 6. The issuance of the hobby kennel use permit is subject to the plan commission finding that such hobby kennel will not adversely affect the use of adjacent lands and is compatible with surrounding and nearby land uses.
 7. The plan commission may require such measures or provisions by the applicant as may be deemed necessary to provide adequate protection of surrounding property.
 8. The plan commission may deny the request for a hobby kennel use permit on the basis of a finding that such use would be incompatible with surrounding and nearby land uses, a possible nuisance, and/or not in the public interest.
 9. Any person aggrieved by a decision of the plan commission relative to a hobby kennel use permit may appeal such decision to the board of adjustment within 30 days of the decision.
- e. One hobby kennel use permit per parcel. There shall be no more than one hobby kennel use permit allowed on any one parcel in the town.
- f. Nuisances. In all cases, regardless of the number of dogs or potbellied pigs on a parcel, if the keeping of any number of dogs or potbellied pigs accessory to the principal use becomes a nuisance to the neighborhood as may be determined by the plan commission or town board, such use shall be terminated or the nuisance abated. The keeping of a potbellied pig without a hobby kennel use permit, and the keeping of more dogs than are permitted by right on a

property without a hobby kennel use permit, is declared to be a public nuisance. Where necessary, the plan commission or town board may take appropriate steps to abate such nuisance.

- (11) Private stables subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of open lot area and provided that the keeping of hogs, pigs of any kind (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

(Ord. of 5-9-1983, § 9.01(1); Ord. No. 98-4, §§ 8, 9, 6-10-1998; Ord. No. 2001, §§ 5, 14, 10-29-2001)

Sec. 82-111. Conditional uses.

Commercial stables on parcels five acres or greater in size may be allowed as conditional uses in the R-H rural home district pursuant to section 82-21(d)(11) provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

(Ord. of 5-9-1983, § 9.01(2); Ord. No. 2001-6, § 15, 10-29-2001)

Sec. 82-112. Building location.

Building location requirements for the R-H rural home district shall be as follows:

- (1) Setback: 50 feet minimum.

- (2) Offset: 50 feet minimum.

(Ord. of 5-9-1983, § 9.02)

Sec. 82-113. Height regulations.

Height regulations for the R-H rural home district shall be as follows:

- (1) Principal building: 35 feet maximum.

- (2) Accessory buildings: 15 feet maximum.

(Ord. of 5-9-1983, § 9.03)

Sec. 82-114. Area regulations.

- (a) *Minimum required floor area.* The minimum required floor area in the R-H rural home district shall be as follows:

<i>Bedrooms/DU</i>	<i>Total Area (square feet)</i>	<i>First Floor (square feet)</i>
One	1,400	1,100
Two	1,400	1,100
Three	1,600	1,100
Four (+)	1,800	1,100

- (b) *Maximum floor area ratio permitted.* The maximum floor area ratio permitted in the R-H rural home district shall be ten percent.

- (c) *Lot size.* Lot size regulations in the R-H rural home district shall be as follows:

- (1) Minimum area: 5 acres.
- (2) Minimum average width: 300 feet.

- (3) Open space: 4 acres minimum per family.
(Ord. of 5-9-1983, § 9.04; Ord. No. 95-5, § 5, 10-11-1995)

DIVISION 8.
EC ENVIRONMENTAL CORRIDOR DISTRICT

Sec. 82-121. Purpose and intent.

The environmental corridor district, as mapped or intended to be mapped, is intended to be used to preserve, protect, enhance and restore those areas, while also affording an opportunity to use the site for limited residential purposes, in concert with the goal and intent of the county development plan and the town master plan, which suggests that residential densities in such areas not exceed one unit per five acres for all lots, which lie entirely within the environmental corridor.

(Ord. No. 2000-6, § 5(9.01A), 9-11-2000)

Sec. 82-122. Permitted uses.

The following shall be permitted uses in the EC environmental corridor district:

- (1) Any uses permitted in the C-1 conservancy district.
- (2) Single-family dwellings.
- (3) 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.
- (4) 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 had been erected or is to be erected simultaneously with such garage.
- (5) A sign in accordance with section 82-81(6).

(Ord. No. 2000-6, § 5(9.02A), 9-11-2000)

Sec. 82-123. Building location.

Building location requirements for the EC environmental corridor district shall be as follows:

- (1) Setback: 50 feet minimum.
- (2) Offset: 35 feet minimum.
- (3) Shore setback: 75 feet minimum.

(Ord. No. 2000-6, § 5(9.03A), 9-11-2000)

Sec. 82-124. Height regulations.

Height regulations for the EC environmental corridor district shall be as follows:

- (1) Principal building: 35 feet.
 - (2) Accessory building: 15 feet minimum.
- (Ord. No. 2000-6, § 5(9.04A), 9-11-2000)

Sec. 82-125. Area regulations.

(a) *Floor area.* Floor area requirements for the EC environmental corridor district shall be as follows:

- (1) The minimum required shall be as follows:

<i>Bedroom/DU</i>	<i>Total Area (square feet)</i>	<i>First Floor (square feet)</i>
One	1,400	1,100
Two	1,400	1,100
Three	1,600	1,100
Four	1,800	1,100

- (2) The maximum floor area ratio permitted shall be ten percent.
- (b) *Lot size.* Lot size requirements in the EC environmental corridor district shall be as follows:
 - (1) *Minimum area.* The overall density of lots lying entirely within the environmental corridor district shall be not less than one dwelling unit per five acres of corridor, with no lot being less than two acres in size. For lots which lie partially within and partially outside of the environmental corridor district, if the lot size of the adjoining districts would permit a minimum lot size of less than five acres, the five-acre density requirement shall not apply and the lot can be the size permitted in the adjacent zoning district, as long as any earth altering activity and/or building envelopes are located outside of the environmental corridor district and appropriately restricted as such on the face of the certified survey map, subdivision plat or other deed restrictions subject to the review and written approval of the town board and recorded along with the town board's written approval in the office of the register of deeds. The overall goal of this requirement is to obtain a maximum density of building activity within the environmental corridor of not more than one dwelling unit for each five acres of environmental corridor land.

(2) Notwithstanding the provisions of subsection (b)(1) of this section, for lots, which are partially within and partially outside the environmental corridor district, if the area in the adjoining district is zoned A-P agricultural land preservation district, the lot shall have a minimum gross lot size of 35 acres.

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

(1) Less than five-acre lot: Minimum average width, 175 feet.

(2) Five-acre lot or more: Minimum average width, 300 feet.

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

(1) For lots lying entirely within an environmental corridor zoning district, regardless of lot size, no open space regulations shall apply. However, all earth altering activities and vegetative removal including building sites and driveways (area of disturbance) shall be no more than 15 percent of five acres (32,600 square feet) in the environmental corridor district.

(2) For lots which lie partially within and partially outside of the environmental corridor district, the area of disturbances shall be limited to the area outside of the environmental corridor district, unless otherwise expressly permitted by a building envelope shown on the certified survey map, subdivision plat or other deed restriction that has been approved, in writing, by the town board and recorded along with the town board's written approval in the office of the register of deeds.

(Ord. No. 2000-6, § 5(9.05A), 9-11-2000)

Secs. 82-126--82-129. Reserved.

DIVISION 9.

A-1 AGRICULTURAL DISTRICT

Sec. 82-130. Purpose.

(a) The A-1 agricultural district is intended to provide for the needs of agriculture as a primary use and such residential use as may be normal and necessary in an agricultural district.

(b) The primary purpose of the A-1 agricultural district is to preserve in agriculture use those lands generally suited for such use and which may have the ultimate potential for residential use but at this time are deemed beyond the current land needs for residential use. It is intended that residential development be limited to parcels being created by certified survey map per the town land division and development control ordinance, or by a planned unit development or conservation design development conditional uses.

(c) When the agricultural use is terminated in areas not developed as described in subsection (b) of this section, those lands shall be rezoned to the appropriate new zoning classification, depending on the proper use after public hearing in accordance with this chapter.

(Ord. of 5-9-1983, § 10.01; Ord. No. 2006-1, § 13, 1-3-2006)

Sec. 82-131. Permitted uses.

The following shall be permitted uses in the A-1 agricultural district:

- (1) Any use as permitted in the A-E exclusive agricultural conservancy district subject to the following:
 - a. Private stables on parcels of less than 20 acres subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of lot area and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
 - b. Private stables on parcels 20 acres or greater in size subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town.
 - c. Commercial stables on parcels 20 acres or greater in size subject to a written refuse disposal plan being submitted to and approved by the plan commission if requested by the town.

- d. Commercial stables on parcels of less than 20 acres are not permitted but may be allowed as conditional uses pursuant to section 82-21(d)(11) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
 - e. Poultry raising is permitted but not more than 20 fowl may be kept for each full open acre over two acres of lot area.
- (2) One-family dwellings.
 - (3) Ordinary farm uses including dairying, livestock and poultry raising and truck farming, but not including the feeding of garbage to fatten swine, except as otherwise restricted in this section.
 - (4) Accessory uses and buildings normally associated with an agricultural operation, including garages, stables and poultry houses. Buildings used for housing of animals shall maintain a minimum offset of 50 feet to all the adjacent lots.
 - (5) Signs, not to exceed 12 square feet in area, displaying the name of a farm or farm organization.
 - (6) Wholesale nurseries, greenhouses and hatcheries, except as otherwise restricted in this section.
 - (7) Roadside stands, subject to the following:
 - a. Off-street parking for a minimum of four vehicles shall be provided.
 - b. No such stand shall be closer than 30 feet to the base setback line or closer than 20 feet to any other lot line.
 - (8) Home occupations and professional offices as regulated in section 82-110(7).
 - (9) Hobby kennels, as regulated in section 8-110(10).
(Ord. of 5-9-1983, § 10.02(1); Ord. No. 94-69, § 1, 7-11-1994; Ord. No. 98-4, §§ 12--14, 6-10-1998; Ord. No. 2001-6, §§ 16, 17, 10-29-2001)

Sec. 82-132. Conditional uses.

Commercial stables on parcels less than 20 acres in size are permitted as a conditional use in the A-1 agricultural district pursuant to section 82-21(d)(11) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
(Ord. of 5-9-1983, § 10.02(2); Ord. No. 2001-6, § 18, 10-29-2001)

Sec. 82-133. Building location.

Building location requirements for the A-1 agricultural district shall be as follows:

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

(Ord. of 5-9-1983, § 10.03)

Sec. 82-134. Height regulations.

Height regulations for the A-1 agricultural district shall be as follows:

- (1) Height 35 feet maximum.
- (2) Accessory buildings:
 - a. Farm: 60 feet maximum.
 - b. Other: 15 feet maximum.

(Ord. of 5-9-1983, § 10.04; Ord. No. 86-3, 3-13-1986)

Sec. 82-135. Area regulations.

The municipal Code for the Town of Mukwonago in Chapter 82, entitled "Zoning" Subsection 82-135 entitled "Area regulations" Subsection 82-135(a) entitled, "Floor Area" Subsection 82-125(a)(1) entitled "Minimum required" is hereby repealed and recreated to read as follows:

- (a) *Floor area.* Floor area requirements in the A-1 agricultural district shall be as follows:
 - (1) *Minimum required.*

Single Family

Bedrooms/D.U.	Total Area (Square Feet)	First Floor (Square Foot)
One	1,400	1,100
Two	1,400	1,100
Three	1,600	1,100
Four (+)	1,800	1,100

(Ord. 2007-2 § 7 12-01-2006)

- (2) *Maximum floor area ratio permitted.* The maximum floor area ration permitted in the A-1 agricultural district shall be ten percent.
- (b) *Lot size.* Lot size requirements in the A-1 agricultural district shall be as follows:
 - (1) *Single-family.*
 - a. Minimum area: 3 acres.
 - b. Minimum average width: 200 feet.
 - (2) *Two-family.*
 - a. Minimum area: 6 acres.
 - b. Minimum average width: 300 feet.
- (c) *Open space.* In the A-1 agricultural district there shall be a minimum of two acres of open space per family.

(Ord. of 5-9-1983, § 10.05; Ord. No. 95-5, § 6, 10-11-1995)

Secs. 82-136--82-139. Reserved.

DIVISION 10.

S-E SUBURBAN ESTATE DISTRICT

Sec. 82-140. Permitted uses.

The following shall be a permitted use in the S-E suburban estate district:

Any permitted use as authorized and regulated in the R-H rural home district. (Ord. of 5-9-1983, § 11.01(1); Ord. No. 98-4, § 16, 6-10-1998; Ord. No. 2001-6, § 19, 10-29-2001)

Sec. 82-141. Conditional uses.

Commercial stables on parcels three acres or greater in size may be allowed as conditional uses in the S-E suburban estate district pursuant to section 82-21(d)(11) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres. (Ord. of 5-9-1983, § 11.01(2); Ord. No. 2001-6, § 19, 10-29-2001)

Sec. 82-142. Building location.

Building location requirements for the S-E suburban estate district shall be as follows:

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

(Ord. of 5-9-1983, § 11.02; Ord. No. 92-12, § 1, 12-14-1992)

Sec. 82-143. Height regulations.

Height regulations for the S-E suburban estate district shall be as follows:

- (1) Principal building: 35 feet maximum.
 - (2) Accessory buildings: 15 feet maximum.
- (Ord. of 5-9-1983, § 11.03)

Sec. 82-144. Area regulations.

- (a) *Floor area.* Floor area regulations in the S-E suburban estate district shall be as follows:
 - (1) Minimum required.

<i>Bedrooms/DU</i>	<i>Total Area (square feet)</i>	<i>First Floor (square feet)</i>
One	1,400	1,100
Two	1,400	1,100
Three	1,600	1,100
Four (+)	1,800	1,100

- (2) The maximum floor area ratio permitted in the S-E suburban estate district shall be ten percent.

- (b) *Lot size.* The lot size requirements in the S-E suburban estate district shall be as follows:

- (1) Minimum area: 3 acres.
- (2) Minimum average width: 200 feet.

- (b) *Open space.* There shall be a minimum of two acres of open space per family.

(Ord. of 5-9-1983, § 11.04; Ord. No. 95-5, § 7, 10-11-1995)

Secs. 82-145--82-149. Reserved.

DIVISION 11.

R-1 RESIDENTIAL DISTRICT

Sec. 82-150. Permitted uses.

The following shall be permitted uses in the R-1 residential district:

- (1) Any permitted use as authorized and regulated in the rural home district, except that the keeping of poultry or domestic livestock (except potbellied pigs as defined in this chapter for which a hobby kennel use permit has been issued) shall not be permitted on any lot.
 - a. Where such use existed prior to the date of the ordinance from which this section is derived, as a principal commercial or agricultural use, such use may be continued subject to the limitations regulating a nonconforming use as regulated by section 82-32.
 - b. Where such use existed prior to the date of the ordinance from which this section is derived as a legal accessory or incidental use to the principal use of property, such use may be continued only if there is no objection from any owner of property within 300 feet, the provisions of section 82-32 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 section 82-110(4), 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 to not be detrimental to the surrounding residential use, and all fowl shall be kept confined or enclosed and not permitted to run at large.
- (2) The keeping of the usual household pets, including the operation of hobby kennels as regulated in section 82-110(10), but not the operation of hutches.

(Ord. of 5-9-1983, § 12.01(1); Ord. No. 94-16, § 2, 12-12-1994; Ord. No. 2001-6, § 20, 10-29-2001)

Sec. 82-151. Building location.

Building location requirements for the R-1 residential district shall be as follows:

- (1) Setback: 50 feet minimum.
 - (2) Offset: 20 feet minimum.
- (Ord. of 5-9-1983, § 12.02)

Sec. 82-152. Height regulations.

Height regulations for the R-1 residential district shall be as follows:

- (1) Principal building: 35 feet maximum.
 - (2) Accessory buildings: 15 feet maximum.
- (Ord. of 5-9-1983, § 12.03)

Sec. 82-153. Area regulations.

- (a) *Floor area.* Floor area regulations in the R-1 residential district shall be as follows:

- (1) Minimum required.

<i>Bedrooms/DU</i>	<i>Total Area (square feet)</i>	<i>First Floor (square feet)</i>
One	1,400	1,100
Two	1,400	1,100
Three	1,600	1,100
Four (+)	1,800	1,100

- (2) The maximum floor area ratio permitted in the R-1 residential district shall be ten percent.

- (b) *Lot size.* Lot size requirements in the R-1 residential district shall be as follows:

- (1) Minimum area: 1 acre.
- (2) Minimum average width: 150 feet.

- (c) *Open space.* In the R-1 residential district there shall be a minimum of 30,000 square feet of open space per family.

(Ord. of 5-9-1983, § 12.04; Ord. No. 95-5, § 8, 10-11-1995))

Secs. 82-154--82-159. Reserved.

DIVISION 12.

R-2 RESIDENTIAL DISTRICT

Sec. 82-160. Permitted uses.

The following shall be permitted uses in the R-2 residential district:

Any permitted use as authorized and regulated in the R-1 residential district.
(Ord. of 5-9-1983, § 13.01; Ord. No. 98-4, § 19, 6-10-1998)

Sec. 82-161. Building location.

Building location requirements for the R-2 residential district shall be as follows:

(1) Setback: 50 feet minimum.

(2) Offset: 20 feet minimum.

(Ord. of 5-9-1983, § 13.02)

Sec. 82-162. Height regulations.

Height regulations for the R-2 residential district shall be as follows:

(1) Principal building: 35 feet maximum.

(2) Accessory buildings: 15 feet maximum.

(Ord. of 5-9-1983, § 13.03)

Sec. 82-163. Area regulations.

(a) *Floor area.* Floor area regulations in the R-2 residential district shall be as follows:

(1) Minimum required.

<i>Bedrooms/DU</i>	<i>Total Area (square feet)</i>	<i>First Floor (square feet)</i>
One	1,000	900
Two	1,100	900
Three	1,200	900
Four (+)	1,400	900

(2) The maximum floor area ratio permitted in the R-2 residential district shall be 15 percent.

(b) *Lot size.* Lot size requirements in the R-2 residential district shall be as follows:

- (1) Minimum area: 30,000 square feet.
- (2) Minimum average width: 120 feet.
- (c) *Open space.* In the R-2 residential district there shall be a minimum of 25,000 square feet of open space per family.
- (d) *Area regulations.* Area regulations may be subject to reduction in accordance with section 82-16(d) when served by a municipal or municipally approved communal sewerage or water system.
(Ord. of 5-9-1983, § 13.04)

Secs. 82-164--82-169. Reserved.

DIVISION 13.

R-3 RESIDENTIAL DISTRICT

Sec. 82-170. Statement of intent.

The R-3 district is a district intended to provide for redevelopment or development of substandard lots of record within 500 feet of Spring Lake and Upper and Lower Phantom Lake.

(Ord. No. 2004-9, § 2, 6-9-2004; Ord. No. 2004-10, § 2, 8-11-2004)

Sec. 82-171. Use regulations.

The following are permitted uses in the R-3 district:

- (1) Single-family residences.
- (2) Accessory uses. The following accessory uses shall be permitted in the R-3 district:
 - a. Private detached garages not to exceed 500 square feet not involving the conduct of a business and not including any sanitary facilities or living quarters.
 - b. Accessory buildings not to exceed 200 square feet. No more than two detached accessory buildings shall be permitted. The total composite area of all accessory buildings and detached garages shall not exceed 500 square feet.
- (3) Keeping of household pets.
- (4) Home occupations and professional offices as defined in section 82-4 when incidental to the residential use in accordance with subsection 82-110(7).

(Ord. No. 2004-9, § 2, 6-9-2004; Ord. No. 2004-10, § 2, 8-11-2004)

Sec. 82-172. Building location.

(a) *Road setback.* Principal buildings and accessory buildings shall be erected, altered or placed so that any roofed or enclosed portion is no closer than 50 feet to the base setback line with the following exceptions applicable only where the setback requirements of the properties involved are identical and the use of the buildings is identical, and the existing buildings are legally nonconforming as to road setback.

- (1) Where the nearest existing building with an identical use as the proposed building on an adjacent lot on one side of said building is within 100 feet of the proposed building or building addition and has less than the required setback, the average between the existing setback of such adjacent building and the required 50-foot setback shall apply.
- (2) Where the nearest buildings with an identical use as the proposed building on adjacent lots on both sides of said building are less than 200 feet from each other and have less than the required setback, the average between such existing setbacks shall apply.
- (3) In the case of a proposed addition to an existing building which has less than the required setback, such existing building may be considered to be the nearest existing building for purposes of the exception described in subsection (a)(1) or (2), above, in determining the required setback for the proposed addition.

(b) *Shore setback.*

- (1) Seventy-five feet from the ordinary high water mark of a body of water with the following exceptions applicable only where the setback requirements of the properties involved are identical.
 - a. Where the nearest existing building with an identical use as the proposed building on an adjacent lot on one side of said building is within 100 feet of the proposed building or building addition and has less than the required setback, the average between the existing setback of such adjacent building and the required 75-foot setback shall apply.
 - b. Where the nearest buildings with an identical use as the proposed building on adjacent lots on both sides of said building are less than 200 feet from each other and have less than the required setback, the average between such existing setbacks shall apply.
 - c. In the case of a proposed addition to an existing building which has less than the required setback, such existing building may be considered to be the nearest existing building for purposes of the exception described in subsection (b)(1)a. or b., above, in determining the required setback for the proposed addition.

- (2) Forty feet from the conservancy/wetland zoning district boundary if the

original grade of the proposed building site is two feet above the 100-year floodplain or wetland boundary, with the following exceptions applicable only where the setback requirements of the properties involved are identical.

- a. Where the nearest existing building with an identical use as the proposed building on an adjacent lot on one side of said building is within 100 feet of the proposed building or building addition and has less than the required setback. The average between the existing setback of such adjacent building and the required conservancy setback shall apply.
- b. Where the nearest building with an identical use as the proposed building on adjacent lots, on both sides of said building are less than 200 feet from each other and have less than the required conservancy setback. The average between such existing setbacks shall apply.
- c. In the case of a proposed addition to an existing building which has less than the required setback, such existing building may be considered to be the nearest existing building for the purpose of the exception described in subsection (b)(2)a. or b., above, in determining the required setback for the proposed addition.

- (3) Seventy-five feet from the conservancy/wetland district boundary if the original grade at the proposed building site is less than two feet above the 100-year floodplain or the wetland boundary.

(c) *Offset.* Twenty feet.

(Ord. No. 2004-9, § 2, 6-9-2004; Ord. No. 2004-10, § 2, 8-11-2004)

Sec. 82-173. Height regulations.

(a) *Principle building.*

- (1) A point measured from the lowest point of the exposed structure to the highest floor line shall not exceed 12 feet.
- (2) A point measured from the lowest point of the exposed structure to any eave line shall not exceed 24 feet.
- (3) A point measured from the lowest point of the exposed structure to the highest point of any roof shall not exceed 34 feet.
- (4) It is the intent of this section that no more than two stories of habitable space shall exist when viewed from the waterfront.

(b) *Accessory building.* A vertical distance of 15 feet maximum, measured from the lowest grade of the structure to the highest point of the roof.

(Ord. No. 2004-9, § 2, 6-9-2004; Ord. No. 2004-10, § 2, 8-11-2004)

Sec. 82-174. Area regulations.

(a) *Building footprint and impervious surface.* When a lot has less land area or minimum average width than required in the R-2 zoning district, and was of record at the time of the original adoption of the ordinance from which this chapter is derived (May 9, 1983), unless the owner of said lot owns contiguous property and/or an adjacent lot of record, such lot may be used for any purpose permitted in such district but not for residential purposes for more than one single-family residence. The total building footprint for all buildings and impervious surface on the subject lot shall not exceed the following:

<i>Lot Size (square feet)</i>	<i>Total Building Footprint</i>	<i>Total Impervious Surface</i>
Less than 5,000	1,140 sq. ft.	1,640 sq. ft.
At least 5,000 and less than 10,000	1,300 sq. ft.	1,800 sq. ft.
At least 10,000 and less than 15,000	1,400 sq. ft.	1,900 sq. ft.
At least 15,000 and less than 20,000	1,550 sq. ft.	2,050 sq. ft.
At least 20,000 and less than 25,000	1,800 sq. ft.	2,300 sq. ft.
At least 25,000 and less than 30,000	1,900 sq. ft.	2,400 sq. ft.
More than 30,000	15% floor area ratio	10% of total lot size

(b) *Vegetative buffer plan.* When a building permit is issued on any lot in the R-3 zoning district, a vegetative buffer plan must be submitted for review and approval by the town building inspector for 70 percent of all areas between 15 feet from the foundation of the principal building and the ordinary high water mark or 70 percent of the area draining towards the lake on any lot which does not abut the public water. The vegetative buffer plan must consist of ground cover, shrubs and canopy type vegetation. No impervious surfaces or decks shall be allowed in the vegetative buffer area. The vegetative buffer area must be planted and established prior to an occupancy permit being issued for the building or addition, or a cash bond or letter of credit must be posted in an amount equal to 120 percent of the cost of implementing said plan, which shall include the cost of the plant material, its installation and compliance with the maintenance schedule. The town building inspector in his review shall have the authority to require a stormwater infiltration system, rain garden or other approved best management practice (BMP), which will promote the water quality draining into the adjacent water body.

(c) *Boathouses.* No boathouses shall be allowed on any lot less than 15,000 square feet in area or having a minimum average width or frontage of less than 100 feet. (Ord. No. 2004-9, § 2, 6-9-2004; Ord. No. 2004-10, § 2, 8-11-2004)

Sec. 82-175. Special exception.

On any parcel in the R-3 district, where the offsets, setbacks, and building envelope requirements do not allow a minimum of a 1,140-square foot building envelope to accommodate a 900-square foot first floor and a 240-square foot garage, the town plan commission may grant a special exception to allow a building envelope of no more than 1,140 square feet subject to the following procedures, requirements and conditions.

- (1) *Procedure.* A property owner may apply for a special exception and a special exception may be considered as follows:
 - a. The property owner shall submit a petition to the town clerk. The petition shall include a vegetative buffer plan and building and site plans, which include all elevations along with such additional building information and house designs as may be required by the building inspector and the plan commission. The building and site plan shall depict the proposed construction, the location of the proposed construction on the lot, the location of the planting of the vegetative buffer, implementation timetable and types of plant material, the existing and proposed grades and contour on the lot and adjacent lots, the ordinary high water mark of the adjacent water body and the 100-year floodplain or wetland boundary and its location in relationship to all existing structures on the lot and adjacent lots within 100 feet of proposed structure or addition. If the petition is for an addition to an existing structure, the application shall include recent photographs of all the structures on the parcels. The petition shall be accompanied by payment of such application fees as may be established from time to time by the town board by separate resolution and shall be submitted to the town clerk no later than three weeks prior to the town plan commission meeting at which they are to be scheduled.
 - b. Upon receipt of the complete application, required plans and application fees, the town clerk shall provide a copy of the petition and plans to the town building inspector and town planner and shall place the matter on an upcoming plan commission agenda for considerations.
 - c. Prior to the town plan commission meeting when the matter will be heard, the town planner shall review the request and discuss the matter with the town building inspector, view the proposed location and shall submit a written recommendation to the town plan commission. Along with the recommendation, the town planner shall advise the town plan commission as to whether the proposed construction will be in compliance with all applicable state, federal, county and town codes, statutes, rules, regulations and ordinances if the special exception were granted.

- d. The town plan commission shall consider the matter at the next scheduled plan commission meeting provided said application is filed at least 21 days prior to said meeting. The petitioner shall be given an opportunity to be heard regarding the matter at the scheduled meeting.
 - e. The town plan commission shall approve, deny or conditionally approve the special exception petition in accordance with the requirements and conditions of this section. The town plan commission shall issue its decision in writing.
- (2) *Requirements and conditions.* In order to approve or conditionally approve a special exception petition, the town plan commission must find all the following to be true regarding the proposed construction:
- a. The proposed construction must be outside of the 100-year floodplain and the first floor must be at least two feet above the 100-year floodplain. Note: Any lands within the floodplain are zoned C-1 conservancy district or EFO (existing floodplain overlay district).
 - b. The proposed construction must be in compliance with all applicable state, federal, county and town codes, statutes, rules, regulations and ordinances if the special exception is granted.
 - c. The proposed construction must be aesthetically compatible with the surrounding neighborhood.
 - d. The town plan commission shall require the petitioner to file a deed restriction stating that the proposal has been authorized through the special exception procedure in the town zoning ordinance. Such deed restrictions shall be recorded with the county register of deeds in a form that is subject to the approval of the town attorney.
 - e. The town plan commission must find that the special exception will not have an adverse impact on the health, safety or general welfare, will not conflict with the spirit and intent of the town zoning ordinance, and will not otherwise be detrimental to the town or the immediate neighborhood where the construction would be located.
 - f. The town plan commission may require additional conditions and restrictions, including but not limited to conditions related to screening and landscaping.
 - g. A deed restriction in a form approved by the town attorney shall be filed in the county register of deeds office prior to issuance of any building permit, indicating a special exception has been granted

and recording any conditions of approval, including the statement that the structure may only be used for personal use and cannot be used for any type of commercial purposes unless otherwise permitted by the town zoning ordinance.

- h. A vegetative buffer plan of at least 35 feet in depth over 70 percent of the width of the lot from the residence to the ordinary high water mark, or if there is less than a 35-foot distance from the residence to the ordinary high water mark, 70 percent of the width of the lot or on the down slope side of the area draining towards the lake on lots which do not abut the public body of water consisting of ground cover, shrubs and canopies must be planted prior to an occupancy permit being issued on the new structure or addition or a cash bond or letter of credit must be posted in an amount equal to 120 percent of the cost of implementing said plan, which shall include the cost of the plant material, its installation and compliance with the maintenance schedule and a deed restriction preserving said buffer must be recorded in the county register of deeds office prior to issuance of the building permit.
- i. No special exceptions shall be allowed from the height requirements of this R-3 zoning district.

(Ord. No. 2004-9, § 2, 6-9-2004; Ord. No. 2004-10, § 2, 8-11-2004)

Secs. 82-176--82-179. Reserved.

DIVISION 14.

B-1 RESTRICTED BUSINESS DISTRICT*

*Cross references--Businesses, ch. 18.

Sec. 82-180. Permitted uses.

The following shall be permitted uses in the B-1 restricted business district:

- (1) Any use as permitted in the R-3 residential district.
- (2) The following retail or customer service establishments of a restrictive nature provided the building, 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 residential area:
 - a. Boardinghouses or lodging houses.
 - b. Delicatessen.
 - c. Florist shop.
 - d. Funeral home.
 - e. Gift shop.
 - f. Interior decorator.
 - g. Professional office or studio.
 - h. Tea room or restaurant provided no liquor is served.
 - i. Tourist home.
 - j. Any similar use subject to the approval of the plan commission.
- (3) Signs subject to the following:
 - a. No sign shall exceed 20 square feet in area.
 - b. No free standing sign shall exceed ten 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.

- c. 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 non-intermittent type on an opaque background, such source of light not to be more than two feet from the vertical face to be illuminated.

(Ord. of 5-9-1983, § 15.01)

Sec. 82-181. Building location.

Building location requirements for the B-1 restricted business district shall be as follows:

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

(Ord. of 5-9-1983, § 15.02)

Sec. 82-182. Height regulations.

Height regulations for the B-1 restricted business district shall be as follows:

- (1) Principal building: 35 feet maximum.
- (2) Accessory buildings: 15 feet maximum.

(Ord. of 5-9-1983, § 15.03)

Sec. 82-183. Area regulations.

- (a) *Floor area.* Floor area regulations in the B-1 restricted business district shall be as follows:

- (1) Minimum required for residential purposes:

<i>Bedrooms/DU</i>	<i>Total Area (square feet)</i>	<i>First Floor (square feet)</i>
One	800	800
Two	1,100	800
Three	1,200	800
Four (+)	1,400	800

- (2) The maximum floor area ratio permitted in the B-1 restricted business district shall be 20 percent.

- (b) *Lot size.* Lot size requirements in the B-1 restricted business district shall be as follows:

- (1) Minimum area: 20,000 square feet.
- (2) Minimum average width: 120 feet.

- (c) *Open space.* In the B-1 restricted business district there shall be a minimum of 15,000 square feet of open space per family.
(Ord. of 5-9-1983, § 15.04)

Secs. 82-184--82-189. Reserved.

DIVISION 15.

B-2 LOCAL BUSINESS DISTRICT*

*Cross reference--Businesses, ch. 18.

Sec. 82-190. Permitted uses.

The following shall be permitted uses in the B-2 local business district:

- (1) Any use as permitted in the B-1 restricted business district.
- (2) Any of the following retail and customer service establishments, provided the building, site plan, and plan of operation have been submitted to and approved by the plan commission.
 - a. Art shop.
 - b. Appliance store.
 - c. Bakery (not over ten employees).
 - d. Barbershop.
 - e. Beauty shop.
 - f. Bank or savings and loan office.
 - g. Clinic.
 - h. Clothing or dry goods store.
 - i. Confectionery store.
 - j. Drug store.
 - k. Furniture store.
 - l. Book or stationery store.
 - m. Fruit and vegetable market.
 - n. Grocery or other food products store.
 - o. Hardware store.
 - p. Ice cream store.
 - q. Jewelry store.

- r. Meat and fish market.
 - s. Music and radio store.
 - t. Newsstand.
 - u. Notion or variety shop.
 - v. Parking lot.
 - w. Pharmacy.
 - x. Radio and television sales and repair shop.
 - y. Photographer.
 - z. Restaurant.
 - aa. Shoe store.
 - bb. Soda fountain.
 - cc. Tailor or dressmaking shop.
 - dd. Telegraph and telephone office and telephone exchange.
 - ee. Utility company office.
 - ff. Any similar use subject to the approval of the plan commission.
- (3) Garages for storage of vehicles used in conjunction with the operation of the business.
- (4) Signs, subject to the following conditions:
- a. No sign shall exceed 40 square feet in area.
 - b. Illuminated signs shall not exceed 20 square feet.
 - c. No freestanding sign shall exceed 20 feet in height from the ground and no attached sign shall be higher than four feet above the top of the roof line or in any case exceed 35 feet in height.

(Ord. of 5-9-1983, § 16.01)

Sec. 82-191. Building location.

Building location requirements for the B-2 local business district shall be as follows:

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

(Ord. of 5-9-1983, § 16.02)

Sec. 82-192. Height regulations.

Height regulations for the B-2 local business district shall be as follows:

- (1) Principal building: 35 feet maximum.
- (2) Accessory buildings: 15 feet maximum.

(Ord. of 5-9-1983, § 16.03)

Sec. 82-193. Area regulations.

- (a) *Floor area.* Floor area regulations in the B-2 local business district shall be as follows:

- (1) Minimum required for residence purposes:

<i>Bedrooms/DU</i>	<i>Total Area (square feet)</i>	<i>First Floor (square feet)</i>
One	900	800
Two	1,100	800
Three	1,200	800
Four (+)	1,400	800

- (2) The maximum floor area ratio permitted in the B-2 local business district shall be 50 percent.
- (b) *Lot size.* Lot size requirements in the B-2 local business district shall be as follows:
 - (1) Minimum area: 20,000 square feet.
 - (2) Minimum average width: 120 feet.

(c) *Open space.* In the B-2 local business district there shall be a minimum of 15,000 square feet of open space per family.
(Ord. of 5-9-1983, § 16.04)

Secs. 82-194--82-199. Reserved.

DIVISION 16.

B-3 GENERAL BUSINESS DISTRICT*

*Cross reference--Businesses, ch. 18.

Sec. 82-200. Permitted uses.

The following shall be permitted uses in the B-3 general business district:

- (1) Any use as permitted in the B-2 local business district, except residential shall be permitted only in combination with or accessory to the permitted principal use.
- (2) The following businesses and trades of a more general nature, normally serving a larger trade area, provided the building, site plan, and plan of operation have been submitted to and approved by the plan commission.
 - a. Wholesalers and distributors.
 - b. Theaters, dance halls and other amusement places.
 - c. Used car lots.
 - d. Dry cleaning and dyeing establishments.
 - e. Automobile sales rooms, repair shops and storage yards, and garages for equipment, supplies or vehicles, but not including the storage of junked or wrecked automobile parts.
 - f. Hotels.
 - g. Laundries.
 - h. Private vocational schools and vocational colleges.
 - i. Lockers and cold storage plants.
 - j. Any similar use subject to the approval of the plan commission.
- (3) Signs, billboards and other similar advertising media.
- (4) Telephone and electric distribution substations.

(Ord. of 5-9-1983, § 17.01)

Sec. 82-201. Building location.

Building location requirements for the B-3 general business district shall be as follows:

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

(Ord. of 5-9-1983, § 17.02)

Sec. 82-202. Height regulations.

Height regulations for the B-3 general business district shall be as follows:

- (1) Principal building: 35 feet maximum.
- (2) Accessory buildings: 15 feet maximum.

(Ord. of 5-9-1983, § 17.03)

Sec. 82-203. Area regulations.

(a) *Floor area.* Floor area regulations in the B-3 general business district shall be as follows:

- (1) Minimum required for residence purposes:

<i>Bedrooms/DU</i>	<i>Total Area (square feet)</i>	<i>First Floor (square feet)</i>
One	900	800
Two	1,100	800
Three	1,200	800
Four (+)	1,400	800

- (2) The maximum floor area ratio permitted in the B-3 general business district shall be 50 percent.
- (b) *Lot size.* Lot size requirements in the B-3 general business district shall be as follows:
 - (1) Minimum area: 20,000 square feet.
 - (2) Minimum average width: 120 feet.

(c) *Open space.* In the B-3 general business district there shall be a minimum of 15,000 square feet of open space per family.
(Ord. of 5-9-1983, § 17.04)

Secs. 82-204--82-229. Reserved.

DIVISION 17.

M-1 LIMITED INDUSTRIAL DISTRICT*

*Cross reference--Businesses, ch. 18.

Sec. 82-230. Permitted uses.

The following shall be permitted uses in the M-1 limited industrial district:

- (1) Any use as permitted in a B-3 general business or A-1 agricultural district, except residential shall be permitted only in combination with or accessory to the permitted principal use.
- (2) Trades or industries of a restrictive character which are not detrimental to the district or to the adjoining residential areas by reason of appearance, noise, dust, smoke or odor, provided the building, site plan, and plan of operation have been submitted to and approved by the plan commission, but not including any of the following:
 - a. Junkyards.
 - b. Drop forges, foundries, refineries, tanneries or any similar use, the normal operation of which causes objectionable noise, odor, dust or smoke.

(Ord. of 5-9-1983, § 18.01)

Sec. 82-231. Building location.

(a) Building location requirements for the M-1 limited industrial district shall be as follows:

- (1) Setback: 50 feet minimum.
- (2) Offset: 10 feet minimum.

Exception. Where a lot in the M-1 limited industrial district abuts on a district boundary line of a more restrictive district permitting residence use, the following regulations shall apply:

(b) Buildings or uses permitted in the more restrictive district shall comply with the offset requirements of the more restrictive district.

(c) Buildings or uses not permitted in the more restrictive district shall provide a 50 feet minimum offset and shall be screened from the more restrictive district by a planting screen at least six feet high.

(Ord. of 5-9-1983, § 18.02)

Sec. 82-232. Height regulations.

Height regulations in the M-1 limited industrial district shall be as follows:

- (1) Principal building: 60 feet maximum.
- (2) Accessory buildings: 60 feet maximum.
- (2) Buildings used in whole or part for residential purposes: 35 feet maximum.

(Ord. of 5-9-1983, § 18.03)

Sec. 82-233. Area regulations.

(a) *Floor area.* Floor area regulations in the M-1 limited industrial district shall be as follows:

- (1) Minimum required for residence purposes:

<i>Bedrooms/DU</i>	<i>Total Area (square feet)</i>	<i>First Floor (square feet)</i>
One	900	800
Two	1,100	800
Three	1,200	800
Four (+)	1,400	800

- (2) The maximum floor area ratio permitted in the M-1 limited industrial district shall be 70 percent.

(b) *Lot size.* Lot size requirements in the M-1 limited industrial district shall be as follows:

- (1) Minimum area: 1 acre.
- (2) Minimum average width: 150 feet.

(c) *Open space.* There is no open space requirement in the M-1 limited industrial district.

(Ord. of 5-9-1983, § 18.04)

Secs. 82-234--82-239. Reserved.

DIVISION 18.

M-2 GENERAL INDUSTRIAL DISTRICT*

*Cross reference--Businesses, ch. 18.

Sec. 82-240. Permitted uses.

- (a) Uses permitted in the M-2 general industrial district are as follows:
 - (1) Any use as permitted in the M-1 limited industrial district.
 - (2) Quarrying, subject to the regulation of section 82-21(d)(30).
- (b) Any other commercial or industrial use not otherwise prohibited by law provided their building, 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.

(Ord. of 5-9-1983, § 19.01)

Sec. 82-241. Building location.

Building location requirements for the M-2 general industrial district shall be as follows:

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

(Ord. of 5-9-1983, § 19.02)

Sec. 82-242. Height regulations.

Height regulations for the M-2 general industrial district shall be as follows:

- (1) Principal building: 60 feet maximum.
- (2) Accessory building: 60 feet maximum.
- (3) Building used in whole or part for residential purposes: 35 feet maximum.

(Ord. of 5-9-1983, § 19.03)

Sec. 82-243. Area regulations.

- (a) *Floor area.* Floor area regulations in the M-2 general industrial district shall be as follows:

- (1) Minimum required for residence purposes:

<i>Bedrooms/DU</i>	<i>Total Area (square feet)</i>	<i>First Floor (square feet)</i>
One	900	800
Two	1,100	800
Three	1,200	800
Four (+)	1,400	800

- (2) The maximum floor area ratio permitted in the M-2 general industrial district shall be 70 percent.
 - (b) *Lot size.* Lot size requirements in the M-2 general industrial district shall be as follows:
 - (1) Minimum area: 1 acre.
 - (2) Minimum average width: 150 feet.
 - (d) *Open space.* There is no open space requirement in the M-2 general industrial district.
- (Ord. of 5-9-1983, § 19.04)

Secs. 82-244--82-249. Reserved.

DIVISION 19.

P-1 PUBLIC DISTRICT

Sec. 82-250. Intent of district.

The P-1 public district is intended to include publicly owned facilities which serve a public use, such as education, recreation, medical care or government.
(Ord. of 5-9-1983, § 20.01)

Sec. 82-251. Permitted uses.

Permitted uses in the P-1 public district include those uses related to the public facility subject to any restrictions imposed by the owner or municipality.
(Ord. of 5-9-1983, § 20.02)

Sec. 82-252. Conditional uses.

The following shall be conditional uses in the P-1 public district:

Any structure or use pursuant to sections 82-21(d)(26), 82-21(d)(28) and 82-21(d)(29).
(Ord. of 5-9-1983, § 20.03)

Sec. 82-253. Building location.

Building location requirements for the P-1 public district shall be as follows:

- (1) Setback:
 - a. From public road right-of-way: 50 feet minimum.
 - b. From lake, river or stream: 75 feet minimum.
- (2) Offset: 50 feet minimum.

(Ord. of 5-9-1983, § 20.04)

Sec. 82-254. Height regulations.

Height regulations for the P-1 public district shall be as follows:

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

(Ord. No. 96-2, § 6, 5-8-1996)

Secs. 82-255--82-259. Reserved.

ARTICLE V.

ADMINISTRATION AND ENFORCEMENT*

***Cross reference--Administration, ch. 2.**

Sec. 82-260. Board of adjustment--Establishment.

There shall be a board of adjustment consisting of three members who shall be appointed by the town board, but not more than one supervisor shall be a member of the board of adjustment. Board of adjustment members shall be appointed for terms of one, two, and three years respectively, dating from the first day of the month next following the appointment. Successors shall be appointed or elected in like manner at the expiration of each term, and their terms of office shall be three years in all cases and until their successors are appointed or elected. The members of the board of adjustment shall all reside within the town. The board of adjustment shall choose its own chair. The town board may compensate the members of the board of adjustment. Vacancies shall be filled for the unexpired term of any board members whose term becomes vacant. (Ord. of 5-9-1983, § 21.01)

Sec. 82-261. Same--Meetings.

The town board shall adopt rules for the conduct of the business of the board of adjustment, in accordance with the provisions of this chapter. The board of adjustment may adopt further rules as necessary to carry into effect the regulations of the town board. Meetings of the board of adjustment shall be held at the call of the chair and at such other times as the board of adjustment may determine. Such chair, or in his absence the acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be open to the public. The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board of adjustment and shall be a public record. (Ord. of 5-9-1983, § 21.02)

Sec. 82-262. Same--Appeals.

(a) *How filed.* Appeals to the board of adjustment may be taken by any person aggrieved or by any officers, department, board or bureau of the town affected by any decision of the administrative officer. Such appeal shall be taken within 65 days as provided by the rules of the board of adjustment, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof, together with the proper fee as established under section 82-267(d). The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all papers constituting the record upon which the action appealed from was taken.

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

(c) *Hearing.* Each appeal shall be heard within a reasonable time and not to exceed 65 days from the time the appeal was filed with the board of adjustment. Notice of hearing shall be given by publishing in a paper of general circulation in the vicinity of the appeal, at least once each week for two consecutive weeks and not less than seven days from the date of the hearing. In addition, written notice shall be given to the administrative officer appealed from, and by certified mail to the petitioner, the owners of each parcel of land within 300 feet of the land in question, and any other specifically interested parties. At the hearing, any party may appear in person or by agent or by attorney.

(d) *Decisions.* Decision on any appeals shall be made within 15 days after completion of the hearing thereon.
(Ord. of 5-9-1983, § 21.03)

Sec. 82-263. Same--Powers.

(a) *Defined.* The board of adjustment shall have the following powers as defined by statute: To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by an administrative official in the enforcement of this chapter.

(b) *Additional requirements.* In making its determination, the board of adjustment shall consider whether the proposed exception, variance or use allowed by law would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to any which may be stipulated in this chapter, as the board of adjustment may deem necessary for the protection of adjacent properties and the public interest and welfare.

(c) *Performance standards.* In order to reach a fair and objective decision, the board of adjustment may utilize and give recognition to appropriate performance standards which are available in model codes or ordinances, or which have been developed by planning, manufacturing, health, architectural and engineering research organizations.

(d) *Enforcement of decision.* In exercising the powers set out in the chapter, the board of adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decisions or determination appealed from, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken; and may issue or direct the issuance of a permit provided that no such action shall have the effect of permitting in any district a use prohibited in that district; or rezoning; or of permitting, without the approval of the town board, any building within the base setback area as established by section 82-22(a) or of granting exceptions to Wis. Admin. Code chs. NR 115 or 116, the county sanitary ordinance and any other state, federal or local requirements.

(e) *Required vote.* The concurring vote of two members of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation therefrom. The grounds of every such determination shall be stated.

(f) *Further appeal.* Any person or persons aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may appeal from a decision of the board of adjustment within 30 days after the filing of the decision in the office of the board of adjustment in the manner provided in Wis. Stats. § 59.694.

(Ord. of 5-9-1983, § 21.04)

Sec. 82-264. Changes and amendments--Authority.

Subject to the provisions of Wis. Stats. § 60.61(4)(c)(1), the town board may from time to time after first submitting the proposal to the plan commission for report, and after notice and public hearing as provided in this chapter, amend, supplement or change the boundaries of districts or the regulations as established in this chapter or which may be subsequently established. Such proposal may be initiated by the board of adjustment on its own motion, by recommendation of the plan commission or by petition of one or more property owners.

(Ord. of 5-9-1983, § 22.01)

Sec. 82-265. Same--Procedure.

(a) *Filing of petition.* All petitions for any change in the text or map submitted by any person or agency other than the town board or the plan commission shall be prepared in triplicate on printed forms provided for that purpose by the building inspector. Such petition shall be filed with the clerk and shall be accompanied by a fee as regulated in section 82-267(d) and payable to the town to defray the costs of advertising, investigation, and possible changes in the text or map of this chapter.

(b) *Data required.* In addition to all of the information required on the petition form, the petitioner shall supply the following:

- (1) 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.
- (2) The names and addresses of the owners of all properties within 300 feet of any part of the land included in the proposed change.
- (3) 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.

(c) *Referral.*

- (1) The clerk shall transmit without delay one copy of such petition to the plan commission and one copy to the county park and planning commission.
- (2) The plan commission shall conduct the necessary investigation, schedule a public hearing, and report its recommendation to the town Board within a reasonable time after the hearing.
- (d) *Hearing.* Upon the recommendation of the plan commission and proper notice per section 82-267(a), the town board shall hold a public hearing thereon.
- (e) *Decision.* The town board shall make a decision within a reasonable time after receipt of the plan commission recommendation.
- (f) *Three-fourths vote in case of protest.* In case of protest against such change duly signed and acknowledged by the owners of 20 percent or more either of the areas of land included in such proposed amendments, supplement or change, or by the owners of 20 percent or more of the area of the land immediately adjacent and extending 300 feet there from, or by the owners of 20 percent or more of the land directly opposite thereto extending 300 feet from the street frontage of such opposite land or in the event that such change is contrary to the recommendation of the plan commission such amendment, supplement or change shall require a three-fourths vote of the members of the town board.
- (g) *Effective upon county approval.*
 - (1) Three signed copies of any change or amendment adopted by the town board shall be sent to the county clerk for approval of the county board.
 - (2) Any such change or amendment shall become effective in the town upon the approval of the county board.

(Ord. of 5-9-1983, § 22.02)

Sec. 82-266. Public hearing--Purpose.

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

(Ord. of 5-9-1983, § 23.01)

Sec. 82-267. Same--Procedure.

- (a) *Posting and publishing.*
- (1) Except as may be otherwise specifically provided in this chapter, notice of public hearing shall be given by publication for two consecutive weeks in the official newspaper of the town or in the newspaper of general circulation in the area of the proposed change, conditional use, variance or sewer reduction at least seven days before such public hearing. The failure of such notice to reach any property owner, provided such failure be not intentional, shall not invalidate any amending ordinance or granting of conditional use.
- (2) When the hearing involves a proposed change in the zoning district classification of any property, the granting of a conditional use, or are appealed to the board of adjustment, the notices shall be posted in the vicinity of such proposed change, conditional use or variance where practical and the clerk shall mail certified letters of the public hearing to the owners of all lands within 300 feet of any part of the land included in such proposed change, conditional use or variance at least ten days before such public hearing. The failure of such notice to reach a property owner provided such failure is not intentional, shall not invalidate any amending ordinance, variance or grant of conditional use.
- (3) Notice of public hearing shall be sent to the county board supervisor representing the subject area, the state department of natural resources, and Federal Insurance Administrator if lying within the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance.
- (b) *Information.* Such notices shall state the time and place of such public hearing and the purpose for which the hearing is held.
- (c) *Filing.* Where such hearing is required by the provisions of this chapter as a result of the request for other than a zoning change, such requests shall be presented to the clerk in writing and shall be accompanied by a map or description clearly identifying the property, along with a fee as set forth in section 82-267(d) payable to the town to defray the cost of notification and holding of the public hearing.
- (d) *Fee schedule.* The fees referred to in other sections of this chapter shall be established by the town board in a fee schedule and may, from time to time, be modified by resolution. Processing fees are related to costs involved in handling conditional use petitions, appeals to the board of adjustment, zoning amendments and changes, and sewer reductions.
- (e) *Special meeting.* If a petitioner requests a special meeting (other than a regular plan commission or town board meeting) all costs incurred will be the responsibility of the petitioner.
- (Ord. of 5-9-1983, § 23.02)

Sec. 82-268. Enforcement officer.

(a) *Building inspector designated.* The building inspector is designated as the enforcement officer for the provisions of this chapter under the direction of the town board.

(b) *Duties.* In the enforcement of this chapter, the building inspector shall perform the following duties:

(1) Issue the necessary "building and zoning," and "use" permits, provided the provisions of this chapter and chapter 14, relative to buildings and building regulations, have been complied with.

(2) Keep an accurate record of all permits, numbered in the order of issuance, in a record book provided by the town for this purpose.

(3) Maintain accurate records and maps pertinent hereto and any amendments or changes thereto.

(c) *Authority.* In the enforcement of this chapter the building inspector shall have the power and authority for the following:

(1) At any reasonable time and for any proper purpose, to enter upon any public or private premises to make inspections thereof.

(2) Upon reasonable cause or question as to proper compliance, to revoke any building, zoning or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter, such revocation to be in effect until reinstated by the building inspector or the board of adjustment.

(3) In the name of the town and with the authorization of the town board, to commence any legal proceedings necessary to enforce the provisions of this chapter or the building code, including the collection of forfeitures provided for in this chapter.

(Ord. of 5-9-1983, § 24.01)

Cross References: Officers and employees, § 2-31 et seq.

Sec. 82-269. Violations.

(a) *Penalties.* Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of, any of the provisions of this chapter, shall be subject to a forfeiture of not less than \$10.00 and not to exceed the sum of \$2,000.00 for each offense, together with the costs of the action, and in default of the payment thereof, shall be imprisoned in the county jail, for a period of not to exceed six months, or until such forfeiture and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such. (Ord. 2008-4, § 1, 2-2-2009)

(b) *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 the area affected by the regulations of this chapter. It shall not be necessary to prosecute for fine or imprisonment before resorting to injunctive procedures.

(c) *Declared nuisances.* Any building erected, structurally altered, or placed on a lot, or any use carried on in violation of the provisions of this chapter, is declared to be a nuisance per se, and the town may apply to any court of competent jurisdiction to restrain or abate such nuisance. (Ord. of 5-9-1983, § 24.02)

Sec. 82-270. Validity.

(a) *Repeal of conflicting ordinances.* All other ordinances or parts of ordinances in conflict with the provisions of this chapter are hereby repealed.

(b) *Declaration of severability.* The several sections, subsection, and paragraphs of this chapter are hereby declared to be severable. If any section, subsection, paragraph, or subparagraph of this chapter shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of this chapter, or of the section of which the invalid portion or paragraph may be a part.

(c) *Effective date.* This chapter shall be in full force and effect upon passage and publication by the town board and upon approval of the county board of supervisors, said publication to consist of posting of three copies thereof in three public places in said town.

(d) *Adoption.* The ordinance from which this chapter is derived was passed and adopted by the town board the 16th day of April, 1953. Changes made, adopted and published the ninth day of May 1983. (Ord. of 5-9-1983, § 25)