

INTRODUCTION

1. **TITLE.**

This ordinance shall be known, cited and referred to as the TOWN OF DELAFIELD Zoning Ordinance except as referred to herein, where it shall be known as the "ordinance" or "chapter."

2. **AUTHORITY.**

This ordinance is enacted pursuant to the authority granted by the State of Wisconsin Statutes, including, but not limited to, §§ 60.61, 61.35, 62.23(7), 87.30, Chapter 236 and Chapter 703. Specific statutory references are provided within the body of this chapter solely as a means of assisting the reader. Such references are not to be considered as all inclusive and shall in no manner be construed so as to limit the application or interpretation of this chapter.

3. **PREFACE.**

With recognition of the ever broadening scope of zoning regulations, the changing attitudes of individuals and the courts, and the new problems being presented by changing patterns of land development, this chapter has been developed to provide as modern and effective a tool as possible to help guide the proper growth and development of the community. It has also been designed to simplify and clarify both the text and its practical application.

In accomplishing these purposes it has been necessary to take a fresh look at the traditional pattern of zoning ordinance format and regulatory technique in relation to contemporary conditions. To a great extent this involved a fresh look at the basic zoning purposes themselves, though the fundamental principles of uniformity, comprehensiveness, non-discrimination and relation to the public health, safety and welfare have been preserved.

While it is the hope of the Town Board and Plan Commission that this chapter represents a definite step towards more effective land development control, it cannot be presumed to represent the final chapter. By the very fact that it is designed to be contemporary, it should not be allowed to become static, but shall be continually reappraised in the light of experience and changing conditions.

Though zoning is of necessity becoming more detailed and precise, and the municipality, the property owner and the courts are recognizing the necessity for exercising more restrictive control over land development, this chapter has been designed to provide a maximum amount of flexibility in adjusting to the variations of individual situations.

The chapter is divided into four basic parts:

1. Interpretation
2. General Regulations
3. Establishment of Districts
4. Administration and Enforcement

The first part sets out the introduction and definitions involved in the chapter.

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The second part consists of the basic enabling provisions stated in the necessary legal terminology to apply the specific provisions of zoning control to a given district.

The third part of provisions then establishes the various districts and in simple outline form lists the appropriate specific application of these general regulations to each district. In addition, all conditional uses and the specific restrictions applicable thereto are grouped together in this section for convenience. The term "conditional use" is felt to be a more accurate descriptive than "special exception" because those uses are permitted literally "subject to certain conditions." As such a grant is in effect, an extension of the original planning-legislative determination, the Plan Commission is designated as the proper recommending body in such case, subject to final determination by the governing body itself. The Board of Appeals thereby remains strictly a quasi-judiciary "appeal" or "adjustment" body and its function does not become confused with the planning-legislative function. Additionally, the third group also consists of accessory uses, legal nonconforming uses, structures and lots, signs, and traffic, parking and access.

The fourth part consists of the necessary provisions for administration, enforcement, amendment and validation of the chapter.

It is intended that in the practical application of the chapter, one should be able to quickly determine the exact requirements applicable to a given solution. The outline form of the requirements for each district is brief and free from complications of lengthy and involved terminology. The proper interpretation, method of application and exceptions to the specific requirements are combined in the second group of general provisions under clearly labeled captions. As a result, both the enforcement officer and the applicant should find this chapter simple to use and less subject to misinterpretation or difference in the interpretation even though the chapter is comprehensive in its scope.

4. PURPOSE.

- A. The provisions of this chapter pursuant to the provisions of §§ 60.61 and 62.23, Wis. Stats., shall be held to the minimum requirements adopted to regulate and restrict the height and size of buildings; to classify, regulate and restrict the location and use of buildings and the use of land according to their specific characteristics; to regulate and restrict the density of population and the percentage of use of lot area, to regulate and determine the areas of open spaces surrounding buildings; to divide the Town into districts of such number, shape and area as may be deemed best suited to carry out the provisions of the chapter; to provide for the administration and enforcement of such provisions; and to prescribe penalties for the violation of the provisions hereof.
- B. This chapter is designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to encourage the protection of groundwater resources; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to preserve burial sites as defined in s.157.70(1), Wis. Stats., to facilitate the creation of a convenience, attractive and harmonic community; to preserve and protect the natural environment and open space; to preserve the community's

history, heritage and rural character and to ensure that development occurs at a pace consistent with the Town's financial capability to provide municipal services.

- C. Specifically, this chapter is adopted for the purpose of protecting the public health, safety, morals, comfort, convenience and general welfare of the Town.

5. **SEPARABILITY.**

It is hereby declared to be the intention of the Town Board that the provisions of this ordinance are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any portion of this ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.
- C. If any requirement or limitation which is attached to an authorization given under this ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation.

6. **ABROGATION.**

It is not intended that this ordinance abrogate or interfere with any constitutionally protected right.

7. **APPLICATION.**

- A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare and shall be liberally construed in favor of the Town.
- B. Where property is affected by the regulations imposed by any provision of this chapter and by other governmental regulations, the regulations which are more restrictive or which impose higher standards or requirements shall prevail. Regardless of any other provision of this ordinance, no land shall be developed or used, and no structure erected or maintained in violation of any state or federal regulations.
- C. No structure shall be constructed, erected, modified, converted, enlarged, reconstructed, altered, placed, occupied, reoccupied or maintained, and no land shall be used, modified, occupied, reoccupied or maintained for any purpose nor in any manner which is not in conformity with the provisions of this chapter.
- D. Except as provided in this chapter, under provisions for legal nonconforming uses, structures and lots, no land, building, structure, development or premises shall be

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hereinafter used or occupied and no applicable permit granted that does not conform to the requirements of this chapter.

- E. In cases of mixed-occupancy or mixed-use, the regulations for each land use shall apply to the portion of the land, building or structure so used.

8. JURISDICTION.

This ordinance is applicable to all territory located within the corporate limits of the Town of Delafield.

9. REENACTMENT AND REPEAL.

- A. This ordinance, in part, carries forward by reenactment some of the provisions of the regulations governing zoning and related matters, being previously known collectively as the "Zoning Ordinance," Chapter 17 of the Code of Ordinance for the Town of Delafield, adopted prior to the effective date of this ordinance. It is not the intention of this ordinance to repeal, but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced, unless explicitly surrendered by specific provisions of this ordinance or altered by the Official Zoning Map.
- B. All provisions of Chapter 17 of the Town of Delafield Code of Ordinances which are not reenacted herein are hereby repealed.
- C. The adoption of this ordinance shall not adversely affect the Town's right to prosecute any violation of the predecessor Zoning Ordinance provided the violation occurred while that Ordinance was in effect.

10. EFFECTIVE DATE.

All plans approved under previous zoning regulation shall be valid and may be used to obtain permits for a period of not more than one year after the effective date of this ordinance. This ordinance shall become effective upon passage, after approval of Waukesha County, and posting according to law.

SECTION 17.02

RULES AND DEFINITIONS

1. RULES.

The language set-forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural, and the plural the singular;
- B. The present tense includes the past and future tense, and the future the present;
- C. The word "shall" is mandatory, while the word "may" is permissive;
- D. The masculine gender includes the feminine and neuter genders.
- E. Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be construed as set-forth in the definition thereof; and any word appearing in parentheses between a word and its definition herein shall be construed in the same sense as that word;
- F. The phrase "including, but not limited to" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- G. (Created 2013-01) References in this Chapter to sections of the United States Code, or State of Wisconsin Statutes, or the Wisconsin Administrative Code shall be interpreted to include such amendments, repeal, renumbering and binding judicial interpretation of such State and federal laws as may be made from time to time, unless expressly stated otherwise. No such reference to State or federal law shall be interpreted to delegate interpretation authority to any person or entity outside of the Town of Delafield municipal government, however, and the Town of Delafield reserves to itself the right to interpret applicable laws and to appeal interpretations that it believes are incorrect, and to seek the repeal or amendment of laws that it believes are not in the best interests of the Town of Delafield.

2. SPECIFIC WORDS AND PHRASES.

For the purpose of this chapter, certain words and phrases shall be defined as follows:

Abutting. Having a common border with, or being separated from such common border only by an easement.

Access. A means of vehicular approach, i.e., entry to a property from a street, road or highway, or exit from a property to a street, road or highway.

Accessory buildings and structures. (Amd. 00-507a) Buildings and structures, including private detached garages and boathouses, that are customarily incidental to the permitted uses in the District and located upon the same lot occupied by the principal building or structure.

Accessory use. Subordinate uses that are customarily incidental to the permitted uses in the District and located upon the same lot occupied by the principal use or principal structure.

Acre. 43,560 square feet.

Addition. Any new construction whereby an existing building or structure, or building or structure in course of construction, is expanded in perimeter or height.

Adjacent. Having a common border with, or being separated from such common border only by an easement.

Administrative official. Town Clerk, Town Engineer, Code Enforcement Officer, Building Inspector, Plan Commission, and Superintendent of Public Works.

Adult-oriented establishment. Repealed and recreated at §12.08, Town of Delafield Municipal Code per Ord. 00-515.

Aggrieved person. Any person who alleges that he or she has been injured by an error in an order, requirement, decision or determination made by an administrative official in the enforcement of § 62.23, Wis. Stats., or of this chapter.

Agriculture. All uses, commonly classified as agriculture, horticulture, floriculture, viticulture, or forestry, such as: the tilling of soil, crop and tree farming, truck farming, gardening, plant nurseries, dairy farming, keeping or raising of domestic livestock or poultry and sod farming together with the operation of any machinery or vehicles that are incidental to the above uses and any agricultural business such as fruit packing, dairying or similar activities.

Air pollution. Dust, fumes, mist, liquid, smoke, other particulate matter, vapor, gas, odorous substances or any combination thereof excluding uncombined water vapor.

Airport. Transportation facility providing takeoff, landing, servicing, storage or other services to any type of air transportation.

Alley. A public right-of-way usually of reduced width which affords a secondary means of access to abutting property.

Animal hospital. An enclosed structure principally used to medically or surgically treat animals, which may include a commercial kennel as an accessory use.

Antique. A business engaged in selling or exhibiting works of art, pieces of furniture, decorative objects or other things that were made at an earlier time, generally at least twenty years earlier.

Apartment. A room or suite of rooms in a multiple family dwelling which is arranged, intended or designed to be occupied as a residence by one individual or by one family.

Apartment House. *See Multiple family dwelling.*

Appeal. A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this chapter as expressly authorized by the provisions of section 10 of this chapter.

Arts and crafts studio. A business operated by an individual who is a painter, sculptor, potter, furniture builder, or similar crafter or artisan of material goods, where the product of the individual's work is sold, exhibited or both.

Automobile service station (Convenience store). A place where petroleum products, stored in underground tanks for the operation of motor vehicles are offered for sale directly to the public, including but not limited to such facilities that also sell motor vehicle parts and accessories, groceries, or any other products or services.

Base Setback Line. The street line as established by this chapter from which all required setbacks shall be computed.

Basement. A story that is more than one-half under grade level.

Bed and breakfast establishment. Any place of lodging that provides six (6) or fewer rooms for rent to guests, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast. "Breakfast" shall mean any meal served between 6:00 a.m. and 11:00 a.m.

Bedroom. A room in a residence that is marketed, designed, or otherwise likely to function primarily for sleeping.

Boat. A vessel that is designed to carry at least one individual on the surface of a body of water, and is propelled by oars, paddles, sail or motor power. Motor power includes, but is not limited to, power generated by steam engine, electric motor or combustion engine of any kind.

Boathouse. A structure designed to protect or store boats and not for human habitation.

Building. A structure that has a roof supported by columns or walls that is used, designed or intended for the protection, shelter or enclosure of individuals, animals or property. *See also, Accessory building, Height of building, Principal building and Public and Semi-public building.*

Building separation. The narrowest distance between two buildings.

Building setback line. A line parallel to the base setback line located at the minimum setback distance as set forth in the individual zoning district.

Building size. Synonymous with floor area.

Business. Any commercial or industrial activity or establishment.

Business park. A building project that is developed as a coordinated entity with similar building facades, landscaping, common parking and access drives, and unified site design.

Campground. A plat of ground designated for two (2) or more sites for temporary occupancy with tents and/or recreational vehicles.

Chicken Coop. (amended 2012-02) A covered enclosure used to keep chickens.

Chicken Run. (amended 2012-02) A covered, permeable, fenced in area allowed for chickens to run outside of the chicken coop.

Code enforcement officer. The Town employee charged with the application and interpretation of this chapter.

Commercial greenhouse. A business that grows and sells primarily plants and related goods on a retail or wholesale basis, and that includes a structure for the cultivation of plants.

Commercial kennel. An establishment, structure or premises where dogs or other household pets are raised, sold, bred, boarded, trained or groomed for commercial purposes. *See also, Hobby kennel.*

Commercial stable. A tract of land on which horses or other livestock are kept for hire, board, training, sale or any other commercial use.

Commercial truck. Any motor vehicle used for business or institutional purposes that weighs more than 10,000 pounds.

Common Open Space. (Amd. 05-003) Land within a subdivision or other development that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the community. Common Open Space may have varied forms of ownership including but not limited to: fractional share of the owners of property within a subdivision or development; public ownership; and fee simple or easement interest by a third party land trust. Common open space is typically free of structures, but may contain historic or rustic structures, share recreational structures including but not limited to pool houses or stables, as may be indicated on the approved development plan.

Communication tower. Free-standing broadcasting, receiving, or relay structures, and any office, studio or other land uses directly related to the function of the tower.

Comprehensive plan. The comprehensive plan of the Town of Delafield, as adopted and as subsequently amended.

Conditional uses. A land use which requires a conditional use permit in order to be developed.

Condominium. (Amd. 05-003) A community association combining individual unit ownership with share use or ownership of common property or facilities, established in accordance with the Condominium Ownership Act and §703 Wisconsin Statutes.

Corner lot. A lot abutting on 2 or more streets at their intersection, provided that the interior angle of such intersection is less than 135 degrees.

Deck. A structure, other than a stoop or walkway, characterized by a flat open horizontal surface or platform either at grade or suspended above the grade of the land it covers and which may or may not be supported by posts, beams, cantilevers or by any other methods, including a flat roof of a structure intended to be occupied for recreational purposes.

Density. The number of dwelling units or housing structures per unit of land.

Detailed Site Analysis. (Amd. 05-003) A plan or set of plans designed to provide the clear identification of permanently protected green space and open space areas on a site which is proposed for development, and which identifies permanently protected natural resource areas defined as required protected areas under State and Federal regulation; any environmental corridor component identified by the Southeastern Wisconsin Regional Planning commission, including primary corridors, secondary corridors, and isolated natural resource areas; or any other environmental feature designated in the Town Land Use Plan requiring a Detailed Site Analysis and Mitigation Plan in conjunction with development review.

Developer. The legal or beneficial owner(s) (including, but not limited to, optionee(s) or contract purchaser(s) of a lot or parcel of any land proposed for inclusion in a development.

Development. (Amd. 05-003) The combination of parcels; division of a parcel of land into two or more parcels; the erection, construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure; any use or change in use of any buildings, structures or land; any extension of any use of land; or any clearing, grading, or other movement of land, for which permission may be required pursuant to this Chapter. Also, the result of said acts.

Development Envelope. (Amd. 05-003) That portion of a parcel of land which is intended to be cleared, graded, and built upon including areas for accessory uses and structures.

Direct access. A condition of immediate physical connection resulting from adjacency of a road or right-of-way abutting a property.

District. A specifically delineated area in a municipality within which regulations and requirements uniformly govern the use, placement, spacing and size of land and structures.

Drainage. The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff, to minimize erosion and sedimentation during and after development, and the means necessary for water supply preservation or alleviation of flooding.

Dwelling. A residential building or one or more portions thereof occupied or intended to be occupied exclusively for residential purposes, but not including habitations provided in nonresidential uses such as lodging uses and commercial campgrounds. *See also, Multiple family dwelling, One family dwelling, Two family dwelling, and Dwelling unit.*

Dwelling unit. A room or group of rooms, providing or intended to provide living quarters for not more than one (1) family.

Easement. A right given by an owner of land to another party for a specific limited use of that land or portion thereof.

Eave. The lower border of a roof that overhangs the wall.

Efficiency apartment. A small, usually furnished, apartment with minimal kitchen and bathroom facilities.

Elderly housing. Residential development designed to meet the needs of and reserved exclusively for senior citizens.

Elderly housing unit. Synonymous with elderly housing.

Erosion. The detachment and movement of soil or rock fragments by water, wind, ice, and/or gravity.

Established grade. The elevation of the finished street at the centerline or curb as fixed by the Town Engineer or by such authority as shall be designated by law to determine such an elevation.

Family. One or more individual(s) related by blood, adoption or marriage, or 3 or fewer individual(s) not so related, living together in one dwelling and maintaining a common household.

Farm. The location of a farming operation.

Farming. Engaging in a farming operation.

Farming operation. (Amd. 06-007) One or more parcel(s) of land under a single ownership and/or management upon which natural fibers, animals, and/or plants for human or animal consumption are produced for profit.

Farm roadside stand. A farm building or structure used or intended to be used for the sale of unprocessed farm products raised on said farm solely by the owner or tenant of the farm on which such building is located.

Farmstead. That portion of a farm which consists of the home and adjacent accessory buildings.

Fast food restaurant. An establishment whose principal business is the sale of prepared or

rapidly prepared food directly to the consumer in a ready-to-consume state for consumption either within the restaurant building or off-premises.

Fence. A structure which is used as a boundary or means of protection, screening, barrier, confinement or architectural treatment.

First floor level. Livable floor area that is not above any other livable floor area.

Flood. A temporary rise in water level that results in water overtopping land banks and inundating adjacent areas.

Floodplain. Land which has been or may be covered by flood water during the regional flood. The floodplain includes the floodway, shallow depth flooding, flood storage and coastal floodplain areas.

Floor area. The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

Frontage. The length of any one property line of a premises that abuts a street right-of-way, waterway, or end of a dead-end street.

Frontage street (Frontage road). A street (road) contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property.

Front lot line. A lot line which abuts a public or private street right-of-way. In the case of a lot which has two or more street frontages, the lot line most closely parallel with the front door of the house shall be the front lot line.

Front yard. A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the District in which such lot is located.

Fur farm. A farming operation devoted in whole or part to the raising of fur bearing animals for commercial purposes.

Garage. *See Private Garage.*

Gift shop. A business engaged in selling merchandise that is suitable for, and often is, transferred by the purchaser to another without compensation.

Glare. The brightness of a light source which causes eye discomfort.

Gravel Pit. A type of quarry.

Gross floor area. Synonymous with Floor area.

Group day care center. A facility, that is not in an occupied residence, where care and supervision is provided for four (4) or more children under the age of seven (7) for less than 24 hours a day.

Grub. To clear the vegetation from an area of land by digging up roots and stumps.

Hard or impervious surface. The area of a lot devoid of grass, trees or other natural landscape features that is developed in a manner that prevents filtration of water into the underlying soil.

Height of building (base - principal). (Amd. 00-507a) The greatest vertical distance between the

elevation of the lowest finished grade and the eave, measured on the side(s) of the building having the lowest finished grade.

Height of building (base - accessory) (Created 00-507a) The vertical distance between the elevation of the highest finished grade and the eave measured on the side of the building having the highest finished grade.

Highway. A right-of-way for the principal purpose of providing vehicular thoroughfare and not necessarily affording direct access to abutting property.

Hobby kennel. A non-commercial establishment, structure or premises accessory to the principal use of the property where 3 or more household pets of 6 months minimum age are kept for such private purposes as pets, field trials, shows or hobby. The occasional raising of not more than 2 litters of household pets per year on the premises and the sale or disposal of the animals within 6 months of the birth shall also be considered a hobby kennel. *See also, Commercial kennel.*

Home Occupation. A gainful occupation or profession conducted by a member or members of a family within his, her or their dwelling, where the space used is incidental to the principal residential use of the property.

Horticulture. The act of cultivating plants for private ornamental use and/or the cultivation of fruits or vegetables for private use.

Hospital. An institution providing primary health services and medical or surgical care to individuals, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

Hot Tub. (Amd. 2008-004) A structure, being a large tub or small pool of water, used for soaking, relaxation, massage or hydrotherapy, in most cases with jets for massage purposes.

Hotel. A building in which lodging, with or without meals, is offered for compensation and which has more than 5 sleeping rooms for this purpose.

House trailer. Synonymous with Mobile Home.

Household pets. Common household animals such as dogs, cats, parrots, and other domestic animals kept for pleasure and not for utility, excluding domesticated wild animals not usually found in the home.

Human habitation. Entrance or presence of any individual for any purpose other than maintenance.

Individual. A human being.

Industrial park. A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

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

Institutional. Uses, facilities, or organizations dedicated to public service.

Intermediate day care home. Occupied residence in which a qualified individual or individuals provide child care for 9 to 15 children.

Junkyard. Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, or machinery or two or more unregistered, inoperable motor vehicles or other work materials.

Kennel. Either a commercial or hobby kennel.

Lake resort. A commercial enterprise that is located adjacent to a lake and that provides overnight lodging, recreation and entertainment, especially to vacationers.

Legal nonconforming lot. Any lawfully established lot or parcel of land at the time of the enactment of this chapter or any amendment applicable thereto which does not meet the requirements for minimum lot width and area for the District in which it is located.

Legal nonconforming structure. Any lawfully established building or structure at the time of the enactment of this chapter or any amendment applicable thereto that does not conform to the use regulations or dimensional regulations for the District in which it is located.

Legal nonconforming use. Any lawfully established use of land, premises, building or structure 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.

Light industrial. Industrial establishments such as those engaged in warehousing, wholesaling and distribution, assembly, fabrication, repair and maintenance services that comply with the standards listed in this chapter.

Livable floor area. Floor area measured at each level from the outside edge of wall to outside edge of wall and for purposes of computing total floor area shall not include attached or detached garages, or other outbuildings, open unheated porches and breezeways or basements.

Livestock. Domestic farm animals that are typical of this area including, but not limited to, cattle, horses and sheep.

Local residential street. A road which primarily serves to collect traffic originating directly from residential driveways and private residential courts and streets.

Lot. A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law. *See also, Corner lot, Front lot line, Legal nonconforming lot, Lot lines, Lot area, Lot of record, Lot width, Rear lot line, Shore lot line, Side lot line, and Street lot line.*

Lot area. The area of contiguous land bounded by lot lines, exclusive of the area between the base setback line and the existing property line ultimately to be included in the street, but may include land zoned "Wetland-Floodplain" subject to compliance with this chapter.

Lot lines. The lines bounding a lot as defined herein.

Lot of record. A platted lot or lot described in a certified survey map or metes and bounds description which has been approved by the Town, and has been recorded in the office of the Register of Deeds.

Lot width. The length of the building setback line.

Manufacturing. The mechanical or chemical transformation of materials or substances into new

products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

Marina. A tract of land together with associated structures on the land and in the water where boat launching, boat mooring, boat anchoring, and/or dry land boat storage is provided to boat owners for a fee or other remuneration.

Master plan. A plan, map, report, or other document pertaining to the physical development of the Town which has been adopted by the Town Plan Commission, as described in Wisconsin Statutes § 62.23 (2) and (3).

Minor street. A minor street as set forth in Chapter 18 of the Town of Delafield Municipal Code.

Mitigation Area. (Amd. 05-003) The portion of a lot or development site which could be included in a Development Envelope, but which is restricted for use as undeveloped open space in order to alleviate or less the impact of development.

Mobile home. A constructed unit 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 is intended to be so used, and includes any additions, attachments, annexes, foundations and appurtenances thereto.

Mobile home park. A planned residential development containing sublots for stationing individual mobile home units and providing on site sanitary facilities, laundry facilities and recreational facilities, with public sewer, public water supply service, gas and electric power utilities for connection directly to each mobile home unit and having interior roads and walks permanently surfaced.

More restrictive. A regulation imposed by this chapter is more restrictive than another if it prohibits or limits development to a greater extent or by means of more detailed specifications.

Motel. A building or series of buildings in which lodging, without meals, is offered for compensation and which may have more than 5 sleeping rooms or units for this purpose and which is distinguished from a hotel primarily by reason of providing direct independent access and adjoining parking for each rental unit.

Multiple family dwelling. A structure arranged or designed to be occupied by three or more families living independently of each other.

Nonconforming use, building or structure. *See Legal nonconforming lot, Legal nonconforming structure, and Legal nonconforming use.*

Nuisance. An unreasonable interference with the enjoyment and use of one's property as defined in Chapter 10.02 of the Town of Delafield Code of Ordinances.

Occupancy permit. A required permit that allows occupancy of a building, structure, land, or use, which certifies that the occupancy complies with the provisions of this chapter and any other applicable governmental regulations.

Office. A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

Office park. A project owned, developed and managed by a single owner or a group of owners similar to a business park with the primary establishments being a related group of offices

including, but not limited to corporate, medical, financial, insurance and real estate.

Offset. (Amd. 00-507a) The horizontal distance between the side or rear lot lines of a lot and the nearest foundation wall of a structure.

Off-street parking space. A usable off-street area with independent access designated for the parking of motor vehicles.

Open Cell Pavers. (Amd. 2008-004) Pervious paving materials of at least 50% open area, used to reduce the imperviousness of firm surfaces such as patios, walkways, driveways, fire lanes, and parking areas, for the purpose of reducing surface runoff and increasing filtration. Open Cell Pavers may include pervious interlocking concrete blocks, concrete grid pavers, turf block and perforated brick pavers.

Open space. (Amd. 2008-004) A natural area or manmade landscaped area not occupied by any structures, impervious surfaces, gravel drives, or gravel parking areas.

Ordinary high water line. A point on the bank or shore of a body of water up to which the presence and action of surface water is so continuous as to leave a distinctive mark by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognizable characteristics.

Outdoor recreational facilities. Land, buildings and structures along with accessory equipment, designed and utilized for leisure time activities of a predominantly outdoor nature.

Outdoor storage. The keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four hours.

Owner. The person or persons having the right of legal title.

Parcel. A lot.

Parking area. Any public or private land area designed and used for parking motor vehicles including parking lots, garages, private driveways and legally designated areas of public streets. *See also, Off-street parking space.*

Patio. A type of deck.

Performance standard. Criterion established to control and limit the impacts generated by, or inherent in, uses of land or buildings.

Permanent structure. A structure placed on or in the ground or attached to another structure in a fixed and determined position, and intended to remain in place for a period of more than four (4) months.

Permitted use. A use that is permitted by right, subject to the provisions of this chapter.

Person. An individual, firm, corporation, voluntary association, owner or agent.

Pig farm. A farming operation devoted in whole or in part to the raising and feeding of pigs and/or hogs.

Plan Commission. The Plan Commission of the Town of Delafield.

Planned Unit Development (PUD). (Amd. 05-003) A self contained development in which subdivision and zoning controls are applied to the project as a whole rather than to individual lots, and in which specific benefits are provided to the community as well as the developer and the

future citizens who will reside within the development. Within PUD's, densities are calculated for the entire development, usually permitting a trade-off between clustering of homes and provisions of common open space.

Planting screen. An area landscaped with natural growing evergreen type of plants that are sufficiently dense and of adequate height at all times as to effectively screen off from view the object that is intended to be hidden.

Plat. A map or plan of a parcel of land showing such data as the location, boundaries, dimensions, bearings, lot or unit location and designation, and ownership of individual properties in accordance with Chapters 236 and 703 of the Wisconsin Statutes.

Poultry farm. A farming operation devoted in whole or in part to the raising of poultry or fowl, such as chickens, ducks, geese and turkeys for commercial purposes.

Preliminary plat. A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.

Premises. A distinct and definite locality, as determined from the context in which the word is used, and may include, but is not limited to, a room, shop, building, yard, or lot.

Principal building or structure. A building or structure used or intended to be used for the principal use as permitted on such lot by the regulations of the zoning District in which it is located.

Principal use. The main or primary use of land, premises, buildings or structures as permitted by the regulations of the District in which such use is located.

Private club. Real property exclusively used for regular or periodic meetings or gatherings of a group of persons solely organized for a nonprofit purpose.

Private garage. (Amd. 00-507a) Any structure for the primary purpose of keeping private vehicles and wherein such use is accessory to the residential use of the property on which it is located.

Private stable. A tract of land on which horses or other livestock are kept for the non-commercial use of the individual residing on the tract of land.

Processing. A series of operations, usually in a continuous and regular action or succession of actions, taking place or carried on in a definite manner. The term processing is generally associated with the transformation of raw materials or substances into new products. For purposes of use in this chapter, processing shall not include heavy industrial uses such as tanneries, meat packing, foundries, hazardous waste recycling, chemical production, and other similar uses.

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

Public and semipublic buildings. Structures that serve a public need such as: hospitals, rest homes, nursing homes, schools (including, but not limited to, private academic schools and nursery schools), libraries, museums, post offices, police and fire stations, public and private utilities and other similar public services; but not including bars, restaurants or recreation facilities.

Public improvement. Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs such as: streets, roads, alleys or pedestrian walks or paths, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.

Public utility. Any person or municipal department duly authorized, under public regulation, to furnish electricity, gas, steam, telephone, communication, transportation or water to the public.

Quarrying. The removal of rock, slate, gravel, sand, topsoil or other natural material from the earth by excavation, stripping, leveling or any other such process, excluding the removal solely of sod.

Quasi-public. Owned or operated by a non-profit, religious or charitable institution and providing educational, cultural, recreational, religious or similar types of public programs.

Rear lot line. The lot line opposite to and most distant from the front lot line.

Rear yard. A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the District in which such lot is located.

Recreational vehicle or equipment. A vehicle or piece of equipment which can be towed, hauled, carried or driven and designed as a temporary living accommodation for recreational camping and travel use and including but not limited to travel trailers, truck campers, tent trailers, camping trailers, self propelled motor homes, and boats.

Refuse disposal site. A tract of land operated by a public or private person where more than one family takes refuse for disposal.

Regional flood. A flood having an average frequency of the 100 year recurrence interval flood.

Residential planned unit development. An area of a minimum contiguous size, as specified by this chapter, to be planned and developed as a single entity containing one or more residential unit(s).

Residential zoned. A property located in a residential District.

Restaurant. A commercial establishment where food and beverages are prepared, served and consumed primarily within the principal building, and where food sales constitute more than eighty percent of the gross sales receipts for food and beverages. *See also, Fast food restaurant.*

Retail. The sale of commodities or goods in small quantities to ultimate consumers.

Retaining Wall. (Amd. 06-007) A vertical structure used to hold back earth or keep earth from sliding.

Revetment. A facing (as of stone or concrete) to sustain an embankment.

Riding stable. Any structure and/or land used, designed or arranged for the maintenance or rental of horses, mules, ponies or donkeys either with or without a bridle path or riding area, but excluding structures and/or land used, designed or arranged for the maintenance of horses or mules used exclusively for agricultural purposes.

Right-of-way. A strip of land acquired by reservation, dedication, forced dedication, or condemnation and occupied or intended to be occupied by a street, cross-walk, railroad, electric

transmission line, oil or gas pipeline, water line, sanitary or storm sewer and other similar uses.

Riprap. A layer of rocks, stones, or chunks of concrete thrown together without order either on an embankment slope to prevent erosion, or not on an embankment slope to create a sustaining wall or foundation.

Road. Synonymous with street.

Roadside stand. Synonymous with Farm roadside stand.

Rustic structure. (cr. 2002-09-002A) Any existing structure permanently located on property, which is set apart from other structures as being distinct due to its construction technique, materials, age, local historic significance or design, and characteristic of past agricultural practice and which is structurally safe.

Safe vehicular access. An access of sufficient width and adequate horizontal alignment to accommodate emergency vehicles and having a slope not to exceed 12% at any point.

Sand Pit. A type of quarry.

Secondary access. A means of vehicular or non-vehicular approach, i.e., entry to a property from a source other than a public street or highway, or exit from a property to a source other than a public street or highway.

Sedimentation. The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a result of erosion.

Self-storage facility. A facility consisting of individual self-contained storage units or spaces leased to individuals, organizations or businesses for storage of personal property. A storage facility that is accessory to the principal use on the property and used solely by occupants of the property where located is excluded from this definition of a self-storage facility.

Service establishments. Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations; including hotels and other lodging places; establishments providing personal business, repair and amusement services; health, legal, engineering, and other professional services; educational institutions; membership organizations, and similar establishments.

Service Pedestal. (Amd. 2008-004) A cabinet, box or enclosure that houses transformers, distribution equipment or metering equipment servicing residential, industrial or commercial properties that is less than 20 cubic feet in size and is less than 3 feet in height. Service pedestals shall not be considered structures.

Setback. The horizontal distance between the base setback line and the nearest portion or projection of a building.

Sewage Treatment Plant. Any facility designed for the treatment of sewage which serves in excess of two (2) structures or dwelling units.

Shore lot line. The ordinary high water line of the lake or stream which the lot abuts.

Shrub. A low-lying deciduous or evergreen plant.

Side lot line. Any boundary of a lot which is not a front lot line, a street lot line, a shore lot line, or a rear lot line.

Side yard. A yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the District in which such lot is located.

Sign. *See section eight (8) of this chapter.*

Single family dwelling (One family dwelling). A dwelling designed for and occupied exclusively by one family.

Single floor area. Livable floor area that is not over any other livable floor area.

Sod. The grass-covered surface of the ground, and the soil below the surface only to the depth of the roots of the grass.

Soil Processing. An operation which entails the import of soil material for purposes of machine processing, sifting, pulverizing, blending or like process, for resale.

Solid fence. Any fence which cannot be seen through. Such fences include but are not limited to basketweave fences, stockade fences, and plank fences.

Stable. Either a private stable or a commercial stable.

Stoop. A structure, which is less than 12 square feet in area, intended to provide ingress and egress to a building.

Storage structure. A detached structure, other than a principal garage, that is used for the parking and/or storage of motor vehicles, boats, campers, recreational vehicles, and lawn/garden equipment owned by the resident household.

Story. That portion of a building included between the surface of a floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

Street, Arterial. (Amd. 05-003) A street used or intended to be used, primarily for fast or heavy through traffic. Arterial street shall include freeways and expressways as well as standard arterial streets, highway and parkways.

Street Collector. (Amd. 05-003) A street used or intended to be used, to carry traffic from minor streets to the major system of arterial streets including the principal entrance streets to residential developments.

Street, Cul-De-Sac. (Amd. 05-003) A minor street with only one outlet and having an appropriate turnaround for the safe and convenient reversal or traffic movement.

Street dedication. The designation by plat, certified survey map, or written deed of a certain area to be used for public street purposes pursuant to Section 236.29, Wisconsin Statutes. A dedication transfers title to the dedicated area from the private landowner to the public domain.

Street Frontage. (Amd. 05-003) A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

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

Street lot line. Any lot line adjacent to a street.

Street, Minor (Local). (Amd. 05-003) A street used, or intended to be used, primarily for access to abutting properties.

Street reservation (road reservation). The designation by plat, certified survey map, or written deed of a certain area reserved for possible future public street purposes. A reservation does not transfer title of the reserved area to the public domain unless the area is accepted by the Town Board for public street purposes.

Street width. The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

Strip development. A pattern of land uses typified by nonresidential and/or multi-family development located along one or both sides of a street which is generally only one lot deep and which is characterized by many curb cuts, low green space ratios, low landscape surface ratios, and/or low quantities of landscaping.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, and uses standard building materials.

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

Subdivision. The division of a lot, parcel or tract of land as defined in Chapter 18 of the Town of Delafield Code of Ordinances.

Summer Home. A dwelling designed and intended to be used, and which is used, only a few months each year, principally during the warm months of the year.

Supper club. A type of restaurant.

Surveyor. A licensed and certified land surveyor authorized to do business in the State of Wisconsin under Section 443.06 of the Wisconsin Statutes.

Sustained Yield Forestry. The management of forested lands to provide annual or periodic crops of forest products.

Swimming Pool. A structure, whether above or below grade level, designed to hold water more than thirty inches deep to be used for recreational purposes.

Tavern. An establishment where alcoholic beverages are sold to be consumed on the premises.

Telecommuting. Engaging in a gainful occupation or profession by a member or members of a

family within his, her or their dwelling, while maintaining periodic communication with a principal office outside of the dwelling by the use of a computer modem.

Temporary Uses and Structures. Any uses or buildings or structures intended to remain in place for not more than four (4) months.

Topsoil. Generally, the top layer of soil, characterized by having a high organic matter content and by being optimal for the growth of plants.

Townhouse. A single family residence, usually 2 or more stories, attached on one side or both sides by party walls to other single family residences of similar type having individual street and rear yards, the end units only having a single side yard on the unattached side.

Traffic artery. Synonymous with Highway.

Two family dwelling. A dwelling designed for and occupied exclusively by 2 families.

Unenclosed. In reference to "unenclosed" storage of materials, vehicles, etc., unenclosed shall be defined as being within reasonable view of surrounding properties due to lack of adequate screening or enclosure.

Utility Structure. (Amd. 2008-004) A structure, greater than 20 cubic feet in size or greater than 3 feet in height, used for the primary purpose of housing telecommunications, electrical, cable television and similar equipment including utility cabinets, buildings and underground vaults.

Variance. Permission to depart from the literal requirements of this chapter.

Vision setback. An unoccupied triangular space, at the street corner of a corner lot.

Walkway. A passage at ground level, 4 feet or less in width, intended for pedestrian traffic.

Warehouse. A building used primarily for the storage of business generated goods and materials and/or as a distribution center.

Wetland. An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet condition.

Wholesale trade. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard. A required open space on a lot, which is unoccupied and unobstructed by a structure from its lowest ground level to the sky, except as expressly permitted in this chapter. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the District in which it is located. *See also, Front yard, Rear yard, and Side yard.*

SECTION 17.03

GENERAL REGULATIONS

1. GENERAL PERMIT REGULATIONS.

A. Building and Zoning Permit.

1. **Required.** (repealed and recreated 2011-002) No building or structure shall be erected, converted, relocated, enlarged, structurally altered or moved from one location to another, unless and until a building permit is secured from the Code Enforcement Officer and a zoning permit is secured from the Zoning Administrator, certifying that such building or structure complies with the provisions of this chapter and with the building code and other applicable codes of the Town.
2. **Application.** An application for a building and zoning permit shall be made in conformity with the requirements of the Wisconsin Uniform Dwelling Code and shall include, for the purpose of proper enforcement of the regulations of this chapter, three copies of the following data:
 - a. A description of the proposed use and occupancy of the property involved and of all buildings or structures presently or proposed to be erected thereon.
 - b. **Plat of Survey.** (repealed and recreated 2011-002). Except as described in subsection (e.), below, a plat of survey of the proposal involved, drawn to a reasonable scale and properly dimensioned, shall be prepared and certified by a surveyor registered by the State. Such survey shall bear the date of the survey, which shall be within one year of the application for the building permit. The survey shall also show the following:
 - (1) The boundaries of the property involved.
 - (2) The location of the centerline of any abutting streets.
 - (3) The ordinary high water line of any stream or lake on which the property abuts.
 - (4) The location on the property of any existing buildings, structures, hard surfaces, proposed additions or proposed new buildings and structures, including the measured distances between such buildings and structures and the lot lines, and a chart indicating the area, measured in square feet, of each structure or hard surface.
 - (5) The location and grade of the proposed driveways and parking areas.
 - (6) The nearest portion of such buildings and structures and the centerline of any abutting street.
 - (7) The nearest portion of such buildings and structures and the ordinary high water line of any abutting stream or lake.
 - (8) The proposed floor elevation of any proposed buildings and structures in relation to the existing and/or established grade of any abutting streets and the ordinary high water line of any abutting stream or lake.
 - (9) The elevation and setback of any existing buildings or structures on adjacent parcels within 200 feet of any proposed new buildings, structures or additions.

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- (10) The location and elevation of sanitary sewer or percolation tests and soil borings, location of proposed septic tank and leach bed and location of proposed well.
- c. If within six months of the date of issuance of a permit the proposed construction or preparation of land for use has not commenced or if within 24 months an occupancy permit has not been issued, the building permit shall expire. Upon showing of valid cause, the Town Board may grant an extension of such permit for a period not to exceed six months.
- d. One copy of the above described data shall be retained by the Code Enforcement Officer, one copy shall be retained by the applicant and one copy shall be filed with the Town Clerk as a public record.
- e. **Plat of Survey Exceptions.** The following exceptions apply to the survey otherwise required by subsection b. above:
 - (1) For zoning permits that do not involve construction of a building (e.g. landscape, hardscape, driveway modifications) and do not need a building permit, a site plan containing all required information above, prepared and stamped by a registered engineer, registered landscape architect or registered architect may be substituted for the plat of survey.
 - (2) For proposals for interior modifications only, that do not change the open space on the property, no plat of survey is required.
 - (3) For zoning permits or building permits on lots that have at least 1,500 square feet more open space than the minimum by this Code, no plat of survey is required, subject to the following. This option is available if the Applicant or the Zoning Administrator produce, for the zoning Administrator's use current, clear, readable aerial photography to determine the existing amount of open space and dimensional elements of a site. If the Zoning Administrator determines under this subsection that a plat of survey is not required, then in lieu of the plat of survey the Applicant shall designate and show an area equal to the open space on an aerial photo acceptable to the Zoning Administrator which encompasses all the existing and proposed hard surface improvements, and the Zoning Administrator shall review this alternative document when conducting the open space review procedure of Section 17.03 1.A.3. of this Code.
3. **Fees.** Before receiving approval for a building and zoning permit, a fee shall be paid as designated from time-to-time by resolution of the Town Board.
4. **No Undesirable Structures.** No building or structure shall be erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied and no lumber, materials, furniture, equipment or excess excavation shall be stacked, piled or stored in a manner which adversely affects the property values or general desirability of the neighborhood.
 - a. The Code Enforcement Officer shall submit any such case in question respecting undesirable structures to the Plan Commission for its determination.
 - b. The Plan Commission shall base its determination upon the following considerations:
 - (1) 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 an
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adverse effect on the property values or general desirability of the neighborhood; or

- (2) Identical design and appearance with adjoining buildings or structures to the degree that monotony and commonness would have an adverse effect on the property values and general desirability of the neighborhood.
- c. The decision of the Plan Commission shall be stated in writing, including the reason for the decision.

5. **Prior Permit.**

- a. **Construction Permitted.** Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or structure or part thereof for which a building and zoning permit has been issued before the effective date of this chapter and for which 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.

6. **Open Space Review Procedure by Zoning Administrator.** (created 2011-002)

- a. Documents are received by the Zoning Administrator and checked for completeness.
- b. Zoning Administrator shall walk the site to determine if the plat of survey or site plan captured all the existing hard surfaces and structures. If there are items missing, the applicant will be contacted and shall be required to provide this information.
- c. Zoning Administrator completes the zoning permit using the information on the plat of survey/site plan, unless the Zoning Administrator finds it to be inaccurate. If the Zoning Administrator finds it to be inaccurate, the applicant will be contacted and shall be required to provide this information.
- d. The Zoning Administrator reviews, as applicable the subdivision plat, conditional use and any other conditions put on the zoning of the property by the Town that dictates restrictions related to open space, land disturbance, tree removal or anything else that may affect the development of the property.
- e. Zoning Administrator informs the Applicant and the Owner of the property in writing of the current and required open space on the property via information on the zoning permit.
- f. For (i) any improvements to homes on lots directly adjacent to Pewaukee Lake, and (ii) new homes, additions, or lots with substantial hardscape improvements that reduces the open space to within 500 square feet or less of what is required; an as-constructed survey shall be prepared and submitted to the Zoning Administrator showing the final location of all improvements and a chart indicating the areas of all improvements on the site and the open space calculation. No occupancy permit shall be issued unless and until this document is submitted to and has received the approval of, the Zoning Administrator. The Zoning Administrator shall review the calculations and update the zoning permit as needed to reflect the final calculation of open space on the property. The Zoning Administrator shall place the as-constructed drawing and the final

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zoning permit in the Town property file. No temporary occupancy permit can be issued for such a property, unless the Property Owner first provides a cash deposit of \$1.00 per square foot of floor space as defined on the building permit, with a minimum deposit of \$1,500 for completion of the as-constructed survey. Such cash deposit shall be retained by the Town Treasurer until such time as the Town Treasurer receives written notice from the Zoning Administrator that the as-constructed survey requirement has been met and the cash deposit should be refunded. It is the Applicant's responsibility to request the return of the deposit when the Applicant believes that the work is completed. The deposit is returnable only to the party who made the deposit unless satisfactory proof is shown that this right to claim the deposit has been assigned to a different claimant. In the event application for return of the deposit is not made within two (2) years of issuance of the temporary occupancy permit, the deposit shall be forfeited, and upon forfeiture the amount forfeited shall be owned by the Town without claim from the person making the deposit or from any other person. In the event a deposit is forfeited, this does not relieve the Applicant of the obligation to comply with the as-constructed survey requirements of this subsection, and forfeiture of the deposit by the Town is in addition to such other penalties and remedies as may apply.

B. Occupancy Permit.

1. **Required.** No vacant land shall be used or occupied and no building or structure shall hereafter be used or occupied until a zoning or occupancy permit has been issued certifying that any such building or structure, use or occupancy complies with the provisions of this chapter and any other applicable governmental regulations. No occupancy permit shall be issued until each of the requirements of this ordinance has been fulfilled by the applicant. A like permit shall be obtained before any change is made in the type of use including, but not limited to, the conversion of summer homes to year-round residences, or before any nonconforming use is resumed, changed, extended, expanded or granted conditional use status, or before new occupancy of vacant land or an existing building or existing structure.
2. **Application.** A zoning permit shall be applied for with the application for a building permit, and shall be accompanied by a statement by the applicant of the intended use of the land, premises, building or structure. Within ten days after the notification of the completion of the occupancy of the land or the erection, conversion, relocation, enlargement or structural alteration of the premises, building or structure, the Code Enforcement Officer shall make an inspection of the premises, building or structure and shall then issue an occupancy permit if the building and the intended use thereof comply with the requirements of this chapter.
3. **Temporary Occupancy Permit.** (repealed and recreated 2011-002). 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 land, premises, building or structure 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, and in any event will not be issued until the complete plumbing and electrical wiring and outlets are installed and approved and until the plastering, if any, and the outside wall insulation are completed. There shall be a charge for the temporary permit as set from time-to-time by resolution of the Town Board. Upon expiration of the temporary permit, the temporary permit shall be void and the occupancy must cease until such time as all provisions of this chapter are met. No temporary occupancy permit can be issued on properties subject to an as-constructed survey requirement per Section 17.03 1.A.6.f., except upon payment of a cash deposit as described therein.

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4. **Fees.**

- a. Before receiving approval of an occupancy permit, the applicant shall pay the occupancy permit fees as designated from time-to-time by resolution of the Town Board.
 - b. In addition to the permit fees as required herein, the applicant for the permit shall deposit with the Code Enforcement Officer a certified check or cash in a sum as established by the Town Board from time-to-time for the purpose of guaranteeing that all other fees required by the Town shall be paid prior to the issuance of an occupancy permit and guaranteeing that occupancy does not occur until an occupancy permit is issued or temporary occupancy permit is issued and all conditions of occupancy are satisfied. The deposit shall be retained by the Town Treasurer until an occupancy permit is issued. The deposit shall be released upon fulfillment of the following provisions:
 - (1) The issuance of an occupancy permit and satisfaction of all conditions of the same;
 - (2) A written report from the Code Enforcement Officer that at the time of the issuance of the occupancy permit all other fees required by the Town, such as electrical and plumbing inspection fees, have been paid;
 - (3) A written report from the Code Enforcement Officer that the necessary culverts, drainage ditches and road improvements have been made and have not been damaged during construction;
 - (4) A sworn statement from the applicant that the portion of the building or structure under construction has not been occupied prior to the issuance of the occupancy permit or temporary occupancy permit and that no party occupies the premises by moving in any furniture or personal belongings or in any way occupying the premises as the tenant, owner or person waiting to move into the premises;
 - (5) A statement from the Code Enforcement Officer that the builder has complied with all of the building code requirements of the Town and that no one has occupied the premises prior to the issuance of the occupancy permit, temporary occupancy permit or that portion of the building or structure under construction.
 - c. The Clerk shall attach the statement and documents to a voucher to be signed by the permittee for return and release of the deposit if the conditions have been met. If the occupancy permit is not issued within 24 months from the date that the building permit was issued or within an extension granted by the Town Board, or if the other fees required to be paid have not been paid, or the necessary certificate and statement have not been filed by the time of occupancy, or occupancy has occurred prior to issuance of an occupancy permit or temporary occupancy permit, or any conditions of occupancy were violated, the deposit shall be forfeited.
5. **Site Restoration.** Within 12 months after occupancy of any premises, building or structure, all disturbed areas shall be graded and either seeded or restored to their natural state and all drives and parking areas shall be graded and either gravel, asphalt or concrete installed.

C. Site Plan and Plan of Operation Review and Approval.

1. **Purpose.** The purpose of this section is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this section are designed to ensure that all

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proposed land use complies with the requirements of this chapter.

2. **Required.** No vacant land shall be occupied or used and no building or structure shall be used or occupied until, if required by this chapter, an approved site plan and plan of operation are approved by the Plan Commission. A like approval 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, or before new occupancy of vacant land or existing building or structure. Proceedings for approval of a site plan and plan of operation shall be initiated by the owner(s) of the subject property, or their legally authorized representative(s).
3. **Application.** All applications for proposed site plans and plan of operation shall be filed in the office of the Code Enforcement Officer and shall be accompanied by all of the following:
 - a. A small location map showing the subject property and illustrating its relationship to the nearest street intersection. (A photocopy of a Town street name map with the subject property clearly indicated shall suffice to meet this requirement.)
 - b. A main site drawing which includes:
 - (1) A title block which indicates the name and address of the current property owner;
 - (2) The date of the original plan and the latest date of revision to the plan;
 - (3) A north arrow and a graphic scale. Said scale shall not be smaller than one inch equals 100 feet;
 - (4) All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
 - (5) All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
 - (6) All existing and proposed buildings, structures, and paved areas, including walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;
 - (7) All required building setback lines;
 - (8) A legal description of the subject property;
 - (9) The location, type, and size of all signage on the subject property;
 - (10) The location, type and orientation of all exterior lighting on the subject property;
 - (11) The location of all access points, parking and loading areas on the subject property, including a summary of the number of parking stalls and labels indicating the dimension of such areas;
 - (12) The location of all outdoor storage areas;
 - (13) The location and type of any permanently protected green space areas;

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- (14) The location of existing and proposed drainage facilities; and
- (15) In the legend, data for the subject property:

- (a) Lot Area;
 - (b) Floor Area;
 - (c) Building Height.
- c. A landscaping plan of the subject property, at the same scale as the main plan, showing the location of all required buffer-yard and landscaping areas.
- d. A written description of the type(s) of land use existing and proposed to be located on the subject property per the land use categories.
- e. A completed plan of operation form.
- f. (created 2005-003) A Detailed Site Analysis and Mitigation Plan shall be required in accordance with Section 18.14 of the Land Division and Development Control Ordinance, for all Site Plans and Plan of Operations which contain:
 - 1. Permanently protected natural resource areas defined as required protected areas under State and Federal regulation.
 - 2. Any environmental corridor component identified by the Southeastern Wisconsin Regional Planning Commission, including primary corridors, secondary corridors, and isolated natural resource areas.
 - 3. Any other environmental feature designated in the Town Land Use Plan requiring a Detailed Site Analysis and Mitigation Plan in conjunction with development review.
- g. **Application.** (repealed and recreated 2010-005) All application forms for action by the Plan Commission shall be signed by the owner of the property on which the approval is being requested.
- 4. **Review and Approval.** The proposed site plan and plan of operation shall be reviewed by the Code Enforcement Officer to ensure compliance with all of the requirements for the submittal and complete compliance with the provisions of this chapter and any other applicable Town Ordinances, as well as with the intent of this chapter. Said review shall be completed within ten working days of receipt of a complete site plan and plan of operation by the Code Enforcement Officer. Upon satisfaction of all of the requirements of this section which demonstrates complete compliance with the provisions of this chapter, the Plan Commission shall review the site plan and plan of operation. The approved site plan and plan of operation shall be submitted as part of an application for any subsequently sought development for the subject property, including a building and zoning permit and/or an occupancy permit.
- 5. **Initiation of Land Use or Development Activity.** Absolutely no land use or development activity, including site clearing, grubbing, or grading shall occur on the subject property prior to the approval of the required site plan and plan of operation. Any such activity prior to such approval shall be a violation of this chapter and shall be subject to all application enforcement mechanisms and penalties.

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- 6. **Modification of an Approved Site Plan and Plan of Operation.** Any and all variation between development and/or land use activity on the subject property and the approved site plan and plan of operation is a violation of this chapter. An approved site plan and plan of operation shall be revised and approved via the procedures of this section so as to clearly and completely depict any and all

proposed modification to the previously approved site plan and plan of operation prior to the initiation of said modifications.

7. **Fee.** Before receiving approval of a site plan and plan of operation, a fee shall be paid as designated from time-to-time by resolution of the Town Board.
8. **Expiration.** (Repealed and Recreated 2010-005) Any site, grading, landscape or lighting plan or plan of operation that requires Town Plan Commission approval shall automatically expire one year after the date of such approval unless building permits have been obtained and significant construction has begun on the development or unless extended by the Town of Delafield Plan Commission.

D. Home Occupation Permit.

1. **Purpose.** The purpose of this section is to specify the requirements and procedures for the review and approval of home occupation permit applications. The provisions of this section are designed to ensure that the proposed use complies with the requirements of this chapter and does not negatively impact the surrounding properties.
2. **Required.** No home occupation shall be conducted until a permit has been issued by the Plan Commission pursuant to this section. Proceedings for approval of a home occupation permit shall be initiated by the owner(s) of the subject property, or their legally authorized representative(s).
3. **Conditions.** The Plan Commission shall review Home Occupation Permit Applications. The Plan Commission shall not grant a Home Occupation Permit unless all of the following conditions have been met:
 - a. The home occupation shall be conducted only completely within the dwelling unit, and not in any accessory building or structure, and not within any garage or on any porch, deck, patio or other unenclosed or partially-enclosed portion of the dwelling unit.
 - b. The home occupation shall be conducted by a resident of the dwelling unit, and no more than 1 other person shall be employed on the premises, on either a part-time or full-time basis in the business.
 - c. No more than 25% of the total living area of the dwelling (exclusive of garage and porch areas) shall be used for the home occupation.
 - d. The portion of the dwelling unit used for the home occupation shall not serve as a storage facility for a business conducted off-premises.
 - e. The sale of items at the location of the home occupation shall be limited to items produced on-site and shall be conducted only on an appointment basis.
 - f. No activity, materials, goods, or equipment incidental to the home occupation shall be externally visible.

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- g. Only 1 sign, not to exceed 3 square feet, may be used to advertise a home occupation. Said sign shall not be located within a right-of-way, and shall be of an appearance which is harmonious with nearby residential areas.
- h. The use of the dwelling unit for a home occupation shall in no way be incompatible with the

character of nearby residential areas.

- i. Multiple home occupations may be carried on in any single dwelling unit, if all uses meet the conditions of the home occupation regulations and if the plans of operations do not negatively affect adjacent or surrounding neighbors. (amd. 00-508)
 - j. No more than 2 customers (or 2 parties of customers) shall be within the residence at any one time.
 - k. Regardless of the number of home occupations taking place in a single dwelling unit, a minimum of 2 off-street parking spaces reserved for business use shall be provided on site. (amd. 00-508)
 - l. In the case of rental properties, the property owner's written permission must be obtained and submitted as part of the conditional use permit petition.
4. **Application.** (repealed and recreated 2010-005). All applications for home occupation permits shall be filed in the office of the Code Enforcement Officer and shall include a plan of operation of sufficient detail to enable the Plan Commission to make a determination as to the appropriateness of the proposed use. The application shall be signed by the owner of the property on which the approval is being requested.
5. **Review and Approval.** The proposed home occupation permit application shall be reviewed by the Code Enforcement Officer to ensure compliance with all of the requirements for the submittal and complete compliance with the provisions of this chapter and any other applicable Town Ordinances, as well as with the intent of this chapter. Said review shall be completed within ten working days of receipt of a complete home occupation permit application by the Code Enforcement Officer. Upon satisfaction of all of the requirements of this section which demonstrates complete compliance with the provisions of this chapter, the Plan Commission shall review the home occupation permit application, and determine whether a permit shall issue. If a permit is issued, the permit shall be submitted as part of an application for any subsequently sought development for the subject property, including a building and zoning permit and/or an occupancy permit.
6. **Modification of an Approved Site Plan and Plan of Operation.** Any and all variation between development and/or land use activity on the subject property and the approved home occupation permit is a violation of this chapter. An approved home occupation permit shall be revised and approved via the procedures of this section so as to clearly and completely depict any and all proposed modification to the previously approved site plan and plan of operation prior to the initiation of said modifications.
7. **Fee.** Before receiving approval of a site plan and plan of operation, a fee shall be paid as designated from time-to-time by resolution of the Town Board.
8. **Expiration.** (Repealed and Recreated 2010-005) A Home Occupation permit that has been approved by the Town Plan Commission shall expire one year after the date of such approval, unless the home occupation has been implemented by the applicant. If the home occupation is not used for a period of twelve months, the Home Occupation permit shall be considered null and void, unless

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extended by the Town of Delafield Plan Commission.

E. Revocation of Permits.

1. It shall constitute a violation of this chapter for any person, firm, corporation, or voluntary

association, either owner or agent, to do any of the things required by this chapter without having first obtained the required permits.

2. It shall constitute a violation of this chapter for any person, firm, corporation or voluntary association, either owner or agent, to give false statements when applying for a required permit. A permit issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Code Enforcement Officer, the Code Enforcement Officer shall forthwith revoke the permit by notice in writing to be delivered to the holder of the void permit upon the premises where the violation has occurred, or if such holder be not found there, by mailing the said notice of revocation by certified letter to the holder's last known address.

2. USE REGULATIONS.

- A. **Compliance.** Except as may be otherwise specifically provided, the use of land, premises, buildings or structures now existing or hereafter erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied, shall be in compliance with the regulations established herein for the District in which the same is located.
- B. **Uses Restricted.** In any District, no land, premises, buildings or structures shall be used and no building shall be erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied except for the uses as permitted in that District and in compliance with the regulations established for that District in this chapter.
- C. **Permitted Uses.** Permitted uses are permitted by right, subject to the provisions of this chapter.
- D. **Accessory Uses Buildings and Structures.** Accessory uses, buildings and structures are customarily incidental to the permitted uses in the District and located upon the same lot occupied by the principal use, building or structure. Any accessory use building or structure shall conform to the established regulations of the District in which it is located.
- E. **Conditional Uses.** Conditional uses may be granted by the Town Board, following a recommendation of the Plan Commission, upon a determination of acceptable project impact and imposition of appropriate conditions as provided in Section 17.05 of this ordinance.
- F. **Legal Nonconforming Uses.** A legal nonconforming use is any lawfully established use of land, premises, building or structure at the time of enactment of this chapter that does not conform to the use regulations for the District in which it is located subject to the regulations of Section 17.07.
- G. **Unclassified Uses.** Any use not specifically listed as a permitted use shall be considered to be prohibited except as may be otherwise specifically provided hereinafter. In case of question as to the classification of use, the question shall be submitted to the Plan Commission for determination.
- H. **Principal Uses.** These uses represent the main or primary use of land, premises, buildings or structures as permitted by the regulations of the District in which such use is located.

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- I. **Principal Structure.** A structure used or intended to be used for the principal use as permitted on such lot by the regulations of the zoning District in which it is located.
- J. **Temporary Uses and Structures.** Any temporary uses or temporary buildings or structures intended to remain in place for less than eight (8) days, may be permitted subject to the approval of the Code Enforcement Officer upon review of potential impacts of the use, building and/or structure. Any

temporary use or temporary building or structure intended to remain in place for more than seven (7) days, but less than four (4) months, and any temporary use or temporary building or structure which does not comply with the use, setback and/or offset requirements of the District in which it is located may be permitted subject to approval of the Plan Commission upon review of potential impacts of the use, building and/or structure. In all cases where the temporary building and/or temporary structure do not comply with the offset requirements of the District in which it is located, the written approval of the abutting property owners affected must be obtained. No temporary use, temporary building or temporary structure shall be permitted for more than four (4) months.

- K. **Nuisance Uses.** Any use, in any District, which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood may be required to be corrected or improved by such measures as are directed by the Town Board, or its authorized representative.

3. SITE REGULATIONS.

- A. **Buildings and Structures Must Be On Lot.** Every building and structure hereafter erected, converted, relocated, enlarged or structurally altered shall be located on a lot. In no case shall there be more than one principal building or structure on a lot, except upon a showing to the satisfaction of the Plan Commission that such approval will not be contrary to the spirit and intent of this chapter, upon prior approval of the Plan Commission, upon satisfying all conditions of the Plan Commission and provided that sufficient lot area is provided and the buildings or structures are so located so as to individually meet the setback, offset, lot size and open space requirements of the District in which they are located.
- B. **Buildings and Structures on Public Street or Way.** Every building or structure hereafter erected, structurally altered or relocated shall be located on a lot which abuts a public street, road or highway except if permitted under section C. below.
- C. **Buildings and Structures On Private Street, Road or Highway.** Subject to approval of the Plan Commission, a building or structure may be permitted on a tract of land which does not abut a public street or officially approved way, if such tract of land is at least three acres in area, has access by permanent easement of at least 33 feet in width to an improved public street or way and does not conflict with plans for future development of the area. If the easement serves more than one parcel of land or a singular parcel in excess of six acres, it shall be 66 feet in width, unless otherwise designated by the Plan Commission. Before recording a plat or certified survey map containing such an easement, an agreement acceptable to the Town shall be filed designating financial responsibility and maintenance of the easement. Private streets constructed in easements serving more than one building or structure site shall meet the same minimum standards on width and construction standards established for "Minor Streets" except that a seal coat pavement may be installed in lieu of the bituminous concrete pavement, unless these standards are waived by the Plan Commission and the Town Board.
- D. **Site Maintenance.** In order to protect the health, safety and welfare of the residents of the Town and to maintain the desirability, amenities and property values of the residential, commercial and industrial neighborhoods of the Town, it shall be the responsibility of the owners, occupants and lessees of any premises to maintain their property in accordance with the following standards.

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- 1. **General Maintenance.** The exterior of every structure or accessory structure shall be maintained free of broken glass, loose shingles, excessive paint peeling, crumbling stone or brick, loose boards or other conditions reflective of deterioration or inadequate or deferred maintenance.
- 2. **Litter Control.** Construction sites shall be maintained in such a manner so as to prevent litter from being blown off the site. Accordingly, all litter from construction activities shall be picked up at the end of each workday and placed in appropriate containers. Litter collection and storage areas shall

be maintained in a clean condition to ensure that all litter on the premises is controlled and disposed of properly. Additionally, prime contractors shall also be responsible to abide by this provision.

3. **Outside Storage.** No unenclosed storage of materials, equipment or supplies including, but not necessarily limited to, unused or junked appliances, furniture, lumber, bricks, and cement blocks shall be permitted where such storage is readily visible from any public place or from any surrounding private property. Dumpster and recycling areas for development occurring subsequent to this chapter being adopted shall be adequately screened.
4. **Application.** All applications for home occupation permits shall be filed in the office of the Code Enforcement Officer and shall include a plan of operation of sufficient detail to enable the Plan Commission to make a determination as to the appropriateness of the proposed use. The application shall be signed by the owner of the property on which the approval is being requested.

4. **BUILDING REGULATIONS.**

- A. **Restrictions.** No building or structure shall hereafter be erected, converted, relocated, enlarged, structurally altered or moved from one location to another except in conformity with the following locational regulations as hereinafter specified for the District in which it is located.
 - B. **Purpose and Intent.** The purpose and intent of regulating building and structure location is as follows:
 1. To require the provision of a buffer zone between noise-intolerant land uses (e.g. residences, nursing homes, day care centers, schools, churches) and noise generating land uses, adjacent streets, roads or highways to effectively attenuate noise and buffer such developments from the pollution and hazards attendant to other uses and vehicular traffic;
 2. To require the provision of adequate physical separation between uses to minimize conflict;
 3. To allow exposure to optimum amounts of light, air, and ventilation;
 4. To attenuate noise, odors, fumes and dust generated by land use before they infringe upon adjacent land use;
 5. To provide aesthetic open space of sufficient size to accommodate landscaping and to soften, compliment and enhance architectural design of buildings, parking areas, loading facilities and utilities;
 6. To provide adequate area for snow piling;
 7. To ensure adequate separation between pedestrian and vehicular circulation;
 8. To promote cluster development and other internally oriented living, shipping and working environments and to discourage strip development;
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9. To provide adequate area to detain, retain and facilitate surface drainage;
 10. To protect and preserve the quality and quantity of ground water resources;
 11. To prevent development which may result in unacceptable non-point source pollution;
 12. To provide diversified and balanced growth.

C. **Setbacks.** Unless otherwise specified within an individual District or allowed through appropriate variance or appeal, the proximity of any portion of a building or structure to the street lot lines shall be regulated by setback provisions as follows:

1. Base setback lines, from which a building or a structure shall be measured are hereby established for all streets, roads, highways and driveways providing legal access for more than one property whether or not used by more than one property in the Town as follows, unless otherwise specified by action of the Plan Commission:
 - a. On all public streets, roads or highways, the base setback line shall be located at a distance from the center line equal to 1/2 such established width as designated as the proposed width on the "Official Street Map" of the Town. Such base setback line shall be 33 feet from the center line of all Town roads unless designated on the "Official Street Map" to the contrary. On all private streets, roads, highways and driveways providing legal access to more than one property whether or not used by more than one property, the base setback line shall be located at a distance from the center line equal to one-half such established width as designated on the document establishing the private street, road, highway or driveway and if no such document exists or if such document does not clearly establish a width, the base setback line shall be 33 feet from the actual centerline of the private street, road, highway or driveway.
 - b. On all cul-de-sacs, the base setback line shall be 75 feet from the center point of the cul-de-sac unless specifically designated otherwise by the Plan Commission.
 - c. Such base setback lines shall be parallel to and measured at right angles to the centerline of the public or private streets, roads, highways or driveways.
2. Vision setback lines at the intersection of public or private streets, roads, highways or driveways providing legal access for more than one property whether or not used by more than one property and at the intersection of one of the same with a railroad where the grade is not separated, are hereby established as follows:
 - a. Across each sector between the intersection of one of the above with a railroad, a vision setback line shall be established by a straight line, connecting points on the base setback line and the railroad right-of-way line which points are located 120 feet from the intersection of the base setback line and the railroad right-of-way.
 - b. Across each sector between the intersection of one of the above with other than a railroad, 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 line, which points are located 60 feet distant from the intersection of the base setback lines.
 - c. Across each sector between any other intersection, a vision setback line shall be established by a straight line connecting two points on the intersecting base setback lines, which points are

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located 30 feet distant from the intersection of the base setback line.

3. In the vision setback area, no building or 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.
4. No principal building or structure or accessory buildings or structures shall be hereafter erected, converted, relocated, enlarged, or structurally altered so that any portion or projection thereof is

closer to the base setback line than the setback distance hereinafter specified by the regulation for the District in which the same is located with the following exceptions applicable only where the setback requirements of the properties involved are identical:

- a. Where the nearest principal building or structure on one side of a proposed principal building or structure is within 500 feet and has less than the required setback and the nearest principal building or structure on the other side of a principal building or structure is 500 feet or greater away, the average between such existing setback of the nearest principal building or structure and the required setback shall apply.
 - b. Where the nearest principal buildings or structures on both sides of a proposed principal building or structure are within 500 feet, but neither is closer than 300 feet to the proposed principal building or structure and each have less than the required setback, the average of such existing setbacks of the nearest principal building or structure and the required setback shall apply.
 - c. Where the nearest principal buildings or structures on both sides of a proposed building or structure are each within 300 feet of the proposed principal building or structure and each have less than the required setback, the average between such existing principal buildings or structures setbacks shall apply.
 - d. In the case of a proposed addition to an existing building or structure which has less than the required setback, such existing proposed building or structure may be considered the "nearest principal building or structure" in order to apply the aforesaid exceptions in determining required setback for the proposed addition.
5. (amd. 2008-004) The only buildings or structures permitted within such setback area, upon receipt of all required governmental approvals, shall be necessary highway and traffic signs, underground structures as regulated by this chapter, walls and fences, mail boxes, and signs as permitted under the individual District regulations, and, with the approval of the Plan Commission, temporary structures, and outdoor lighting installations and necessary public utility lines, poles and structures.

D. **Offsets.** Unless otherwise specified within an individual District or allowed through appropriate variance or appeal, the proximity of any portion of a building or structure to the side or rear lot line shall be regulated by offset provisions as follows:

1. No principal building or structure, or its accessory buildings or structures, shall be hereafter erected, converted, relocated, enlarged, structurally altered or moved from one location to another so that the foundation wall is closer to any lot line than the offset distance hereinafter specified by the regulations for the District in which the same is located with the following exception: in the case of any lot of record which has been created prior to the adoption of this chapter, and which has a lot width less than 100 feet, the offset for the principal structure from a side lot line shall be 15% of the

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lot width provided, however, that no offset shall, in any case, be less than seven and one-half feet, and no principal building is closer than 20 feet to any other structure on an adjoining lot measured from the outward-most points of the two structures. Offsets for detached accessory buildings and structures on lots of 100 feet in width or less shall be five feet, provided that no detached accessory building or structure shall be located closer than ten feet to any other accessory building or structure. No offset of a principal building or structure shall, in any case be less than seven and one-half feet and only as authorized above. Furthermore, a grading and drainage plan shall be submitted to and approved by the Town Engineer for any principal structure with an offset of less than 15 feet.

2. Where principal buildings or structures or accessory building and structures have an eave or building

overhang of greater than 18 inches, the offset distance shall be increased by the difference between the eave/overhang and 18 inches.

3. Where a lot abuts a District boundary line, the offsets from such line in the District of less restricted use shall be not less than that required for the District of more restrictive use.
4. No principal building or structure, its accessory building, structure or sewage disposal system, shall be placed within 75 feet of a WF-1 Wetland-Floodplain District.
5. In the case of multiple family or commercial use principal building or structure, the offsets may be modified to allow two or more principal buildings or structures on adjoining lots to be erected with common or directly adjoining walls provided the requirements of the State Industrial Code relative to such construction are complied with and provided that at both ends of such "row" type principal buildings or structures the applicable offset requirements shall be complied with.
6. No principal building or structure or accessory buildings or structures shall be hereafter erected, converted, relocated, enlarged, or structurally altered so that any portion or projection thereof is closer to the shore lot line than the offset distance hereinafter specified by the regulation for the District in which the same is located with the following exceptions applicable only where the shore lot line offset requirements of the properties involved are identical:
 - a. Where the nearest principal building or structure on one side of a proposed principal building or structure is within 500 feet and has less than the required shore lot line offset and the nearest principal building or structure on the other side of a principal building or structure is 500 feet or greater away, the average between such existing shore lot line offset of the nearest principal building or structure and the required shore lot line offset shall apply.
 - b. Where the nearest principal buildings or structures on both sides of a proposed principal building or structure are within 500 feet, but neither is closer than 300 feet to the proposed principal building or structure and each have less than the required shore lot line offset, the average of such existing shore lot line offset of the nearest principal building or structure and the required shore lot line offset shall apply.
 - c. Where the nearest principal buildings or structures on both sides of a proposed building or structure are each within 300 feet of the proposed principal building or structure and each have less than the required shore lot line offset, the average between such existing principal buildings or structures shore lot line offset shall apply.
 - d. In the case of a proposed addition to an existing building or structure which has less than the required shore lot line offset, such existing proposed building or structure may be considered the "nearest principal building or structure" in order to apply the aforesaid exceptions in

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- e. determining required shore lot line offset for the proposed addition.
 7. (Cr. 2008-004) the only structures permitted within such offset area, upon receipt of all governmental approvals, shall be underground structures as regulated by this chapter, walls, fences, mailboxes and signs as permitted under the individual District regulations, and, with the approval of the Plan Commission, temporary structures, outdoor lighting installations and necessary public utility lines, poles and structures.
- E. **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.

F. **Accessory Building and Structure Location.** No detached accessory building shall be erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied on a lot so that a portion or projection thereof is closer than 10 feet to the principal building on the lot, nor any closer to the lot line as required in subparagraphs B. and C. above.

G. **Street Grade.** Every building or structure hereafter erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied shall be located on a lot which abuts a public street, road or highway (except as otherwise provided in this chapter) at a grade approved by the Town Engineer as being in satisfactory relationship with the established grades, if any, and if not, with existing street, road or highway grade, with particular consideration for proper drainage and safe vehicular access.

5. AREA REGULATIONS.

A. Floor Area

1. **Minimum Floor Area, Residential.** Any building or structure intended in whole or part for residential purposes shall provide a minimum floor area as hereinafter specified by the regulations for the District in which such building or structure is located.
 - a. The minimum required floor area is stated in terms of that of a single floor building or structure.
 - b. The single (or first) floor level is defined as that livable floor area which is not over any other livable floor area.
 - c. The minimum required floor area shall be increased by 200 square feet for any building or structure not having a basement of at least 300 square feet in area.
 - d. In multistoried buildings or structures, the minimum required first floor area may be reduced by 1-1/2 square feet for each square foot by which the total floor area, as determined by the formula described in subparagraph 1.e. below exceeds the specified minimum single floor area. The following table shows examples of minimum first and second floor combinations to satisfy requirements of minimum required single floor area.

DEVELOPMENT STANDARDS

Combined Floor Area Regulations - Minimum Required			
Single Floor Building (sq. ft.)	2 - Story: First Floor (sq. ft.)	2 - Story: Second Floor (sq. ft.)	Total (sq. ft.)
1,200.00	—	—	1,200.00
	1,050.00	250.00	1,300.00
	900.00	500.00	1,400.00
	750.00	750.00	1,500.00
1,350.00	—	—	1,350.00
	843.75	843.75	1,687.50
1,500.00	—	—	1,500.00

Combined Floor Area Regulations - Minimum Required			
	1,350.00	250.00	1,600.00
	1,200.00	500.00	1,700.00
	1,050.00	750.00	1,800.00
	937.50	937.50	1,875.00
1,650.00	—	—	1,650.00
	1,500.00	250.00	1,750.00
	1,350.00	500.00	1,850.00
	1,200.00	750.00	1,950.00
	1,031.25	1,031.25	2,062.50

- e. Livable floor area shall be measured at each level from the outside edge of wall to outside edge of wall and for purposes of computing total floor area shall not include attached or detached garages, other outbuildings, open unheated porches and breezeways or basements. The second floor of 1-1/2 and two story buildings or structures may be included in computing total minimum floor area according to the following schedule:
- (1) That portion of the second floor of 1-1/2 and two story buildings or structures which has a minimum distance between ceiling face and the top of the first floor of seven feet shall be included in computing the total minimum floor area, provided there is a permanent stairway leading from the first floor to the second floor.
 - (2) In split level units, floor area shall be computed as follows:
 - (a) If less than one-half of the lower level is above ground, such level shall be considered a basement and cannot be included in total floor area of the building or structure, unless such basement qualifies as an exposed basement.
 - (b) If more than one-half of the lower level is aboveground, such areas shall be included in determining the floor area. If there is no basement below this level, 200

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square feet of floor area shall be required in addition to the floor area requirement of the zoning District. This required floor area shall be finished as an integral part of the building or structure within 18 months of the date upon which the building and zoning permit is issued.

2. **Minimum Floor Area, Nonresidential.** Any building or structure intended in whole or in part for nonresidential purposes shall provide a minimum floor area as defined in § 17.02 of this chapter and as specified by the regulations for the District in which such building or structure is located.
3. **Exceptions.** The Plan Commission may grant an exception to permit a single story building or structure of less than the required minimum floor area where such grant would not be contrary to the spirit or intent of the chapter, and provided the proposed building or structure would not be of such

character or quality as to depreciate the property values of the surrounding area and provided further that in no case shall a minimum floor area of less than 1,100 square feet be permitted.

B. Lot Size.

1. No building or structure shall be erected on a lot of less area or width than hereinafter specified by the regulations of the District in which such building or structure is proposed to be located, except as modified herein.
2. For the purpose of this chapter, the lot area shall be measured from the base setback line and shall be exclusive of the area between the base setback line and the existing property line ultimately to be included in the street, but may include land zoned "Wetland-Floodplain" subject to compliance with this chapter.
3. Lot width shall be the length of the building setback line, and shall be no less than the District's stated minimum lot width.
4. No lot area or lot width shall be reduced by any means so as to create a lot of less than the required area or width 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.
5. Any lot which illegally existed prior to enactment of this chapter shall not be made legal solely by the adoption of this chapter.
6. In the case of an existing substandard legal nonconforming lot of record, 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, except as provided in this chapter, shall the setback, offset or open space requirements be reduced except by a grant of a variance.
7. In the case of an existing substandard legal nonconforming lot of record at the time of the passage of this chapter which does not conform to the zoning regulations of the Town, and which adjoins along a side lot line of property held in the same ownership, whether a conforming legal lot or legal nonconforming lot, neither lot shall be conveyed to another owner nor shall building permits be issued for a building or structure on either lot except in conformity with the following:
 - a. **Petition for Determination.** The owner of said lots may at any time prior to a conveyance of either lot or request for building and zoning permit for either lot, petition the Town Board for a **Section 17.03 5. B. 7. b** determination as to the status of the lots.
 - b. **Referral to Plan Commission.** Such petition shall be referred to the Plan Commission for a study to determine the practical possibility of a re-division of such lots to provide lots which will be in conformity, if possible, or otherwise in substantial conformity to the underlying zoning regulations of the Town.
 - c. **Criteria.** The Plan Commission in making its recommendation and the Town Board in making its determination shall give consideration, among others, to the following factors:
 - (1) **Compatibility.** The size, quality, and character of existing lots and building development in the immediate area with a view to maintaining compatibility and protecting existing values.

- (2) **Sewage Disposal.** Where public sewer is not available, the lot size necessary to insure safe sewage disposal.
- (3) **Practicability.** The economic and engineering practicality of any possible re-division.
- (4) **Hardship.** The degree of practical hardship which may be imposed upon the owner.
- d. **Method of Re-division.** Such re-division may be accomplished as is appropriate by:
 - (1) Vacation and replatting of all or a part of a recorded plat.
 - (2) Combining of lots or parts of lots by Certified Survey Map.
- e. **Determination of Ownership.** For the purposes of this section, lots are to be considered in the same ownership when owned by: the same individual or corporation; an individual and another in joint tenancy, or as tenants in common, and either of said joint or common tenants owns other lots individually or as a joint tenant or tenant in common with another; an individual and other lots are owned by a spouse, parents, grandparents, children, grandchildren, or the spouse of any child or grandchild, or a brother or sister or spouse of a brother or sister of such person; and when any of said lots are owned by an individual and other lots are owned by a corporation in which said individual is an officer or director or controlling stockholder.

C. Open Space.

- 1. No building or structure shall be erected, converted, relocated, enlarged, structurally altered or moved on a lot so as to reduce the usable open area of such lot to less than that hereinafter specified by the regulations of that District.
- 2. To be considered usable, such open space shall be readily accessible and not be used for buildings or structures, parking and accessory uses and be of a size and shape which can be reasonably considered to provide for the amenities and necessities of light, air, play space, garden and the like. Crop, pasture and wooded land may be included in computing such open area.
- 3. No part of the open space provided for any building or structure shall be included as part of the open space required for another building, except as hereinafter provided for in a Planned Unit Development.

Section 17.03 5. C. 4.

- 4. (Amd. 2008-004) No portion of a public right-of-way or private platted road shall be used in the calculation of open space. For public roads that pass through properties (i.e. former mill tax roads or lake roads), the right-of-way designated for that roadway on the official highway width map for the Town, shall not be used in the calculation of the overall area of the parcel or used in the determination of open space. Lands on which there is an easement for private or public purposes shall be included in the calculation of the overall parcel area and evaluated as part of the open space requirement.
- 5. (Amd. 2008-004) At least 50% of the open space requirement shall consist of vegetation.

- D. **Residential Density.** Residential density shall not exceed the density hereinafter specified by the regulation of that District in which the development is located, except as otherwise regulated by this chapter.

6. HEIGHT REGULATIONS. (created 2011-004)

- A. **Height Regulations.** (Rev. 00-507a) There are two standards for regulation of the height of buildings and structures under this Code: base height and overall height regulations. All buildings and structures must comply with both regulations. The base height regulations are set forth in the regulations for each District. The overall maximum height regulation is set forth in this subsection.

Overall Maximum Height Restricted. Except as specifically provided at Section 17.04 5.F.4.b., 17.04 5.G.4.b., and 17.04 5.H.4.b., no building or structure shall be hereafter erected, converted, relocated, enlarged or structurally altered to a height in excess of that hereinafter specified below:

1. No building and zoning permit shall be issued for any principal building or structure with a greater overall height of 45 feet, as measured from the lowest grade along the perimeter of the building or structures to the highest point of the building or structure except as provided in this subsection.
2. No building and zoning permit shall be issued for any accessory building or structure with a greater overall height of 20 feet as measured from the lowest grade along the perimeter of the building or structure to the highest point of the building or structure except as provided in this subsection.

- B. **Exceptions, No Plan Commission Approval Required.** The following shall be accepted from the height regulations of all Districts:

1. Chimney and flues;
2. Electrical transmission and distribution facilities;
3. Roof mounted television and radio receiving antennas not exceeding ten (10) feet in height from the roof and roof mounted licensed amateur radio operator antennas not exceeding ten (10) 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: 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 exceeding ten (10) feet in height from the roof, aerial and necessary mechanical appurtenances.

Section 17.03 6. D.

- D. **Increase Permitted.** Subject to obtaining necessary Conditional Use Grants and the approval of the Plan Commission, providing 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 unless otherwise waived by the Plan Commission, the maximum height of any building or structure, other than those buildings and structures listed in subparagraph C. above, may be increased by not more than ten (10) feet and the height of any of the buildings or structures outlined in Subparagraph C. above may increase to any height.

- E. **Additional Requirements. (created 2011-004)**

1. No building and zoning permit shall be issued for any principal building or structure greater than 30 feet measured to the highest eave immediately above the lowest grade along the perimeter of the building or structure unless the Plan Commission has granted approval of the height increase to no more than 35 feet based upon consideration of the following factors:
 - (a). review and comments by the fire department
 - (b). consideration of obstacles that would prevent access to all sides of the building.
 - (c). location of the building or structure in relationship with other buildings or structures on site.
 - (d). location of upper decks and balconies

- (e). length and/or percent of the building where the height to the eave is greater than 30 feet.
- (f). installation of a fire sprinkler system

7. DRAINAGE REGULATIONS.

- A. **Adequate Drainage Required.** No building or structure shall be erected, converted, relocated, enlarged or structurally altered on land which is not adequately drained at all times nor which is subject to periodic flooding.
- B. **Obstruction to Drainage Prohibited.** The damming, filling, grading, redirecting or relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural watercourse shall not be permitted, except with approval of the Plan Commission.
- C. **Diversion of Drainage Prohibited.** No person shall grade, fill, excavate or alter the existing topography or absorption characteristics of land by paving in such a manner as to cause drainage to run on adjoining lands, except along an existing natural watercourse or along a watercourse or drainage ditch approved by the Plan Commission.
- D. **Building Restricted Adjacent to Drainage Channel, Lake or Watercourses.** No building or structure other than a bridge, dam, boathouse or revetment subject to the Plan Commission approval shall be erected, converted, relocated, enlarged or structurally altered so that the lowest floor of the building is less than three feet above the ordinary high water line of such surface water drainage channel, lake or watercourse.
- E. **Preservation of Topography.** In order to preserve the natural topography as much as possible and in order to protect against danger and damage caused by man-made changes in the existing topography and to avoid unsightly and hazardous exposed earth sections, the following conditions shall be met:
 - 1. No change in the existing topography or drainage courses on any land shall be allowed which would result in adversely altering the drainage or increasing any portion of the existing slope through fill and/or grading to a ratio greater than three horizontal to one vertical except as set forth in this subsection.

Section 17.03 7. E. 2.

- 2. (Rep. and Rec. 2006-007) Construction of retaining walls shall be regulated under section 17.06 4.C. of the Zoning Code.
- 3. Fill or grading considered by the Code Enforcement Officer to be necessary backfill and/or excavation for an otherwise permitted building or structure may be permitted by the Code Enforcement Officer as long as such fill or grading is accessory to such construction and does not create slopes greater than three horizontal to one vertical, does not extend to a distance greater than 20 feet from the foundation and does not divert runoff directly onto adjacent property or adversely affect adjoining property or roadside drainage.
- 4. Filling, grading or altering of existing topography may be allowed by the Code Enforcement Officer under any circumstance which does not alter the topography in a way which will adversely affect the surrounding land.
 - a. In making such a determination, the Code Enforcement Officer shall have the authority to determine the affect of the construction, fill or grading on surrounding property and shall require improvements and/or facilities as may be in the best interests of preserving the topography and drainage system and which will have the effect of lessening the impact on either upstream, downstream, or adjacent properties.

- b. A grading plan must be submitted to the Code Enforcement Officer for approval and a permit to proceed may only be issued by the Code Enforcement Officer after such approval has been granted in writing. The plan shall consist of:
 - (1) A topographical survey made by a registered engineer or licensed surveyor showing existing elevations of the property and adjacent property to that being filled or excavated and showing the existing cross-sections, type of soil and drainage of the ground affected.
 - (2) A plan showing a typical cross-section of the proposed slope, riprap or retaining wall; the proposed drainage pattern; the protective fencing type of material used, method of construction, the establishment of vegetative cover, date of completion, seeding schedule and method of protection of surrounding land and water areas from erosion and sedimentation during construction, together with construction details in the event of a retaining wall.
- c. The Code Enforcement Officer may issue a written permit to allow the requested filling, grading or altering of the existing topography. Any such approval shall be subject to any conditions of the Code Enforcement Officer including construction of silt fencing or screening.
- d. In the case of a disputed question arising as to:
 - (1) The adversity or effect of the project on either the property owner, adjacent owners or the general public; or
 - (2) The denial of permission by the Code Enforcement Officer; or
 - (3) A dispute or question arising out of any condition imposed by the Code Enforcement Officer on any permission, said issue shall be submitted to the Plan Commission for resolution.

Section 17.03 8. A.

8. SANITATION AND WATER SUPPLY REGULATIONS.

A. Safe Sewage Disposal Possible.

- 1. No principal building or structure shall be erected, converted, relocated, enlarged, structurally altered or moved from one location to another unless it has been certified by the Code Enforcement Officer and Plumbing Inspector that it conforms to all Town ordinances and other governmental regulations applicable to sewage disposal systems and that satisfactory evidence has been submitted to show that suitable provisions for disposal of sewage is possible, and suitable area for a replacement system is available, based on the proposed use, on the lot if it is not served by an approved municipal or other State approved sewage disposal system.
- 2. While every attempt has been made, through control of minimum lot size, building location and plumbing standards, to insure that proper disposal of sewage will be provided on any lot, it is recognized that no such standard will completely insure adequate disposal in every situation. This section has been written for the purpose of giving the community the authority to require whatever additional provisions are necessary to prevent a sanitary problem from developing in a situation where the normal requirements will not insure proper sewage disposal.

- B. **Approved Sewage Disposal System.** No principal building or structure shall be erected, structurally altered or relocated unless a sewer is installed running to an approved sewage disposal system designed and

located in accordance with the Town ordinances and other governmental laws or regulations then applicable to sewage disposal systems or to an approved municipal or other State approved sewage disposal system.

- C. **Outhouses Prohibited.** No outhouse or privy shall be hereafter erected or relocated, enlarged, structurally altered or reoccupied.
- D. **Portable Toilets Prohibited.** No portable toilet shall be hereafter located on a residential site unless:
 - 1. Providing a restroom for a construction site in which no sewage system is available
 - 2. An event for which the Town Board has authorized the use of a portable toilet
- D. **Water Supply Required.** No occupancy and/or building and use permit shall be issued for a building or structure used for residential purposes unless provision is made for a safe and adequate supply of water in or within 300 feet of the building or structure or connection is to be made to an approved municipal or community water system.

9. SPECIFIC REGULATIONS.

A. Demolition Permit.

- 1. **Required.** All persons who demolish or cause to be demolished any building or structure or part of the same within the Town shall apply for and obtain a demolition permit from the Code Enforcement Officer prior to undertaking any steps to demolish the building or structure.
- 2. **Application.** An application for a permit to demolish all or part of a building or structure shall include the following information:
 - a. Name and address of the owner of the building or structure on date of application and, if different, on date of demolition.
 - b. Name, address and telephone number of the contractor(s) performing the demolition work.
 - c. Date upon which demolition is to commence.

Section 17.03 9. A. 2. d.

- d. Date by which demolition shall be complete.
- e. A list of all hazardous waste and hazardous and toxic substances as defined by §§NR 181.12 and NR 158.03(4), Wis. Adm. Code contained in the building or structure; a statement as to whether the building or structure contains asbestos, as defined by §140.04(1)(a), Wis. Stats., and a detailed description of the method to be used in removing, transporting and disposing of any hazardous and toxic substances and asbestos.
- f. A detailed description of how and where the waste materials resulting from the demolition will be transported and disposed of, including the description of the route to be used by trucks in hauling the waste.
- g. A description of the method of demolition to be used.
- h. A description in detail of all methods to be used to prevent water run-off and soil erosion from the site to neighboring properties and to prevent releasing unreasonable amounts of dust from the site.

- i. Along with the application for permit for demolition, the applicant shall present a release from all utilities serving the property, stating their respective service connections and appurtenant equipment such as meters and regulators have been removed or sealed and plugged in a safe manner.
- 3. **Demolition.** The demolition shall be conducted in a manner that is safe and that does not adversely affect the environment.
- 4. **Burning of Buildings, Structures or Debris.**
 - a. No building or structure shall be razed or demolished by burning without the written approval and supervision of the burning by the Fire Department. The Fire Department may, as it deems necessary, charge a reasonable fee for the supervision, equipment and manpower necessary to ensure public safety.
 - b. No materials from a razed or demolished building or structure shall be burned without the express written approval of the Fire Chief following inspection by the Fire Department. The Fire Department reserves the right to place conditions upon the manner of burning such materials and reserves the right to deny approval so as to ensure public safety. The Fire Department may, as it deems necessary, charge a reasonable fee for supervision, equipment and manpower to be provided.
- 5. **Clearing and Leveling Site.**
 - a. The site of any demolition shall be properly cleared of debris, rubbish and pavement and shall be properly graded and leveled to conform with the adjoining grade of the neighboring property. When the site is graded and leveled, it shall be seeded, sodded or treated in some other manner acceptable to the Code Enforcement Officer so as to prevent blowing dust, dirt or sand. Excavations remaining after demolition shall be filled, graded and leveled off, not later than 30 consecutive days after demolition is completed.

Section 17.03 9. A. 5. b.

- b. Excavations from demolished buildings or structures shall not be filled with any materials subject to deterioration. The Code Enforcement Officer, upon notification by the permit holder, the owner or the agent, in writing and upon forms provided by the Inspector for that purpose, shall within 72 hours inspect each excavation or part thereof before filling. No person shall fill any excavation without inspection and approval of the Code Enforcement Officer. Voids in filled excavations shall not be permitted. The permit holder, owner or agent may retain the services of a certified, qualified municipal inspection service to obtain an opinion that approves filling of the excavation. Such opinion shall be deemed a sufficient approval by the Town if a copy of the opinion is delivered to the Town Clerk at least 48 hours before filling of the excavation commences.
- 6. **Removal and Disposal.** Removal, transportation and disposal of all hazardous waste, hazardous and toxic substances and asbestos shall be conducted in compliance with all applicable State, federal and local statutes, ordinances and regulations. The permit holder shall give the Code Enforcement Officer 72 hours' written notice prior to any removal, transportation or disposal of hazardous waste, hazardous and toxic substances and asbestos.
- 7. **Permit Fees.** Application for a demolition permit shall be accompanied by a permit fee as established by the Town Board by resolution from time-to-time.

B. Airport Safety Zone.

1. **Maximum Height.** No building or structure or object of natural growth, located within two miles of the boundaries of any airport, landing field or landing and takeoff strip and within a band 500 feet on each side of the centerline extended of any runway, shall hereafter be erected, altered or permitted to grow to a height above the elevation of the nearest point of such runway greater than 1/15 of the distance from the point.
2. **Control of Use.** No building, structure or land located within two miles of the boundary of any airport, landing field or landing and takeoff strip shall be used in a manner that produces a hazard to the operation of aircraft by reason of the emission of smoke, gas or other pollutants.
3. **Exceptions.** The aforesaid regulations shall not apply to growing field crops which are harvested at least once a year nor to fences not over five feet high.

C. Mobile Homes and House Trailers.

1. **Human Habitation Prohibited.** Unless stationed in a mobile home park, trailer court or campground approved by the Town Board under the terms of a conditional use permit, no mobile home, house trailer, camping trailer, camper unit whether or not truck mounted, buses or other self-propelled dwelling unit vehicles shall be used for the purpose of human habitation.
2. **Outside Storage.** Mobile homes, house trailers, camper trailers, camper units whether or not truck mounted, buses or other self-propelled dwelling unit vehicles may be stored on any lot provided that the unit is screened by a landscaped fence, wall or planting screen along the side abutting or fronting on a residential District.

Section 17.03 10. A.

10. FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS

A. Findings of Fact

1. The Board finds that Adult-Oriented Establishments, as defined and otherwise regulated by the Town in its Adult-Oriented Licensing and Regulation Ordinance, require special zoning in order to protect and preserve the health, safety, and welfare of the Town.
2. Based its review of studies conducted in Phoenix AZ, Garden Grove CA, Los Angeles CA, Whittier CA, Indianapolis IN, Minneapolis MN, St. Paul MN, Cleveland OH, Oklahoma City OK, Amarillo TX, Austin TX, Beaumont TX, Houston TX, Seattle WA, and the findings incorporated in *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Coleman A. Young v. American Mini-Theaters, Inc.*, 427 U.S. 50 (1976), the Board finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
3. The Board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.

4. It is not the intent of the Board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.
5. In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the Town, it is the intent of the Board to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.
6. Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Board finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises is warranted.

B. LOCATION OF FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS

1. The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined and otherwise regulated by the Town, are entitled to certain protections, including the opportunity to locate in the Town. Therefore, if an Adult-Oriented Establishment License has been granted by the Town, and if all the requirements of this Section of the Zoning Code are met, an Adult-Oriented Establishment shall be an allowed use in the M-1 zoning district and shall be a prohibited use in any other zoning district. No other requirements of the Zoning Code need be satisfied, but for those required in order to obtain an Adult-Oriented Entertainment License from the Town.
 2. Adult-Oriented Establishments shall be located at least 1,000 feet from:
 - a. any residential district line, playground lot line, or public park lot line;
- Section 17.03 10. B. 2. b.**
- b. any structure used as a residence, place of religious worship, public or private school, or Youth Facility as defined in the Town's Adult-Oriented Establishment Licensing and Regulation Ordinance;
 - c. any other structure housing an Adult-Oriented Establishment; any structure housing an establishment which holds an alcohol beverage license.
 3. Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the above residential district boundary lines, to the lot line of any lot used for a park, playground, or the lot line of any structure listed in 2(b),(c) and (d), above.
 4. The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
 5. For Adult-Oriented Establishments located in conjunction with other buildings and clearly separate from other establishments such as in a shopping center, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.
 6. For any Adult-Oriented Establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the Adult-Oriented Establishment (excluding emergency

exits).

7. A licensed Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the location subsequent to the grant or renewal of its license of any of the establishments described in 2, above, within 1,000 feet of the licensed premises. This provision applies only to the renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

SECTION 17.04
ZONING DISTRICTS

1. ESTABLISHMENT OF DISTRICTS

In order to carry out the purposes and provisions of this chapter, the Town is hereby divided into the following zoning Districts. All property in the Town shall be placed in one of the following Districts:

RESIDENTIAL DISTRICTS

R-1	Residential District	[1.5 acre min. lot]
R-1(A)	Residential District	[1.0 acre min. lot]
R-2	Residential District	[30,000 sq. ft. min. lot]
R-3	Residential District	[20,000 sq. ft. min. lot]
R-L	Residential Lake District	[20,000 sq. ft. min. lot]

AGRICULTURAL DISTRICTS

A-1	Agricultural District
A-E	Exclusive Agricultural District
A-2	Rural Home District
A-3	Suburban Home District

BUSINESS DISTRICTS

B-1	Restricted Business District
B-2	Shopping Center District
B-3	Business Park District

INDUSTRIAL DISTRICTS

M-1	Industrial District
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PARK & CONSERVANCY DISTRICTS

P-1	Park and Recreation District
WF-1	Wetland-Floodplain District

2. ZONING DISTRICT MAPS.

- A. **Districts Mapped.** The boundaries of the Districts are shown upon a map designated as the Zoning Map of the Town, which, together with all the notations, references and other information shown thereon is as much a part of this chapter as if fully set forth herein. The Zoning Map shall be kept on file in the offices of the Town and any copy attached hereto is correct only as of the date of publication and is for general information purposes only.
- B. **Amendments.** Amendments to the Zoning Map shall be accomplished under the procedures that apply to amendments of this chapter, as set forth in this chapter.

Section 17.04 3.

3. DETERMINATION OF DISTRICT BOUNDARIES.

District boundaries shall be determined by measurement from and as shown on the Zoning Map and in case of any question as to the interpretation of such boundary lines, the Code Enforcement Officer shall interpret the map according to the reasonable intent of this chapter.

- A. Unless otherwise specifically indicated or dimensioned on the maps, the District boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the centerlines of streets, roads, highways, railways or alleys.
- B. The boundaries of the W-F Wetland-Floodplain Districts as drawn are intended to represent the edge of swamp, marsh, or the ordinary high water line along a stream or watercourse and shall be finally determined by the actual conditions in each specific situation.
- C. The boundaries of the R-L Residential Lake District as drawn are intended to include all lots which abut a lake, and only such lots. Should such a lot be subdivided so as to create an additional lot or lots which do not abut the lake, the latter lot or lots will be removed from the Residential Lake District and become a part of the District which bordered the original lot and must meet all requirements of the bordering District.
- D. The boundaries of shorelines shall be construed to follow such shoreline, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline.

4. DEVELOPMENT STANDARDS.

The following is a summary of the development standards as outlined in this chapter ^{(a),(h)&(g)}:

<u>District</u>	<u>Minimum Lot Area</u>	<u>Min. Avg. Lot Width</u>	<u>Min. Setback</u>	<u>Min. Offset</u>	<u>Min. Floor Area</u>	<u>Max. Access. Bldg.Size</u>
R-1	1.5 acres	200'	50'	20'	1,500sf	1,000sf
R-1A	1 acre	150'	50'	20'	1,650sf	1,000sf
R-2	30,000sf	120'	50'	20'	1,350sf	720sf
R-3	20,000sf	120'	50'	20'	1,200sf	720sf
R-L	20,000sf	100' ^(e)	50' ^(f)	15'	1,500sf	720sf
A-1	40 acres ^(b)	200'	50' ^(c)	20' ^(d)	1,500sf	1%l.a.
A-E	35 acres	660'	100'	50'	1,500sf	1%l.a.
A-2	3 acres	200'	50' ^(c)	30' ^(d)	1,650sf	1%l.a.
A-3	2 acres	200'	50'	25'	1,500sf	1,000sf
B-1	20,000sf	120'	50'	10'/20' ⁽ⁱ⁾	1,200 sf	None
B-2	20,000sf	120'	50'	10'	None	None
B-3	5 acres	330'	100'	50' ^(j)	None	None
M-1	3 acres	200'	100'	100'/50' ^(k)	None	None
P-1	1 acre	150'	100'	50'	None	None
WF-1	None	None	100'	100'	None	None

^(a)No structure or sewage disposal system shall be placed within 75' of a WF-1 Wetland-Floodplain District.

^(b)Land can only be subdivided as planned unit development.

Section 17.04 4.

(c)100' for buildings housing animals.

(d)50' for buildings housing animals.

(e)Also minimum of 100' frontage at shore lot line.

(f)150' from shoreline.

(g)See District regulations for exceptions.

(h)Each residential dwelling must have a private garage of 480 sf minimum. The maximum size of an attached garage shall be 1440 sf. (See Section 17.06 4. D.)

(i)10' minimum for buildings used solely for commercial purposes; 20' minimum for buildings used in part for residential purposes. (See Section 17.04 5.1.3.)

(j) Where the adjacent District is a residential or agricultural district, a 100' minimum offset shall be required. (See Section 17.04 5. K. 3.)

(k)100' minimum offset shall be required where adjacent to a residential or agricultural district; 50' minimum shall be required where not adjacent to a residential or agricultural district. (See Section 17.04 5. L. 3)

5. SPECIFIC DISTRICT.

The Town is hereby divided into the following zoning Districts.

A. R-1 RESIDENTIAL DISTRICT

1. STATEMENT OF INTENT

The **R-1 Residential District** is intended to provide for low density single family residential development.

2. USE REGULATIONS

a. **Permitted Uses**

Single family dwellings.

b. **Permitted Accessory Uses.** The following accessory uses shall be permitted in the R-1 Residential District:

(1) Accessory buildings. No more than 2 detached accessory buildings shall be permitted. The total composite area of all accessory buildings shall not exceed 1,000 square feet.

(a) Private, detached garages, not to exceed 960 square feet, not involving the conduct of business and not including any sanitary facilities or living quarters.

(b) Other accessory buildings not to exceed 400 square feet.

- (2) The keeping of household pets.
- (3) Horticulture.
- (4) (repealed 2012-03, 2-14-12)
- (5) Outdoor recreational structures.
- (6) Telecommuting.
- (7) Home Occupation(s) with a valid permit issued under § 17.03 1. D. of this Code.
- (8) Any other structure or use normally accessory to the principal uses permitted.
- (9) (created 2012-02, 2-14-12) The keeping of chickens in accordance with Section 17.06 5.

3. **BUILDING LOCATION**

- a. **Setback** 50 feet minimum.
- b. **Offset** 20 feet minimum.

4. **BASE HEIGHT REGULATIONS**

- a. **Principal Residence** 30 feet maximum.
- b. **Accessory Structures** 12 feet maximum.

5. **AREA REGULATIONS**

- a. **Lot Size**
Minimum area shall be 1.5 acres.
- b. **Lot Width**
Minimum lot width shall be 200 feet.
- c. **Floor Area**
Minimum required area of principal residence shall be:
 - (1) Single Floor: 1,500 square feet.
 - (2) All Other: See §17.03 5. A.
- d. **Open Space**
With the exception of rustic structures, which shall be permitted, 85% of each lot shall remain as open space. (rep & rec 2012-09)

Section 17.04 5. B. 1.

B. R-1A RESIDENTIAL DISTRICT

1. STATEMENT OF INTENT

The **R-1A Residential District** is intended to provide for low density single family residential development.

2. USE REGULATIONS

a. Permitted Uses

Single family dwellings.

b. Permitted Accessory Uses The following accessory uses shall be permitted in the R-1A Residential District:

- (1) Accessory buildings. No more than 2 detached accessory buildings shall be permitted. The total composite area of all accessory buildings shall not exceed 1,000 square feet.
 - (a) Private, detached garages, not to exceed 960 square feet, not involving the conduct of business and not including any sanitary facilities or living quarters.
 - (b) Other accessory buildings not to exceed 400 square feet.
- (2) The keeping of household pets.
- (3) Horticulture.
- (4) (Repealed 2012-03, 2-14-12)
- (5) Outdoor recreational structures.
- (6) Telecommuting.
- (7) Home Occupation(s) with a valid permit issued under § 17.03 1. D. of this Code.
- (8) Any other structure or use normally accessory to the principal uses permitted.
- (9) (Created 2012-02, 2-14-12) The keeping of chickens in accordance with Section 17.06 5.

3. BUILDING LOCATION

- a. Setback** 50 feet minimum.
- b. Offset** 20 feet minimum.

4. **BASE HEIGHT REGULATIONS**

- a. **Principal Residence** 30 feet maximum.
- b. **Accessory Structures** 12 feet maximum.

5. **AREA REGULATIONS**

- a. **Lot Size**
Minimum area shall be 1 acre.
- b. **Lot Width**
Minimum lot width shall be 150 feet.
- c. **Floor Area**
Minimum required area of principal residence shall be:
 - (1) Single Floor: 1,650 square feet.
 - (2) All Other: See §17.03(5)A.
- d. **Open Space**
With the exception of rustic structures, which shall be permitted, 85% of each lot shall remain as open space. (rep & rec 2012-09)

C. **R-2 RESIDENTIAL DISTRICT**

1. **STATEMENT OF INTENT**

The **R-2 Residential District** is intended to provide for medium density single family residential development.

2. **USE REGULATIONS**

- a. **Permitted Uses**
The following uses shall be permitted in the R-2 Residential District:
 - (1) Single family dwellings.
- b. **Permitted Accessory Uses** (amd. 00-507a)
The following accessory uses shall be permitted in the R-2 Residential District:
 - (1) Accessory Buildings. No more than 2 detached accessory buildings shall be permitted. The total individual structure and composite area of all accessory buildings shall not exceed the maximums set forth in the following table:

Lot Size (s.f.)	Maximum Garage Size	Maximum Accessory Building Size	Maximum Total Composite Area
up to and including	720	200	720

Lot Size (s.f.)	Maximum Garage Size	Maximum Accessory Building Size	Maximum Total Composite Area
20,000			
20,000 - 24,999	770	240	780
25,000 - 29,999	820	285	830
30,000 -34,999	870	325	900
35,000-43,559	920	360	960
greater than 43,560	960	400	1000

- (2) The keeping of household pets.
- (3) Horticulture.
- (4) Public Parks and recreation areas.
- (5) Telecommuting.
- (6) Home Occupation with a valid permit issued under § 17.03 1.D. of this Code.
- (7) (created 2012-002, 2-14-12) The keeping of chickens in accordance with Section 17.06 5.

3. **BUILDING LOCATION**

- a. **Setback** 50 feet minimum.
- b. **Offset** 20 feet minimum.

4. **BASE HEIGHT REGULATIONS**

- a. **Principal Residence** 30 feet maximum.
- b. **Accessory Structures** 12 feet maximum.

5. **AREA REGULATIONS**

- a. **Lot Size**
Minimum area shall be 30,000 square feet.
- b. **Lot Width**
Minimum lot width shall be 120 feet.
- c. **Floor Area**
Minimum required area of principal residence shall be:

(1) Single Floor: 1,350 square feet.

(2) All Other: See §17.03 5.A.

d.

Open Space (rep & rec 2002-02-002A)

With the exception of rustic structures, for lots 20,000 square feet or larger, a minimum of 85% of each lot shall remain as open space. For existing lots with an area less than 20,000 square feet, the following scale shall be used:

<u>Lot Size (square foot)</u>	<u>Open Space Percentage (%)</u>
19,400 - 19,999	85
18,800 - 19,399	84
18,200 - 18,799	83
17,600 - 18,199	82
17,000 - 17,599	81
16,400 - 16,999	80
15,800 - 16,399	79
15,200 - 15,799	78
14,600 - 15,199	77
14,000 - 14,599	76
13,400 - 13,999	75
12,800 - 13,399	74
12,200 - 12,799	73
11,600 - 12,199	72
11,000 - 11,599	71
10,400 - 10,999	70
9,800 - 10,399	69
9,200 - 9,799	68
8,600 - 9,199	67
8,000 - 8,599	66
7,400 - 7,999	65

<u>Lot Size (square foot)</u>	<u>Open Space Percentage (%)</u>
6,800 - 7,399	64
5,600 - 6,199	62
5,000 - 5,599	61
4,999 or less	60

D. R-3 RESIDENTIAL DISTRICT

1. STATEMENT OF INTENT

The **R-3 Residential District** is intended to provide for medium density single family residential development.

2. USE REGULATIONS

a. Permitted Uses

- (1) Single family dwellings.

b. Permitted Accessory Uses

The following accessory uses shall be permitted in the R-3 Residential District:

- (1) Accessory Buildings. No more than 2 detached accessory buildings shall be permitted. The total individual structure and composite area of all accessory buildings shall not exceed the maximums set forth in the following table:

Lot Size (s.f.)	Maximum Garage Size	Maximum Accessory Building Size	Maximum Total Composite Area
up to and including 20,000	720	200	720
20,000 - 24,999	770	240	780
25,000 - 29,999	820	285	830
30,000 -34,999	870	325	900
35,000-43,559	920	360	960
greater than 43,560	960	400	1000

- (2) Accessory buildings, not to exceed 200 square feet. No more than 2 detached accessory buildings shall be permitted. The total composite area of all accessory buildings, and detached garages shall not exceed 720 square feet.

- (3) The keeping of household pets.

- (4) Horticulture.

- (5) Public Parks and recreation areas.
- (6) Telecommuting.
- (7) Home Occupation with a valid permit issued under § 17.03 1.D. of this Code.
- (8) The keeping of chickens in accordance with Section 17.06 5.

3. BUILDING LOCATION

- a. **Setback** 50 feet minimum.
- b. **Offset** 20 feet minimum.

4. BASE HEIGHT REGULATIONS

- a. **Principal Residence** 30 feet maximum.
- b. **Accessory Structures** 12 feet maximum.

5. AREA REGULATIONS

- a. **Lot Size**
Minimum area shall be 20,000 square feet.
- b. **Lot Width**
Minimum lot width shall be 120 feet.
- c. **Floor Area**
Minimum required area of principal residence shall be:
 - (1) Single Floor: 1,200 square feet.
 - (2) All Other: See §17.03 5.A.
- d. **Open Space.**(rep & rec 2002-02-002A)
With the exception of rustic structures, for lots 20,000 square feet or larger, a minimum of 85% of each lot shall remain as open space. For existing lots with an area less than 20,000 square feet, the following scale shall be used:

<u>Lot Size (square foot)</u>	<u>Open Space Percentage (%)</u>
19,400 - 19,999	85
18,800 - 19,399	84
18,200 - 18,799	83
16,400 - 16,999	80

<u>Lot Size (square foot)</u>	<u>Open Space Percentage (%)</u>
15,800 - 16,399	79
15,200 - 15,799	78
14,600 - 15,199	77
14,000 - 14,599	76
13,400 - 13,999	75
12,800 - 13,399	74
12,200 - 12,799	73
11,600 - 12,199	72
11,000 - 11,599	71
10,400 - 10,999	70
9,800 - 10,399	69
9,200 - 9,799	68
8,600 - 9,199	67
8,000 - 8,599	66
7,400 - 7,999	65
6,800 - 7,399	64
6,200 - 6,799	63
5,600 - 6,199	62
5,000 - 5,599	61
4,999 or less	60

E. R-L RESIDENTIAL LAKE DISTRICT

1. STATEMENT OF INTENT

The **R-L Residential Lake District** is intended to provide for medium density single family residential development on lots located on any lake.

2. USE REGULATIONS

a. Permitted Uses

(1) Single family dwellings.

b. Permitted Accessory Uses (rev. 00-507a)

The following accessory uses shall be permitted in the R-L Residential District:

- (1) Accessory buildings. No more than 2 detached accessory buildings shall be permitted. The total composite area of all accessory buildings shall not exceed 1,200 square feet.
 - (a) Private, detached garages, not to exceed 720 square feet, not involving the conduct of business and not including any sanitary facilities or living quarters.
 - (b) Other accessory buildings not to exceed 200 square feet.
 - (c) Boathouses. One private boathouse per lot shall be permitted. A boathouse must contain a minimum of 200 square feet of boat storage and no more than 600 feet of total area. Boathouses shall have a maximum width of 20 feet along the shore lot line and the maximum distance from the shore lot line to the rear of the boathouse structure shall be 35 feet. The boathouse shall be constructed with permanent foundations with frost footings and shall be equipped with garage-type doors opening towards the lake. No metal boathouses shall be permitted.
- (2) The keeping of household pets.
- (3) Horticulture.
- (4) Public Parks and recreation areas.
- (5) Telecommuting.
- (6) Home Occupation with a valid permit issued under § 17.03 1.D. of this Code.
- (7) (created 2012-02, 2-14-12) The keeping of chickens in accordance with Section 17.06 5.

3. BUILDING LOCATION

- a. **Setback** 50 feet minimum.

b. Offset (rev. 00-507a)

	Boathouses	Other Structures
Non-shoreline	5 feet	* See additional chart
Shoreline	5 feet	150 feet

*** Other Structures Offset Chart:**

Lot Width	Offset
100 feet or greater	15 feet
50 - 100 feet	15% of the lot width **
less than 50 feet	7.5 feet **

**** No principal building can be closer than 20 feet to any other structure on an adjoining lot measured from the outward-most points of the two structures.**

4. BASE HEIGHT REGULATIONS

- a. Principal Residence** 30 feet maximum.
- b. Accessory Structures**
Boathouses 12 feet maximum above ordinary high water mark.
- c. All others** 12 feet maximum.

5. AREA REGULATIONS

- a. Lot Size**
Minimum area shall be 20,000 square feet.
- b. Lot Width**
Minimum lot width shall be 100 feet.
- c. Floor Area**
Minimum required area of principal residence shall be:
 - (1) Single Floor: 1,200 square feet.
 - (2) All Other: See §17.03 5. A.
- d. Open Space** (rep & rec 2002-02-002A)

With the exception of rustic structures, for lots 20,000 square feet or larger, a minimum of 75% shall remain open space. For existing parcels less than 20,000 square feet, the following scale shall be used:

<u>Lot Size (s.f.)</u>	<u>Open Space Percentage (%)</u>
19,000 - 19,999	74
18,000 - 18,999	73
17,000 - 17,999	72
16,000 - 16,999	71
15,000 - 15,999	70
14,000 - 14,999	69
13,000 - 13,999	68
12,000 - 12,999	67
11,000 - 11,999	66
10,000 - 10,999	65
9,000 - 9,999	64
8,000 - 8,999	63
7,000 - 7,999	62
6,000 - 6,999	61
5,999 or less	60

e. Shore lot line

Minimum shore lot line shall be 100 feet.

F. A-1 AGRICULTURAL DISTRICT

1. STATEMENT OF INTENT

The **A-1 Agricultural District** is intended to provide for the needs of agriculture as a primary use as well as residential uses associated with such use, and to maintain in agricultural uses those lands generally suited for such use which may have the ultimate potential for other use. To maintain open space, it is intended that residential development be limited to planned unit development.

2. USE REGULATIONS (repealed and recreated 2011-004)

a. Permitted Uses

- (1) Single family dwellings.
- (2) Farming and agricultural use.
- (3) Grazing.
- (4) The harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
- (5) Hunting and fishing unless prohibited by other ordinances or laws.
- (6) Sustained yield forestry and tree farms.
- (7) The following uses may be permitted, subject to approval of the Plan Commission after consideration of the building, site and operational plans:
 - (a) Substations and other utility installations.
 - (b) Sewage treatment plants.
- (8) Creameries (amended 2019-04)

b. Permitted Accessory Uses

- (1) Private, detached garages not involving the conduct of business and not including any sanitary facilities.
- (2) Accessory buildings, including but not limited to stables, barns, silos, poultry houses, farm storage buildings and other farm related buildings.
- (3) The keeping of household pets.
- (4) Roadside stands, provided off-street parking is made available for at least four vehicles.
- (5) Telecommuting.
- (6) Home occupation with a valid permit issued under § 17.03 1. D. of this Code.
- (7) Nonresidential structures used solely in conjunction with the raising of water fowl, minnows and other similar lowland animals, fowl or fish.
- (8) Outdoor recreational structures.
- (9) Any other structure or use normally accessory to the principal uses permitted.
- (10) (amended 2019-04) Quarters for Household or Farm Employees

- (a) Quarters shall be occupied only by a full-time employee who works on the premises and members of the employee's family.
- (b) Number of employees that can have quarters on the premises is five (5).
- (c) A deed restriction shall be filed in the Register of Deeds office prior to allowance of the use indicating that the living unit is for employees on the farm and their families, and that there can be no more than 5 employees that can have quarters on the farm.

3. **BUILDING LOCATION**

- a. **Setback**
 - 100 feet minimum for buildings housing animals.
 - 30 feet minimum for roadside stands.
 - 50 feet minimum for all other buildings or structures.
- b. **Offset**
 - 50 feet minimum for buildings housing animals.
 - 20 feet minimum for all other buildings or structures.

4. **BASE HEIGHT REGULATIONS**

- a. **Principal Residence** 30 feet.
- b. **Accessory Structures** 90 feet maximum for farm accessory buildings or structures.
- 12 feet maximum for all other buildings.

5. **AREA REGULATIONS**

- a. **Lot Size** (amended 2019-04)
Minimum area shall be 40 acres.
- b. **Lot Width**
Minimum lot width shall be 200 feet.
- c. **Floor Area**
Minimum required area of principal residence shall be:
 - (1) Single Floor: 1,500 square feet.
 - (2) All Other: See §17.03 5. A.
- d. **Open Space** (rep & rec 2002-02-002A)
With the exception of rustic structures which shall be permitted, 95% of each lot shall remain as open space.

With the exception of rustic structures, the total space occupied by all accessory buildings shall not exceed 1% of the total lot area.

G. A-E EXCLUSIVE AGRICULTURAL DISTRICT

1. STATEMENT OF INTENT

The **A-E Exclusive Agricultural District** is intended to implement the Wisconsin Farm Preservation Act, or other similar Federal, State or local initiatives, and is intended to provide for the preservation of existing large-scale farming operations and for smaller farm units of 35 acres or more located in areas which are predominantly agricultural in character.

2. USE REGULATIONS

a. Permitted Uses

1. Single family dwellings in conjunction with an agricultural operation to be occupied by the farmer or a person working on the farm.
2. Any permitted use in the A-1 Agricultural District.

b. Permitted Accessory Uses

1. Any accessory use permitted in the A-1 Agricultural District.

3. BUILDING LOCATION

a. Setback 100 feet minimum.
30 feet minimum for roadside stands.

b. Offset 50 feet minimum.

4. BASE HEIGHT REGULATIONS

a. Principal Residence 30 feet.

b. Accessory Structures 90 feet maximum for farm accessory buildings or structures.

12 feet maximum for all other buildings or structures.

5. AREA REGULATIONS

a. Lot Size
Minimum area shall be 35 acres.

b. Lot Width
Minimum lot width shall be 660 feet.

c. Floor Area
Minimum required area of principal residence shall be:

1. Single Floor: 1,500 square feet.
2. All Other: See §17.03 5. A.

d. Open Space (rep & rec 2002-02-002A)

With the exception of rustic structures which shall be permitted, 95% of each lot shall remain as open space.

With the exception of rustic structures which shall be permitted, the total space occupied by all accessory buildings shall not exceed 1% of the total lot area.

H. A-2 RURAL HOME DISTRICT

1. STATEMENT OF INTENT

The **A-2 Rural Home District** is intended to provide for low density single family residential development and limited, controlled farming and associated uses.

2. USE REGULATIONS (repealed and recreated 2011-004)

a. Permitted Uses

- (1) Single family dwellings.
- (2) The keeping of poultry, fowl and domestic livestock subject to the following conditions:
 - (a) One large animal (those animals with a mature weight of 50 pounds or more) or two fowl (not including chickens which are governed by subsection (d) below) or two small animals, or combination thereof shall be allowed on lots of 3 acres. One additional large animal or equivalent fowl or small animal may be added per acre of land over 3 acres (2 fowl or 2 small animals equal 1 large animal).
 - (b) (repealed and recreated 2019-04) If more large animals or equivalent fowl or small animal(s) or combination thereof is desired, beyond the maximum allowed on the lot per subsection a. (2) (a), above, they shall only be permitted as a Conditional Use under section 17.05. 5. J. Keeping of Poultry or Livestock.
 - (c) Notwithstanding the foregoing, the keeping of any type of animal that is described in Section 17.05 of this Code as a conditional use in the A-2 district, and the keeping of any animal under circumstances described in Section 17.05 as a conditional use in the A-2 district, is not a permitted use but is a conditional use as described therein.
 - (d) Keeping of chickens is permitted, subject to the requirements of Section 17.06 5. of this code.
- (3) Grazing.

- (4) The harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
- (5) Hunting and fishing unless prohibited by other ordinances or laws.
- (6) Sustained yield forestry and tree farms.
- (7) Normal crop farming consistent with the preservation of the District's character, provided such use is not described as a conditional use in the A-2 District in Section 17.05 of this Code.
 - (a) Permitted on lots of 10 acres or more.
 - (b) On lots of less than 10 acres, with Plan Commission approval.
- (8) The following uses may be permitted, subject to approval of the Plan Commission after consideration of the building, site and operational plans:
 - (a) Substations and other utility structures
 - (b) Sewage treatment plants

b. Permitted Accessory Uses

- (1) Private, detached garages not involving the conduct of business and not including any sanitary facilities.
- (2) Accessory buildings, including but not limited to stables, barns, silos, poultry houses, farm storage buildings and other farm related buildings.
- (3) The keeping of household pets.
- (4) (repealed and recreated 2019-04) Roadside stands, provided off-street parking is made available for at least four vehicles.
- (5) Telecommuting.
- (6) Home occupation with a valid permit issued under § 17.03 1. D. of this Code.
- (7) (amended 2019-04) Quarters for Household or Farm employees on Farms over 10 acres.
 - (a) Quarters shall be occupied by only a full-time employee who works on the premises and members of the employee's family.
 - (b) Number of employees that can have quarters on the premises is five (5).
 - (c) A deed restriction shall be filed in the Register of Deeds office prior to allowance of the use indicating that the living unit is for employees of the farm and their families, and that there can be no

more than 5 employees that can have quarters on the farm.

3. **BUILDING LOCATION**

a. **Setback** 100 feet minimum for buildings housing animals.

50 feet minimum for all other buildings or structures.
30 feet minimum for roadside stands.

b. **Offset** 50 feet minimum for buildings housing animals.

30 feet minimum for all other buildings or structures.

4. **BASE HEIGHT REGULATIONS**

a. **Principal Residence** 30 feet maximum.

b. **Accessory Structures** 90 feet maximum for farm accessory buildings or structures.

12 feet maximum for all other buildings or structures.

5. **AREA REGULATIONS**

a. **Lot Size** (amended 2019-04)

Minimum area shall be 3 acres. If land is developed into a subdivision, it shall meet the PUD requirements of Section 18.16 of the Town Code, subject to the allowance stated in Chapter 18.16 6. d.

b. **Lot Width**

Minimum lot width shall be 200 feet.

c. **Floor Area**

Minimum required area of principal residence shall be:

(1) Single Floor: 1,650 square feet.

(2) All Other: See §17.03 5. A.

d. **Open Space** (rep & rec 2012-09)

With the exception of rustic structures, which shall be permitted, 85% of each lot shall remain as open space.

With the exception of rustic structures, the total space occupied by all accessory buildings shall not exceed 1% of the total lot space unless the land is greater than 10 acres in which case the accessory buildings can be 2%.

I. **A-3 SUBURBAN HOME DISTRICT.**

1. **STATEMENT OF INTENT**

The **A-3 Suburban Home District** is intended to provide for low density single family residential development.

2. USE REGULATIONS

a. Permitted Uses

- (1) Single family dwellings.

b. Permitted Accessory Uses The following accessory uses shall be permitted in the A-3 Residential District:

- (1) Accessory buildings. No more than 2 detached accessory buildings shall be permitted. The total composite area of all accessory buildings shall not exceed 1,000 square feet.
 - (a) Private, detached garages, not to exceed 960 square feet, not involving the conduct of business and not including any sanitary facilities or living quarters.
 - (b) Other accessory buildings not to exceed 400 square feet.
- (2) The keeping of household pets.
- (3) Horticulture.
- (4) Telecommuting.
- (5) Home occupation with a valid permit issued under § 17.03 1. D. of this Code.
- (6) (Repealed 2012-03, 2-14-12)
- (7) Outdoor recreational structures.
- (8) Any other structure or use normally accessory to the principal uses permitted.
- (9) (Created 2012-02, 2-14-12) The keeping of chickens in accordance with Section 17.06 5.

3. BUILDING LOCATION

a. Setback 50 feet minimum.

b. Offset 25 feet minimum.

4. BASE HEIGHT REGULATIONS

a. Principal Residence 30 feet maximum.

b. Accessory Structures 12 feet maximum.

5. **AREA REGULATIONS**

a. **Lot Size**

Minimum area shall be 2 acres.

b. **Lot Width**

Minimum lot width shall be 200 feet.

c. **Floor Area**

Minimum required area of principal residence shall be:

(1) Single Floor: 1,500 square feet.

(2) All Other: See §17.03 5. A.

d. **Open Space** (rep & rec 2012-09)

With the exception of rustic structures, which shall be permitted, 85% of each lot shall remain as open space.

J. **B-1 RESTRICTED BUSINESS DISTRICT.**

1. **STATEMENT OF INTENT**

The **B-1 Restricted Business District** is intended to provide for individual or small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood and the character, appearance and operation of which are compatible with the character of the surrounding area.

2. **USE REGULATIONS**

a. **Permitted Uses**

The following uses shall be permitted in the B-1 Restricted Business District, subject to approval by the Plan Commission, of building, site and operational plans:

(1) Retail stores and shopping, offering convenience goods and personal services.

(2) Business, professional or public service offices.

(3) (repealed and recreated 2019-04) Customer service establishments such as restaurants excluding drive-through or drive-in restaurants, shoe repair, barber and beauty shops, studios and similar uses.

(4) (repealed and recreated 2019-04) Antique shops, gift shops, arts and craft studios and similar uses.

b. **Permitted Accessory Uses**

(1) One family dwelling in conjunction with a permitted business use occupied by an owner or person working at the business.

- (2) Off street parking.
- (3) Garages for storage of vehicles used only in conjunction with the operation of the business.

3. **BUILDING LOCATION**

- a. **Setback** 50 feet minimum.
- b. **Offset** 10 feet minimum for buildings used solely for commercial purposes.
20 feet minimum for buildings used in part for residential purposes.

4. **BASE HEIGHT REGULATIONS**

- a. **Principal Structure** 30 feet maximum.
- b. **Accessory Structures** 12 feet maximum.

5. **AREA REGULATIONS**

- a. **Lot Size**
Minimum area shall be 20,000 square feet.
- b. **Lot Width**
Minimum lot width shall be 120 feet.
- c. **Floor Area**
Minimum required area of principal building shall be:
 - (1) Single Floor: 1,200 square feet.
 - (2) All Other: See §17.03 5. A.
- d. **Open Space** (rep & rec 2002-02-002A)
With the exception of rustic structures which shall be permitted, 50% of each lot shall remain as open space.

K. **B-2 SHOPPING CENTER DISTRICT.**

1. **STATEMENT OF INTENT**

The **B-2 Shopping Center District** is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices and service establishments serving the daily needs of the surrounding local community area. The size and location of such Districts shall be based upon evidence of justifiable community need, of adequate customer potential, of satisfactory relationship to the traffic circulation system and other related facilities and of potential contribution to the economic welfare of the community.

2. USE REGULATIONS

a. Permitted Uses

The following uses shall be permitted in the **B-2 Shopping Center District**, subject to approval by the Plan Commission, of building, site and operational plans:

- (1) Retail stores and shopping, offering convenience goods and personal services.
- (2) Business, professional, public service, banking and savings and loan offices.
- (3) (repealed and recreated 2019-04) Customer service establishments such as restaurants excluding drive-through and drive-in restaurants, shoe repair, barber and beauty shops, studios and similar uses.
- (4) Laundromats, dry cleaning establishments and laundry or dry cleaning pick-up stations.
- (5) Dental and medical clinics.
- (6) Display galleries and training schools.
- (7) Public utility offices.
- (8) (repealed and recreated 2019-04) Antique shops, gift shops, arts and craft studios and similar uses.

b. Permitted Accessory Uses

- (1) Off street parking.
- (2) Garages for storage of vehicles used only in conjunction with the operation of the business.

3. BUILDING LOCATION

a. Setback 50 feet minimum.

b. Offset 10 feet minimum.

4. BASE HEIGHT REGULATIONS

a. Principal Building 30 feet maximum.

b. Accessory Structures 12 feet maximum.

5. AREA REGULATIONS

a. District Area

The District area shall be a minimum of 200,000 contiguous square feet.

- b. **Lot Size**
Minimum area shall be 20,000 square feet.
- c. **Lot Width**
Minimum lot width shall be 120 feet.
- d. **Floor Area**
There shall be no minimum floor area.
- e. **Open Space** (rep & rec 2002-02-002A)
With the exception of rustic structures which shall be permitted, 50% of each lot shall remain as open space.

L. B-3 BUSINESS PARK DISTRICT.

1. STATEMENT OF INTENT

The **B-3 Business Park District** is intended to provide attractive settings for corporate offices and business centers. It is intended that each site created shall be in an exclusive site screened from all residentially zoned lands.

2. USE REGULATIONS

a. Permitted Uses

The following uses shall be permitted in the **B-3 Business Park District**, subject to approval by the Plan Commission, of building, site, landscape and operational plans:

- (1) (repealed and recreated 2019-04) Professional offices, corporate offices, administrative offices, studios, business centers, laboratories and similar operations not involving retail or commercial sales, industrial use or residential use.
- (2) (repealed and recreated 2019-04) Restaurants (excluding drive-through and drive-restaurants).

b. Permitted Accessory Uses

- (1) Off street parking, provided all lots and driveways are hard surfaced.

3. BUILDING LOCATION

- a. **Setback** 100 feet minimum.
- b. **Offset** 50 feet minimum except that where the adjacent District is a residential or agricultural District, a 100 feet minimum offset shall be required.

4. BASE HEIGHT REGULATIONS

- a. **Principal Building** 30 feet maximum.

- b. **Accessory Structures** 12 feet maximum.

5. **AREA REGULATIONS**

- a. **Lot Size**
Minimum area shall be 5 acres.
- b. **Lot Width**
Minimum lot width shall be 330 feet.
- c. **Floor Area**
There shall be no minimum floor area.
- d. **Open Space** (rep & rec 2002-02-002A)
With the exception of rustic structures which shall be permitted, 80% of each lot shall remain as open space.

6. **ADDITIONAL REGULATIONS**

- a. Building exteriors shall be of an attractive material or must be faced with an attractive material such as face brick, natural stone, wood or other substantial materials as approved by the Plan Commission.
- b. The exterior of all structures, fences, planting screens, etc., shall be kept in good condition at all times by painting, trimming or other acceptable maintenance procedures. Subsequent additions or changes in the building and grounds shall conform to or enhance the original construction and be consistent therewith.
- c. All appurtenances placed on the roof of any structure such as air conditioning unit shall be housed in a penthouse or otherwise screened from view.
- d. Outside storage of all materials shall be prohibited.

M. **M-1 INDUSTRIAL DISTRICT**

1. **STATEMENT OF INTENT**

The **M-1 Industrial District** is intended to provide for the needs of those industries which require attractive settings and whose operations are such as to make them compatible and attractive neighbors in an otherwise residential community.

2. **USE REGULATIONS**

- a. **Permitted Uses**
The following uses shall be permitted in the M-1 Industrial District subject to approval by the Plan Commission of building, site, landscape and operational plans:
 - (1) Farming and agricultural use.
 - (2) (repealed and recreated 2019-04) Industrial and commercial operations, the character of which complements the surrounding

area and which are not for any reason detrimental thereto. Self-storage facilities as defined herein shall be regulated as a Conditional Use.

- (3) Soil processing for resale either at wholesale or retail.
- (4) Grazing.
- (5) The harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
- (6) Hunting and fishing unless prohibited by other ordinances or laws.
- (7) Sustained yield forestry and tree farms.
- (8) Public, or private group outdoor recreational facilities whether commercial or noncommercial.
- (9) Substations and other utility installations.
- (10) Sewage treatment plants.
- (11) (amended 2019-04) Commercial Greenhouses.
- (12) (amended 2019-04) Laboratories for testing, experimental or analytical purposes.

b. Permitted Accessory Uses

- (1) Off street parking, provided all lots and driveways are hard surfaced.

3. BUILDING LOCATION

- a. **Setback** 100 feet minimum.
- b. **Offset** 100 feet minimum where adjacent to a Residential or Agricultural District.
50 feet minimum where not adjacent to a Residential or Agricultural District.

4. BASE HEIGHT REGULATIONS

- a. **Principal Building** 30 feet maximum.
- b. **Accessory Building** 12 feet maximum.

5. AREA REGULATIONS

- a. **Lot Size**
Minimum area shall be 3 acres.

- b. Lot Width**
Minimum lot width shall be 200 feet.
- c. Floor Area**
There shall be no minimum floor area.
- d. Open Space** (rep & rec 2002-02-002A)
With the exception of rustic structures which shall be permitted, 55% of each lot shall remain as open space.

6. ADDITIONAL REGULATIONS

- a.** Building exteriors must be of an attractive material or must be faced with an attractive material such as face brick, natural stone, wood or other substantial materials as approved by the Plan Commission.
- b.** The exterior of all structures, fences, planting screens, etc., shall be kept in good condition at all times by painting, trimming or other acceptable maintenance procedures. Subsequent additions or changes in the building and grounds shall conform to or enhance the original construction and be consistent therewith.
- c.** All appurtenances placed on the roof of any structure such as air conditioning units shall be housed in a penthouse or otherwise screened from view.
- d.** All materials and all vehicles (other than employee and visitor parking), when not in use shall be stored inside except where it is demonstrated that such storage can be adequately shielded from view by planting screen or decorative fencing. In no event shall such storage be permitted within the base setback area.
- e.** All parking lots and driveways shall be hard surfaced.
- f.** Parking lots shall be shielded from adjoining properties by planting screen or decorative fencing and shall not be permitted within the base setback area.
- g.** All lands not used for buildings, parking lots, driveways, etc., shall be landscaped and kept in good appearance at all times, including required watering of lawns and shrubbery.
- h.** The site and operational plans shall include design features necessary to ensure that traffic generated by the operation, especially that involving heavy trucks, does not have an adverse effect on existing or planned roads and traffic movement considering especially adequacy, safety and efficiency.
- i.** (amended 2019-04) The operation plan submitted for Plan Commission approval shall specify and quantitatively describe any noise, vibration, dust, gas, smoke, toxic matter and odors produced by the operation and plans for containing or abating such nuisance, including fertilizers or chemicals.

- j. The planned hours of operation and nighttime lighting plans shall be included in the plan of operation submitted for Plan Commission approval.

N. P-1 PARK AND RECREATION DISTRICT

1. STATEMENT OF INTENT

The **P-1 Park and Recreation District** is intended to provide for areas where the open space and recreational needs of the citizens of the Town can be met without undue disturbance of natural resources and adjacent uses.

2. USE REGULATIONS

a. Permitted Uses.

The following uses shall be permitted in the **P-1 Park and Recreation District**, subject to the approval of the building, site, landscape and operational plans by the Town Board following recommendations by the Plan Commission and Park and Recreation Committee:

- (1) Botanical gardens and arboretums.
- (2) Public golf course.
- (3) Hiking, nonmotorized biking and nature trails.
- (4) Historic monuments or sites.
- (5) Nature preserves.
- (6) Neighborhood tot lots.
- (7) Outdoor skating rinks.
- (8) Parks and playgrounds.
- (9) Picnicking areas.
- (10) Play fields or athletic fields.
- (11) Swimming beaches.
- (12) Swimming pools.
- (13) Tennis courts.
- (14) Other recreational uses similar in nature.
- (15) Grazing.
- (16) The harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
- (17) Hunting and fishing unless prohibited by other ordinances or laws.

- (18) Sustained yield forestry and tree farms.
- (19) The following uses may be permitted, subject to approval of the Plan Commission after consideration of the building, site and operational plans:
 - (a) Normal crop farming consistent with the preservation of the District's character.
 - (b) Public, or private group outdoor recreation facilities whether commercial or noncommercial.
 - (c) Substations and other utility installations.
 - (d) Sewage treatment plants.

b. Permitted Accessory Uses

- (1) Buildings accessory to the permitted use.

3. BUILDING LOCATION

- a. **Setback** 100 feet minimum.
- b. **Offset** 50 feet minimum.

4. BASE HEIGHT REGULATIONS

- a. **Any Building** 25 feet.

5. AREA REGULATIONS

- a. **Lot Size**
Minimum area shall be 1 acre.
- b. **Lot Width**
Minimum lot width shall be 150 feet.
- c. **Floor Area**
There shall be no minimum floor area.
- d. **Open Space** (rep & rec 2019-04)
Ninety percent (90%) of each lot shall remain as open space except as follows: (1) the footprint of rustic structures shall not be counted as impervious area in the open space calculation.

O. WF-1 WETLAND-FLOODPLAIN DISTRICT

1. STATEMENT OF INTENT

The WF-1 Wetland-Floodplain District is intended to protect environmentally sensitive wetlands and areas included in designated floodplains.

2. USE REGULATIONS

a. Permitted Uses

- (1) Grazing.
- (2) The harvesting of 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 and tree farms.
- (5) The following uses may be permitted, subject to approval of the Plan Commission after consideration of the building, site and operational plans:
 - (a) Normal crop farming consistent with the preservation of the wetland character.
 - (b) Public, or private group outdoor recreation facilities whether commercial or noncommercial.
 - (c) Substations and other utility installations.
 - (d) Sewage treatment plants.

b. Permitted Accessory Uses

- (1) Nonresidential structures used solely in conjunction with the raising of water fowl, minnows and other similar lowland animals, fowl or fish.
- (2) Outdoor recreational structures.
- (3) Any other structure or use normally accessory to the principal uses permitted.

3. BUILDING LOCATION

- a. **Setback** 100 feet minimum.
- b. **Offset** 100 feet minimum.

4. BASE HEIGHT REGULATIONS

- a. **Any Structure** 30 feet maximum.

5. AREA REGULATIONS

There shall be no minimum or maximum Area Regulations.

6. ADDITIONAL REGULATIONS

- a. The filling or drainage of marsh or wetlands, removal of topsoil or peat, the

creation of ponds, damming or relocating of any watercourse shall not be permitted except with the approval of the Plan Commission.

- b. Such approval may be granted only after determination by the Town Engineer and the Commission that the proposed alteration in the existing conditions will not create an adverse effect in terms of surface drainage, groundwater recharge potential, potential flooding, storage capacity of any floodland, sewage disposal or the value of the surrounding properties.
- c. Where any such approved alteration of the existing conditions in Wetland-Floodplain District results in eliminating the Wetland-Floodplain characteristics, the corrected District boundaries shall be established by processing a zoning map change for such revised boundary and proposed new District classification for the reclaimed lands.

P. C-1 UPLAND ENVIRONMENTAL CORRIDOR OVERLAY DISTRICT (created 05-003)

1. STATEMENT OF INTENT.

The Upland Environmental Corridor Overlay District is intended to be used to preserve, protect, enhance, and restore significant woodlands, upland wildlife habitat areas, scenic overlooks, slopes exceeding 12%, and upland wooded areas, while also affording an opportunity to use the site for limited residential purposes. The Upland Environmental Corridor Overlay District superimposes certain additional restrictions and requirements upon a basic underlying zoning district without disturbing the requirements of the basic district. When there is a conflict in requirements, the more strict requirements shall apply.

2. USE REGULATIONS.

a. Permitted Uses:

- (1.) Any uses permitted in the WF-1 Wetland-Floodplain District.
- (2.) Single family dwellings.
- (3.) Keeping poultry and domestic livestock, if allowed in the underlying zoning district, except that the keeping of hogs, male goats or fur bearing animals shall not be permitted on less than twenty (20) acres.

b. Permitted Accessory Uses:

The following accessory buildings and uses, subject to the conditions specified and if allowed in the underlying zoning district.

- (1.) Private garages, when located on the same lot, and not involving the conduct of a business; provided, however, that no private garage shall be erected unless that principal building to which such garage is an accessory use has been erected or is to be erected simultaneously with said garage.

3. **BUILDING LOCATION.**

- a. **Setback:** In accordance with the underlying zoning district.
- b. **Offset:** In accordance with the underlying zoning district.

4. **BASE HEIGHT REGULATIONS.**

- a. **Principal Building:** In accordance with the underlying zoning district.
- b. **Accessory Building:** In accordance with the underlying zoning district.

5. **AREA REGULATIONS.**

- a. **Floor Area:** In accordance with the underlying zoning district
- b. **Lot Size:**
 - (1.) Minimum area: the overall density of parcels lying entirely within the Upland Environmental Corridor shall not be less than one dwelling unit per five (5) acres of corridor area, with no lot area being less than 30,000 square feet size. On parcels which contain area outside of the environmental corridor or partially within the environmental corridor and in a zoning category requiring less than a five (5) acre lot, the five (5) acre density requirement shall not apply and the lot can be the size required for that zoning category as long as any earth altering activity and/or building envelopes are located outside of the corridor area and appropriately restricted as such on the face of the Certified Survey Map, Subdivision Plat or other appropriate matter and recorded in the office of the Register of Deeds. The overall goal of this requirement is to obtain a maximum density of building activity within the environmental corridor of not more than one (1) dwelling unit for each five (5) acres of environmental corridor lands.
- c. **Preservation of Open Space:**
 - (1.) For parcels lying entirely within an Upland Environmental Corridor Zoning District, all earth altering activities and vegetative removal shall comply with the following performance standards:
 - A. **Building Sites:** Land disturbance shall be limited to an area extending no more than twenty-five (25) feet from three sides of the Development Envelope, and 35 feet from the fourth side of the Development Envelope, as defined by this Code.
 - B. **Drives and accesses:** Land disturbance shall not exceed twenty feet in width extending from the edge of roadway to the area of Development Envelope disturbance.
 - C. **Sanitation:** Private on-site sanitary systems in approved locations and required to serve permitted uses of the property shall be permitted in addition to the Development Envelope performance standards described herein

- (2.) For parcels which lie partially within and partially outside of the environmental corridor, the area of disturbance shall be limited to the area outside of the upland environmental corridor unless otherwise permitted by a Development Envelope on the certified survey map, subdivision plat or other document so designated by the Town Plan Commission. In instances where drives and accesses are required to extend through the upland environmental corridor in order to reach an approved Development Envelope outside of the upland environmental corridor, all such drives and accesses shall not exceed twenty feet in width within the corridor.

17.04 5. Q PLO PEWAUKEE LAKE NON-SHORELINE REDEVELOPMENT OVERLAY DISTRICT (created 05-003)

1. STATEMENT OF INTENT.

The Pewaukee Lake Redevelopment Overlay District is intended to be used to promote the redevelopment of off-lake lands, which are proximate to Pewaukee Lake, through the consolidation of parcels and reconfiguration of buildable lands, where the application of modern site development standards to off-lake properties is hindered by their original and obsolete platting. Obsolete platting characteristics include faulty lot layouts in relation to size, adequacy, accessibility and usefulness. When there is a conflict in requirements, the more strict requirements shall apply.

2. USE REGULATIONS.

- a. **Permitted Uses:** In accordance with the underlying zoning district.
- b. **Permitted Accessory Uses:** In accordance with the underlying zoning district.

3. BUILDING LOCATION.

- a. **Setback:** In accordance with the underlying zoning district.
- b. **Offset:** In accordance with the underlying zoning district.

4. BASE HEIGHT REGULATIONS.

- a. **Principal Building:** In accordance with the underlying zoning district.
- b. **Accessory Building:** In accordance with the underlying zoning district.

5. AREA REGULATIONS.

- a. **Floor Area:** In accordance with the underlying zoning district
- b. **Lot Size:** In accordance with the underlying zoning district.
- c. **Preservation of Open Space:** In accordance with the underlying zoning district.

SECTION 17.05

CONDITIONAL USES

(repealed and recreated 2019-04)

1. APPROVAL REQUIRED.

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

2. BASIS OF APPROVAL.

The determination of such conditional use by the Town Board shall be based on whether or not the proposed use will violate the spirit or intent of the chapter; be contrary to the public health, safety or general welfare; be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factor; or for any other reason cause an adverse effect on the property values and general desirability of the neighborhood. Except as may be specifically otherwise provided, any such use shall conform to the building location, height, area, yards, parking, loading, traffic and highway access regulations of the district in which it is located and the approving body may require compliance with such other conditions as may be deemed necessary in the specific situation in addition to any which may be herein stated. The location, building plan, site plan, and plan of operation shall be in sufficient detail to enable the Town to make its determination as to the appropriateness of the proposed grant of conditional use. The Town may take into consideration architectural and landscape treatments. Satisfactory provision shall be made for parking and circulation needs, for drainage and sewage disposal, for adequate planting screen where necessary, for operational control devices where necessary to eliminate noise, dust, odor or smoke; and such other factors as would be pertinent to such determination. Variances shall only be granted as provided in section 17.10 of this Chapter.

3. PROCEDURE.

A. Petition.

A request for grant of conditional use status shall be submitted in writing to the Town Clerk who shall promptly refer such petition to the Plan Commission for recommendation.

B. Data Required.

Such petition shall be accompanied by appropriate data and information necessary for proper evaluation of the request including specifically the following:

1. Names, addresses and phone numbers of the applicant, owner of the site, architect, engineer, and contractor.
2. The site legal description, location, zoning district, building and site plans, and plan of operation.

3. An accurate map of the property drawn to a reasonable scale, including indication of general terrain and topographic characteristics, the location of all significant terrain features such as streams, ponds, tree growth, etc., and the location of all existing structures.
4. An accurate and complete written description of the use for which conditional grant is being requested including pertinent statistics and operational characteristics (plan of operation).
5. An accurate and complete description of the current use of existing building and land.
6. Plans and other drawings showing proposed development of the site and buildings including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc.
7. The names and complete mailing address, including zip code of the owners of all properties within 300 feet of any part of the land included in the proposed use.
8. Any other pertinent information required by the Code Enforcement Officer, Town Engineer, Plan Commission or Town Board as set forth in forms supplied by the Town including percolation test results and well water data.
9. The person applying for a conditional use permit shall certify on the application that the information contained therein is accurate and complete to the best of that person's knowledge.

C. Public Hearing.

Within a reasonable time after an application and all required information has been filed, a public hearing shall be held by the Town Board jointly with the Plan Commission pursuant to section 17.10 of this chapter. Within 40 days after the public hearing and all investigation, the Plan Commission shall make a recommendation to the Town Board unless the time is extended by the Petitioner.

D. Fee.

Any petition shall be accompanied by a fee as set from time-to-time by the Town Board to defray the cost of notification and holding of public hearing. Costs incurred by the Town in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be improved shall be charged to the Petitioner.

4. DETERMINATION.

The Town Board shall make a decision on the application within a reasonable time after receipt of the Plan Commission recommendations. Said decision shall be stated in writing and a copy made a permanent part of the Town records. If conditional use status is not granted, the reasons therefor will be included in such record. A grant of conditional use status, subsequent changes or additions thereto and terminations thereof shall be in accordance with the following:

A. Recording.

1. An official record of such conditional grant shall be prepared by the Town Clerk on a form prescribed therefor which shall include the description of the use for which the grant is given and all conditions attached thereto as well as a copy of the resolution of the Town Board approving the grant. A copy of the completed form shall be recorded at the Waukesha County Register of Deeds as a covenant on the title for the premises for which the conditional use was granted.
2. The occupancy permit shall be appropriately noted as to the conditional status granted.
3. Indication shall also be made on the zoning map by appropriate code number or symbol.

B. Changes or Additions.

Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Plan Commission and, if in the opinion of the Plan Commission, such change or addition constitutes a substantial alteration, a public hearing before the Plan Commission shall be required, and notice thereof be given pursuant to this Chapter.

C. Conditions.

Conditions such as landscaping, architectural design, type of construction, floodproofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.

D. Termination.

Where a conditional use does not continue in conformity with the conditions of the original approval, or where it appears that the information shown on the Petitioner's application was not accurate or complete, or where a change in the character of the surrounding area or of the use itself causes it to be no longer compatible with surrounding areas or for any cause based upon consideration for the public welfare, the conditional grant may be terminated by action of the Town Board following referral to the Plan Commission for public hearing and recommendation thereon.

E. Standard Conditional Use Conditions.

The standard conditions listed below are automatically incorporated into the terms of a Conditional Use Permit issued under this section, unless otherwise stated in the Conditional Use Permit.

1. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Town Plan Commission for determination.
2. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing

body, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Town ordinance or other law.

3. This conditional use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Town Plan Commission as being in compliance with all pertinent ordinances.
4. All buildings and grounds shall be maintained in a neat, attractive and orderly way.
5. The property shall comply with all rules and regulations of the Town of Delafield and the local Fire Department, including submission to routine inspections by Town and Fire Department staff.
6. The site shall meet all Waukesha County storm water requirements and gain Waukesha County stormwater management plan approval prior to the execution of the Conditional Use Permit, if said site meets the applicability criteria found in Section 14.333 of the Waukesha County Stormwater ordinance
7. Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to Town, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Town Plan Commission, pursuant to the enforcement provisions of this Conditional Use Order, and all applicable ordinances.
8. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises (including but not limited to any change to the boundary limits of the subject property), structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
9. Unless this conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Town Plan Commission if the Town Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Town Plan Commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.
10. Petitioner and Owner Agreement. As a condition precedent to the issuance of the conditional use permit, the owner of the Subject Property shall approve the issuance of this conditional use permit upon the terms and conditions described herein in writing, and the Petitioner is required to accept the terms and conditions of the same in its entirety in writing.
11. Professional fees. Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this application, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Town is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.

12. Payment of charges. Any unpaid bills owed to the Town by the Subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of billing by the Town, pursuant to section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of this approval.
13. Current Address. The Petitioner is obligated to file with the Town Clerk a current mailing address and current phone number at which the Petitioner can be reached, which must be continually updated by the Petitioner if such contact information should change, for the duration of this conditional use. If the Petitioner fails to maintain such current contact information, the Petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.
14. Conditions Shown in Minutes Incorporated. All conditions of approval imposed by duly adopted motion of the Town Board in its consideration of the Petitioner's application, as noted in the Minutes of the Town Board meeting at which approval was granted, are specifically incorporated herein by reference.
15. Should any paragraph or phrase of this conditional use permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use and the remainder shall continue in full force and effect.
16. If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Town Plan Commission.

F. Performance Standards.

1. It is the intent of this Section to describe performance standards for the regulation of uses and to establish an objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All structures, lands, air and water shall hereafter comply with the following performance standards.
2. **Control of Odors**

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor. The Plan Commission reserves the right to request an odor control plan from the applicant to identify potential odors and implement recommendations from the plan.
3. **Control of Fire and Explosive Hazards**
 - a. All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices as may be required by the Fire Prevention Code.
 - b. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and

an automatic fire extinguishing system.

- c. The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the Town of Delafield Fire Department and in accord with their requirements to minimize fire and explosive hazards.

4. Glare, Heat and External Lighting

- a. No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the property line. Operations producing light, glare, or heat shall be conducted within an enclosed building.
- b. External lighting shall be shielded so that light rays do not adversely affect adjacent uses.

5. Water Quality Standards

- a. No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.
- b. No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate water quality.

6. Noise

No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.

7. Vibration

- a. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- b. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

8. Traffic Impact

- a. The Plan Commission reserves the right to require a traffic impact study in order to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements the conclusions and recommendations of the study unless otherwise approved by the Plan Commission. The traffic study shall be prepared by a registered professional engineer in accordance with the following standards:

- Manual on Transportation Studies (Institute of Transportation Engineers (ITE))

- Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
- Manual on Uniform Traffic Control Devices (Federal Highway Administration)
- Trip Generation Manual (Institute of Transportation Engineers)
- Other local, county or state standards

5. 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 further that a public hearing pursuant to this Chapter shall be held before approval for any such conditional use is granted.

A. Animal Hospitals and Kennels. This provision does not apply to hobby kennels as defined by section 17.02. Hobby kennels are separately provided for in this chapter.

1. **Where Permitted.** Subject to the provisions of subsection 2. animal hospitals and kennels, are conditional uses which may be permitted in the following districts:

Animal Hospitals

A-1 Agricultural District
B-2 Shopping Center District
M-1 Industrial District
B-3 Business Park District

Kennels

A-1 Agricultural District
A-2 Rural Home District
M-1 Industrial District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to animal hospitals or kennels unless all of the following standards are met:

- a. Except for animal hospitals, no such use shall be permitted on a lot less than 5 acres in area.
- b. No building other than one used only for residential purposes shall be closer than 75' to the lot line of an adjoining lot in a district permitting residential use.
- c. Any building having indoor kennels shall be adequately soundproofed.
- d. The facility shall be maintained in a sanitary condition. Plan shall be submitted and approved for waste removal and method of addressing odors.
- e. Dogs allowed to be in outside kennels or fenced in play areas shall be at least 150 feet from any property line.
- f. Dogs taken outside the kennel area or fenced in play area (e.g. for a walk) shall be on a leash and shall remain on the property.
- g. Drop off and pick-up times shall be between 6 am and 10 pm.
- h. Traffic circulation shall be designed to minimize light and sound to adjacent landowners.

B. Bed and Breakfast Establishments.

1. **Where Permitted.** Subject to the provisions of subsection 2., bed and breakfast establishments are conditional uses which may be permitted in the following districts:

R-1 Residential District
R-2 Residential District
R-L Residential Lake District
A-1 Agricultural District
A-2 Rural Home District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to bed and breakfast establishments unless all of the following standards are met:

- a. Use of the facility as a bed and breakfast establishment automatically terminates a transfer or sale of property.
- b. All bed and breakfast establishments shall be subject to and comply with Wisconsin Administrative Code HSS 197 which is hereby incorporated by reference. Any future amendments, revisions or modifications of the current or future codes incorporated herein are intended to be a part of this Code in order to secure uniform statewide regulation of bed and breakfast establishments.
- c. Each bed and breakfast establishment shall be required to keep a register and require all guests to sign such register using their actual names and address before being assigned quarters. The register shall be available for inspection by the Police Department and Code Enforcement Officer for a period of not less than one year.
- d. No guest may be permitted to occupy space in a bed and breakfast establishment for a longer period than fourteen (14) consecutive days.
- e. A minimum of one off-street parking stall is provided for every guest bedroom with a minimum of two additional for the owner/proprietor. All parking areas meet the size requirements of the Town Code and must be hard-surfaced and maintained in a reasonably dustless condition. The parking areas abutting residential properties is screened from view using a minimum 6' high solid fence or comparable screening. No off-street parking shall be allowed within the front yard setback area and shall be a minimum of 3' from any side yard property line.
- f. Sign proposed meets Town sign code requirements.
- g. Every bed and breakfast establishment shall be properly addressed with numbers on the front of the structure, a minimum of 5" high and of contrasting color so as to be visible from the street.
- h. The applicant shall provide evidence that the proposed use will not impact the surrounding neighborhood and proximity to any existing bed and breakfast establishment.
- i. Applicant has received an occupancy permit and is in compliance with all state and local regulations and ordinances.

- j. Use of the bed and breakfast facility for any special gathering (i.e. wedding receptions, parties, etc.) is prohibited.
- k. The owner of a bed and breakfast shall live on the premises.
- l. All refuse containers shall be screened from view.

C. Churches, Synagogues and Other Buildings for Religious Assembly.

1. **Where Permitted.** Subject to the provisions of subsection 2., churches, synagogues, or other buildings for religious assembly are conditional uses which may be permitted in the following districts:

R-1 Residential District
 R-1 A Residential District
 R-2 Residential District
 R-3 Residential District
 R-L Residential Lake District
 A-1 Agricultural District
 A-2 Rural Home District
 A-3 Suburban Home District
 B-1 Restricted Business District
 B-2 Shopping Center District
 B-3 Business Park District
 M-1 Industrial District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to churches, synagogues or other buildings for religious assembly unless all of the following standards are met:

- a. The structure conforms to double the offset requirements of the district in which it is located; however, no building shall be closer than 75' to the lot line of an adjoining lot in a district permitting residential use.
- b. The height limitation of the district in which the use is located does not exceed 50' provided the minimum required setback and offsets shall be increased 2' for every additional foot of height in excess of the permitted maximum in that district. The aforesaid height regulation shall not apply to the spire or belfry of a church except where airport safety zone regulations specifically limit the maximum height.
- c. The open space for the facility shall be a minimum of 50%.
- d. Site meets Town parking requirements.
- e. Access locations meet site distance requirements.
- f. A traffic study shall be prepared by a registered professional engineer to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements

the conclusions and recommendations of the study unless otherwise waived by the Plan Commission. The traffic study shall be prepared in accordance with the following standards:

- Manual on Transportation Studies (Institute of Transportation Engineers (ITE))
 - Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
 - Manual on Uniform Traffic Control Devices (Federal Highway Administration)
 - Trip Generation Manual (Institute of Transportation Engineers)
 - Other local, county or state standards
- g. The lot is at least 3 acres in area, except that this area requirement shall not apply in the following districts:
- B-1 Restricted Business District
B-2 Shopping Center District
B-3 Business Park District
M-1 Industrial District
- h. No lighting installations shall be permitted which create a hazard to traffic or nuisance to surrounding property. The use of flashing or revolving spot lights and the like, other than traffic control lights, are specifically prohibited.

D. Commercial Planned Unit Development

1. **Where Permitted.** Subject to the provisions of subsection 2. commercial planned unit developments are conditional uses which may be permitted in the following districts:

B-2 Shopping Center District
B-3 Business Park District
M-1 Industrial District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to a commercial planned unit development unless all of the following conditions are met:

- a. No structures or sewage disposal systems shall be allowed in the Wetland-Floodplain District or within 75' of the district.
- b. A minimum amount of permanent common open space shall be set aside in each development as shown in Table 17-1.
- c. The unified and planned development of a site, in single or corporate ownership at the time of development, may be permitted in a planned development without the customary division into individual lots and without requiring strict compliance with the specific district regulations, subject to the requirements of this section. In order to accomplish this intended unified planned development, the Town shall consider all structures and uses on the entirety of each Lot that is included, or included in part, within the jurisdiction of the Town of Delafield Zoning ordinance, in the development. By petitioning for a Commercial Planned Unit Development conditional use, the

petitioner accepts that the Town will exercise this authority, even on portions of Lots that may be partially outside of the Town of Delafield's zoning jurisdiction.

- d. Approval of a development shall be in accordance with the following conditions:
- (1) All sanitary provisions must conform to the requirements of the State Department of Commerce, the Waukesha County Health Department, the local sanitary district and the Town;
 - (2) The proposed development must be in conformity with the Town comprehensive plan, must not be contrary to the general welfare or economic balance of the community and the benefits and amenities of the resultant development must justify the variation from the normal requirements of the district in which it is located as determined by the Town Board
 - (3) The provisions of sections 18.06 and 18.07 of this General Code shall govern the design and construction of all roads and public improvements. Any modification of these standards must be consistent with good engineering practices and be approved in writing by the Town Board;
 - (4) The provisions of section 18.07 shall govern with respect to dedication of public sites or payment in lieu of dedication; and
 - (5) The application of these regulations shall be limited to parcels of not less than 10 acres in area.
- e. Table 17-1 shall be utilized to determine the minimum amount of open space per development, minimum permanent common open space, minimum lot size and minimum open space per lot to be utilized for the development of a commercial planned unit development and associated platting of lots in the planned unit development:

TABLE 17-1

District	Title	Minimum Open Space for Development Area	Minimum Permanent Common Open Space	Minimum Individual Lot Size	Minimum Open Space Per Lot
B-2	Shopping Center District	50%	25%	2 acres	25%
B-3	Business Park District	75%	40%	2 acres	25%
M-1	Industrial District	60%	35%	2 acres	25%

- f. Lot width, setback, offsets and height shall follow the regulations found for each zoning district in 17.04.
- g. Adequate guarantee shall be provided for permanent retention of open space resulting from these regulations, either by private reservation for use of the building or property

owners within the development or by public dedication. Any lot containing permanent common open space shall be owned in common by the owners of the properties that make up the development or by a business owners association and shall not be further divided nor shall they be used for residential, commercial or development purposes. Buildings or structures 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 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.

- h. A traffic study shall be prepared by a registered professional engineer to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements the conclusions and recommendations of the study, unless otherwise waived by the Plan Commission. The traffic study shall be prepared in accordance with the following standards:
 - Manual on Transportation Studies (Institute of Transportation Engineers (ITE))
 - Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
 - Manual on Uniform Traffic Control Devices (Federal Highway Administration)
 - Trip Generation Manual (Institute of Transportation Engineers)
 - Other local, county or state standards
- i. Public sanitary sewer shall be available to service the development. If approved by the Town Board and, if applicable, the Waukesha County Environmental Health Department and local sanitary district, a private sewerage disposal system may be accepted as an alternative to the public facility required.
- j. The developer shall submit a development plan and enter into an appropriate contract with the Town to guarantee the implementation of the development according to the terms and conditions established as part of the development plan approval.
- k. The Plan Commission in making its recommendation and the Town Board in making its determination as to the approval or denial of the conditional use permit for the commercial planned unit development shall give consideration to the purposes in this section and be satisfied as to the following:
 - (1) That the proposed development is consistent with the spirit and intent of the chapter, 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, but rather that the benefits from the anticipated improved design of the resultant development justifies the variation from the normal requirements of this chapter through the application of this planned development section.
 - (2) 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.

- (3) That the provisions and facilities of the open space areas being provided is of such quality, size and aesthetic value to justify the approval of the project.
 - (4) That the setbacks shall be maintained along any boundary street of the project area as required by the existing underlying basic district.
 - (5) That no building shall be permitted closer to a side or rear boundary street of the project area as required by the existing underlying basic district.
 - (6) That there shall be no further division of any lot within the development without consideration and approval of a new conditional use permit.
 - (7) That deed restrictions or an appropriate contract with the Town assuring implementation of the development according to the above requirements is filed with the Waukesha County Register of Deeds.
- l. The approval of a petition for conditional use shall be based on and include as conditions thereto the building, site and 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 as presented for the project. After all conditions of a planned unit development project are certified by the Town Board as being completed, the uses established pursuant to the approved development plan and conditional use order shall be deemed to be permitted uses in the district in which it is located; however, the conditional use order shall remain in effect for purposes of ongoing compliance with the development plan.
 - m. Any subsequent change or addition to an approved development plan shall first be submitted for approval to the Plan Commission and, if in the Commission's opinion such change or addition is not substantial, it may recommend approval to the Town Board without public hearing. If the Plan Commission deems that any proposed change is not acceptable, it shall recommend accordingly to the Town Board. Without limitation to the Plan Commission's right to determine any other change substantial, a change in any of the following respects shall be automatically construed as substantial:
 - (1) An increase in the number of buildings from that shown in the approved comprehensive project plan.
 - (2) A significant change in the size, value or type of structure from that indicated in the approved comprehensive project plan.
 - (3) The addition of any principal uses not included in the approved comprehensive project plan.
 - (4) A change in the basic concept of site development which would significantly alter the relationship of uses or open space to adjoining properties.
 - (5) Change of ownership.

E. Conversion.

1. **Where Permitted.** Subject to the provisions of subsection 2., conversion of the use of barns and farm buildings for the storage of machinery, equipment, vehicles, boats, furniture and similar items are conditional uses which may be permitted in the following districts

A-1 Agricultural District
A-2 Rural Home District
A-E Exclusive Agricultural
M-1 Industrial District

2. **Standards Under Which Permitted.**

Conditional use status will not be granted to any conversion of the use of barns or farm buildings for the storage of machinery, equipment, vehicles, boats, furniture and similar items unless all of the following standards are met:

- a. Use shall be on lots of 10 acres or more.
- b. Buildings shall consist of the buildings as now exist on the premises. No additional buildings or additions may be made without the express approval of the Town in accordance with the terms of the applicable ordinances.
- c. A signed and sealed plat of survey shall be submitted detailing the size and offsets of all existing buildings.
- d. Access shall be from a public street.
- e. There shall be no storage outside.
- f. Water supply facilities and septic system, if any, shall be in accordance with the rules of the Waukesha County Division of Health and Department of Industry, Labor and Human Relations.
- g. Noise after the conversion shall be no greater than the noise level prior to the conversion.
- h. No commercial signs permitted.
- i. Site shall be landscaped prior to issuance of an occupancy permit.
- j. Hours and days of operation shall be no more than 7:00 AM to 7:00 PM, Monday through Sunday.
- k. No more than 20 drop-offs or withdrawals of allowed storage items per week.

F. Elderly Housing Units.

1. **Where Permitted.** Subject to the provisions of subsection 2., elderly housing units are conditional uses which may be permitted in the following districts:

R-1 Residential District
R-1(A) Residential District
R-2 Residential District
R-3 Residential District
R-L Residential Lake District
A-1 Agricultural District
A-2 Rural Home District
A-3 Suburban Home District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to elderly housing units unless all of the following conditions are met:

- a. The minimum lot area shall be 20,000 sq. ft.
- b. The minimum unused lot area per dwelling unit shall be 1500 sq. ft. This shall not include parking spaces or buildings.
- c. Side yard and rear yard setbacks shall be a minimum of 10' on each side and the road setback requirement shall be maintained.
- d. There shall be a minimum living area of 400 sq. ft. for an efficiency apartment, 550 sq. ft. for a one bedroom apartment and 750 sq. ft. for a two bedroom apartment. No dwelling unit shall have more than two bedrooms.
- e. There shall be one covered parking space per dwelling unit.
- f. Multi-story housing for the elderly shall be provided with elevators.
- g. Restrictions shall be placed on the development consistent with State and Federal regulations governing elderly housing.
- h. In the case of phased development of an elderly project as defined, the developer shall present evidence to the Plan Commission that at least 50% of all previous phases are occupied.

G. Group Day Care Center.

1. **Where Permitted.** Subject to the provisions of subsection 2., group day care centers are conditional uses which may be permitted in the following districts:

R-1 Residential District
R-1A Residential District
R-2 Residential District
R-3 Residential District
R-L Residential Lake District
B-1 Restricted Business District
B-2 Shopping Center District
B-3 Business Park District

A-1 Agricultural District
A-2 Rural Home District
A-3 Suburban Home District
M-1 Industrial District

2. **Standards Under Which Permitted.**

- a. Conditional use status shall not be granted to a group day care center unless the property owner's written permission is obtained and submitted as part of the conditional use permit application.
- b. The facility may not open until proof of licensure from the State of Wisconsin is provided to the Town Clerk.
- c. Access to the site meets WisDOT site distance standards.
- d. Drop-off and pick-up areas can accommodate projected traffic.
- e. Parking stalls are provided for employees in accordance with Section 17.09 I. of the Town Code.

H. Hobby Kennels.

1. **Where Permitted.** Subject to the provisions of subsection 2., a hobby kennel, as defined in section 17.02, is a conditional use which may be permitted in the following districts:

R-1 Residential District
R-1A Residential District
R-2 Residential District
R-3 Residential District
R-L Residential Lake District
A-1 Agricultural District
A-2 Rural Home District
A-3 Suburban Home District
A-E Exclusive Agricultural District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to a hobby kennel unless all of the following standards are met:

- a. The applicant must provide an annual report that they meet the standards herein, summary of complaints, if any and any changed conditions in the neighborhood.
- b. The lot must be at least 1 1/2 acres in area.
- c. Applicant shall provide a signed and sealed plat of survey showing the location of all features on the lot, adjacent structures, outdoor kennel location, fences and areas where household pets will be let out.

- d. Plan shall be submitted to address household pets that get out of the kennel.
- e. Plan shall be submitted detailing safety measures to be taken to assure that household pets do not run loose in the area.
- f. The kennel must be a minimum of 50' from the closest lot line.
- g. No more than 3 household pets shall be permitted on a 1 1/2 acre site, plus 2 household pets per additional acre up to 10 household pets maximum.

I. Intermediate Day Care Home.

1. **Where Permitted.** Subject to the provisions of subsection 2., intermediate day care homes are conditional uses which may be permitted in the following districts:

R-1 Residential District
 R-1(A) Residential District
 R-2 Residential District
 R-3 Residential District
 R-L Residential Lake District
 A-1 Agricultural District
 A-2 Rural Home District
 A-3 Suburban Home District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to an intermediate day care home unless all of the following conditions are met:

- a. The lot is at least 7200 square feet in area.
- b. A minimum of 140 square feet of living space per child is provided.
- c. A minimum of 100 square feet of fully enclosed outside play area shall be provided per child at maximum permitted occupancy.
- d. Conditional use status shall not be granted to a group day care center unless the property owner's written permission is obtained and submitted as part of the conditional use permit application.
- e. The facility may not open until proof of licensure from the State of Wisconsin is provided to the Town Clerk.
- f. Access to the site meets WisDOT site distance standards.
- g. Drop-off and pick-up areas can accommodate projected traffic.
- h. Parking stalls are provided for employees in accordance with Section 17.09 I. of the Town Code.

J. Keeping of Poultry or Livestock.

1. **Where Permitted.** Subject to the provisions of subsection 2., the keeping of poultry or livestock is a conditional use which may be permitted in the following districts:

A-2 Rural Home District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to the keeping of poultry or livestock unless all of the following standards are met:

- a. The keeping of poultry, other than chickens, fowl and domestic livestock must be on lots of 3 acres or more.
- b. Maximum practical conditions of neatness and sanitation are maintained and all fowl are kept confined or enclosed.
- c. Not more than one head of livestock or ten fowl shall be kept per acre of land except where such use existed prior to the date of the chapter as principal commercial or agricultural use, such use may be continued subject to the limitations regulating a nonconforming use as regulated by this chapter.

The keeping of hogs, male goats or furbearing animals must be on lots of 20 acres or more.

K. Legal Nonconforming Uses.

Where Permitted. Subject to the provisions of Section 7 of this Chapter, a legal nonconforming use may be granted conditional use status in the district in which it is located subject to submitting a petition under this section.

L. Master Sign Program.

1. **Where Permitted.**

A-1 Agricultural District
A-E Exclusive Agricultural District
A-2 Rural Home District
B-1 Restricted Business District
B-2 Shopping Center District
B-3 Business Park District
M-1 Industrial District
P-1 Park and Recreation District
WF-1 Wetland-Floodplain District

2. **Standards Under Which Permitted.**

- a. All signs shall be uniform in theme, size, color and style.

- b. Use shall be for multi-tenant operations, office parks, industrial parks, multi-tenant office and retail buildings, and commercial developments that include separate commercial activities.
- c. Applicant shall provide mock ups of all signs and include dimensions, area, colors, height, material, method of attachment, lighting and site plan with location shown.
- d. The requirements of Section 17.08 may be modified by the express terms of the Master Sign Program conditional use order.

M. Private Clubs and Outdoor Recreational Facilities Such as Recreational Camps, Golf Courses, Bathing Beaches and Resorts.

- 1. **Where Permitted.** Subject to the provisions of subsection 2., private clubs and outdoor recreational facilities such as recreational camps, golf courses, bathing beaches and resorts are conditional uses which may be permitted in the following districts:

All Districts.

- 2. **Conditions Under Which Permitted.**

Conditional use status shall not be granted to private clubs or outdoor recreational facilities such as recreational camps, golf courses, bathing beaches and resorts unless all of the following conditions are met:

- a. The lot is at least 3 acres in area, except that this area requirement shall not apply in the following districts:
 - B-1 Restricted Business District
 - B-2 Shopping Center District
 - B-3 Business Park District
 - M-1 Industrial District
- b. No building, other than one used only for residence purposes, shall be closer than 75' to the lot line of an adjoining lot in a district permitting residential use.
- c. 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.
- d. No lighting installations shall be permitted which create a hazard to traffic or nuisance to surrounding property. The use of flashing or revolving spot lights and the like, other than traffic control lights, are specifically prohibited.

N. Quarrying.

- 1. **Where Permitted.** Subject to the provisions of subsection 2., quarrying, as defined in this chapter, is a conditional use which may be permitted in the following districts:

M-1 Industrial District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to a quarrying operation unless all of the following standards are met:

- a. A quarrying permit for such operation must be obtained from the Town Board. Such permit shall be for an initial period as is deemed appropriate to the specific situation but not to exceed 5 years and may be renewed thereafter for periods not to exceed 3 years provided application therefor shall be made at least 60 days and no more than 120 days before expiration of the original permit. Application after such date shall be treated as an original application.
- b. Application for a quarrying permit shall be made on forms supplied by the Town Clerk.
- c. The application for a quarrying permit shall be accompanied by: a fee as set from time to time by the Town Board to defray the cost of notification and holding of public hearing; a full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation; where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made part of the description; a legal description of the proposed site with a map showing its location with indications of existing or proposed private access roads, and of existing or proposed public highways adjacent to the site which will be affected by the operation; a topographic map of the area at a minimum contour interval of 5' extending beyond the site to the nearest public street or highway or to a minimum distance of 300' on all sides; a restoration plan as required by subparagraph d. below; the names and addresses of the owners of all properties within 1/2 mile of the perimeter of the proposed quarrying operation.
- d. In order to insure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the Town Board a plan for such restoration in the form of the following:
 - (1) An agreement with the Town whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the Town;
 - (2) A physical restoration plan showing the proposed contours after restoration, plantings and other special features of restoration and the method by which such restoration is to be accomplished;
 - (3) A certified check or other financial guarantee satisfactory to the Town, in an amount sufficient in the opinion of the Town Board to secure the performance of the restoration agreement;
 - (4) Such agreement and financial guarantee shall be in a form approved by the Town Attorney;

- (5) In the event of the applicant's failure to fulfill this agreement, such bond, check or other financial guarantee shall be deemed forfeited for the purpose of enabling the Town to perform the restoration;
 - (6) Restoration shall proceed as soon as practicable and at the order and direction of the Town Engineer. 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 2 years;
 - (7) At any stage during the restoration, the plan may be modified by mutual agreement between the Town Board, after referral to the Plan Commission and the owner or operator;
 - (8) Where there is any backfilling, the clean material used or the method of fill shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility or unsightliness. No more than 10 loads per day shall be allowed to dump clean fill into the site. 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 a sufficient depth of earth to support plant growth;
 - (9) Within one year after the cessation of the operation, all temporary structures (excepting fences), equipment, stockpiles, rubble heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition;
 - (10) In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of four horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.
- e. The application and all data and information pertaining thereto shall be referred to the Town Board for a joint public hearing with the Plan Commission, after which the Plan Commission shall provide a report and recommendation to the Town Board within a reasonable time after the public hearing.
 - f. Notices shall be sent through the mail or otherwise placed in the hands of all owners of land in the Town and to the Clerks of adjoining municipalities who have land which lies within 1/4 mile of the perimeter of the proposed quarrying operation. These notices shall be mailed or delivered at least 10 days prior to the date of hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient.
 - g. The Town Board shall, within a reasonable time after receipt of the recommendation, approve or disapprove the application for the proposed quarrying operation and shall be guided by consideration of the public health, safety and welfare and shall give particular consideration to the following factors in making their decision: the effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety and efficiency; the effect of the proposed operation on drainage and water supply; the possibility of soil erosion as a result of the proposed operation; the degree and effect on dust, noise, smoke and air pollution as a result of the proposed operation; the practical possibility of restoration of the site; the effect of the proposed operation on the natural

beauty, character, tax base, land value and land uses in the area; the most suitable land use for the area with particular consideration for future residential value.

- h. Any conditions necessary to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the Town.
- i. The procedures set forth above shall also apply to applications for renewal of a permit. Determination in regard to renewal shall be based particularly on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the Town.
- j. No part of the quarrying operation shall be permitted closer than 1,000', nor shall any accessory access road, parking area or office building be permitted closer than 500' to the district zoned Rural Home, Suburban Home or Residential at the time of the grant of the permit, except with the written consent of the owners of a Rural Home, Suburban Home or Residentially zoned properties within 1,000' but in no case shall such operation be permitted closer than 200' to a Residential District; no quarrying operation shall be permitted if 30 or more families reside within a band 1/2 mile wide around the perimeter of the proposed operation.
- k. No part of the quarrying operation other than access roads shall be located closer than 200' nor shall any accessory parking area, stock pile or office building be located closer than 100' to the base setback line along any street or highway.
- l. No part of the quarrying operation shall be permitted closer than 200', nor shall any accessory access road, parking area or office building be permitted closer than 50' to any property line except with the written consent of the owner of the adjoining property or except where the line is abutting an existing quarrying operation, but in no case shall such operation be closer than 20' to any property line except by agreement between abutting quarrying operations or be in conflict with the provisions of this chapter relating to preservation of topography.
- m. Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where, in the determination of the Town Board, such fencing or barrier is necessary for the protection of the public, and shall be of a type approved by the Town Board.
- n. All machinery and equipment used in the quarrying operation shall be constructed, maintained and operated in such a manner as to minimize dust, smoke, air pollution, noise and vibration.
- o. Access and haulage roads on the site shall be maintained in a dust free condition by surfacing or treatment as directed by the Town Engineer.
- p. The crushing, washing, refining or other 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.

- q. In stone quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be specifically authorized under the terms of the permit.
- r. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the quarrying operation may be permitted as an accessory use only as specifically authorized under the terms of the permit.
- s. The washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity or where the quantity of water required will, in the opinion of the Town Engineer, seriously affect the supply of water for other uses in the area or where the drainage from such washing would result in silting or pollution of the stream or water course.
- t. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Town Board to screen the operation so far as practical from normal view, to enhance the general appearance from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding country side. Such planting shall be started as soon as practical, but no later than one year after quarrying operations have begun and shall be done according to the decision of the Town Board.
- u. Quarrying operations shall not begin before the hour of 7 a.m. and shall not continue after the hour of 6 p.m. and no operation shall take place on Sundays or legal holidays. During periods of national or unusual emergency, time and hours of operation may be altered at the discretion of the Town Board and through the issuance of a special permit which shall be renewable at 30 day intervals.
- v. When the operation is limited to the removal of topsoil, the Town Board may, consistent with the intent of these regulations, modify any or all of the provisions of this section, provided however, that in no case shall operations be permitted closer than 10' from any property line, or to a depth in excess of 18" or so as to adversely affect the drainage of the area and in such instances the operator shall restore the excavated area with topsoil to a depth of 4" and seed the same with grass.
- w. The provisions of this section shall not apply to an operation which is incident to the legitimate use of the premises, provided, however, where such operation involves the commercial disposal of the material removed, approval of the Town Board shall be required and such operation shall be limited to a maximum period of 6 months.
- y. Application to existing operations:
 - (1) Within 60 days after the adoption of this chapter, all existing quarrying operations shall be required to register with the Town Clerk submitting pertinent data relative to the present operation including the boundaries of the actual operation and of the ownership. A quarrying permit shall be granted to such existing operation subject to compliance with the operation requirements herein where they can be reasonably applied under existing circumstances.

- (2) There shall be required within one year after adoption of this chapter, the submission of a plan for restoration of the site of any existing quarrying operation as provided by subparagraph d. above. The plan for restoration in such case shall not, however, impose requirements which are economically unreasonable or unreasonable from an engineering standpoint with respect to conditions resulting from operations prior to enactment of this chapter.
- (3) Within 3 years after the date of this chapter any such existing operation shall be required to make application for a renewal permit the same as for reapplication in the case of a new operation under this chapter.

O. Riding Academies or Commercial Stables.

1. **Where Permitted.** Subject to the provisions of subsection 2., riding academies and commercial stables are conditional uses which may be permitted in the following districts:

A-1 Agricultural District
A-2 Rural Home District
A-E Exclusive Agricultural District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to riding academies or commercial stables unless all of the following conditions are met;

- a. The lot is at least 7 ½ acres in area.
- b. Building location:
 - (1) All buildings shall comply with the setback and offset provisions of the underlying zoning district, except as provided below.
 - (2) No new building housing animals shall be closer than 100' to the lot line of an adjoining lot in a district permitting residential use. All other new buildings shall meet the offset and/or setback requirements of the zoning district in which they are located.
 - (3) Existing buildings constituting legal nonconforming structures may remain although their use may be restricted in the grant of permit.
 - (4) No existing building, except one designated as a rustic structure pursuant to Town ordinance, which is located closer than 100' to the lot line of an adjoining lot in a district permitting residential use, may be used to house animals except as may be specifically authorized in the grant of permit after review by the Plan Commission of the following factors:
 - the overall size of the property;
 - the nature of the building's use;
 - the intensity of the building's use, including the type and number of animals to be housed, and the hours and days of operation,

- the pattern and location of other activity on the property;
- the location and use of buildings on neighboring properties;
- the activities conducted on neighboring properties;
- the consent of neighboring property owners to the intended use; and, - provisions for manure storage and disposal.
- the location of the existing building in relationship with the adjacent property line.

Any such building may be reconstructed or enlarged only as specifically authorized in the grant of permit or an amendment thereto.

- c. 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.
- d. No lighting installations shall be permitted which create a hazard to traffic or nuisance to surrounding property. The use of flashing or revolving spot lights, are specifically prohibited.
- e. Applicant shall submit a manure management plan to Waukesha County Environmental Health Division and the Town for approval, which includes the following information and any other information required by Waukesha County:
 - (1) number and kind of animals
 - (2) scaled site plan
 - (3) detailed soil investigation with reference to ground water and bedrock presence
 - (4) details of any structures to be built for animal waste management
 - (5) construction timeline
 - (6) details of manure transfer system
 - (7) plans for utilization of the manure, including information on land availability, soil types, and methods and rates of application
- f. A lighting location and iso-footcandle plan shall be submitted showing cut-off type fixtures, pole types, height. Light at all property lines shall be 0 foot-candles.

P. Self-storage Facilities.

1. **Where Permitted.** Subject to the provisions of subsection 2., self-storage facilities as defined in Section 17.02, are conditional uses which may be permitted in the following district:

M-1 Industrial District

2. **Standards Under Which Permitted.**

Conditional use status will not be granted to a self-storage facility unless all of the following standards are met:

- a. Lot must be a conforming lot and shall be 3 acres or more.
- b. Building location, base height and area regulations shall be as provided for in the underlying M-1 zoning district regulations.
- c. Buildings shall consist of quality materials such as brick, wood, stone, decorative concrete block and glass. The Plan Commission may allow the use of metal building

components and exterior finish insulation systems (EFIS) if it is incidental to the primary building architecture or screened from public view. Metal siding shall not be permitted. Flat roofed buildings shall not be permitted. Pitched roof shall be 4:12 or steeper. Access doors to individual storage units shall not be located on the exterior of any structure, except as follows: 1. In the case of a structure that contains interior storage spaces, up to two vehicle access doors may be allowed on the exterior face of the structure; 2. In the case of multiple buildings that have exterior access to individual storage units, only those locations that face another interior storage exterior building face with individual doors shall be allowed. The exterior walls of the outermost buildings and ends of the individual buildings shall not include any doors or individual storage units. Color scheme for the buildings shall be shown on the plans and samples submitted to the Plan Commission for approval. Colors that are out of character with the surrounding developments and residential areas shall be prohibited.

- d. A signed and sealed plat of survey shall be submitted detailing the size and offsets of all existing buildings.
- e. Access shall be from a public street.
- f. There shall be no outside storage.
- g. Water supply facilities and septic system, if any, shall be in accordance with the rules of the Waukesha County Division of Environmental Health and the Wisconsin Department of Commerce.
- h. Hours and days of operation shall be no more than 6:00 AM to 9:00 PM, Monday through Sunday unless other hours are approved by the Plan Commission and Town Board.
- i. The exterior of all structures, fences, planting screens, etc., shall be kept in good condition at all times by painting, trimming or other acceptable maintenance procedures. Subsequent additions or changes in the building and grounds shall conform to or enhance the original construction and be consistent therewith.
- j. All appurtenances placed on the roof of any structure such as air conditioning units shall be housed in a penthouse or otherwise screened from view.
- k. Perimeter security fencing shall be provided for safety and electronic surveillance. Security lighting from dusk to dawn is required. Perimeter fencing shall be ornamental/decorative fencing (no wood paneling or chain link type fencing) and shall not be permitted within the base setback area. Where walls or fencing is used, plant material shall be placed intermittently along the wall or fence to soften the effect of the wall or fence.
- l. Landscaping shall meet the following standards:
 - 1. All lands not used for buildings, parking lots, driveways, etc., shall be landscaped and kept in good appearance at all times, including required watering of lawns and shrubbery.
 - 2. The landscape features shall provide sufficient screening to shield adjacent properties and roadways from adverse effects of the facility and shield the development from the negative impacts on adjacent uses or streets.

3. Applicant shall prepare and submit a landscape plan. The plan shall be prepared and stamped by a licensed landscape architect. The plans shall include existing and proposed features of the site; proposed vegetation to provide screening of the facility; a plant schedule indicating the material names and types, number of plants and size of plants at time of planting; and planting details. After installation of the landscape features, a certification from the landscape architect stating that all plants have been installed according to the approved plans shall be submitted.
 4. Each tree shall have an initial caliper of no less than two inches and a height of at least seven feet. Shrubs and bushes shall be a minimum of 3 feet in height at time of planting.
 5. The owner shall be responsible for the maintenance of all landscaping and maintaining the landscaping in good condition as to represent a healthy, neat and orderly appearance that shall be kept free from refuse and debris. The owner shall promptly replace any landscaping which has died or is damaged beyond repair. The replacement plantings shall be the same size and quality as the approved landscape plan. The site's landscaping shall be maintained perpetually in accordance with the approved landscape plan.
- m. The site and operational plans shall include design features necessary to ensure that traffic generated by the operation, especially that involving heavy trucks, does not have an adverse effect on existing or planned roads and traffic movement considering especially adequacy, safety and efficiency.
 - n. The operation plan submitted for Plan Commission approval shall specify and quantitatively describe any noise, vibration, dust, gas, smoke, toxic matter and odors produced by the operation and plans for containing or abating such nuisance.
 - o. The hours of operation and nighttime (security) lighting plans shall be included in the plan of operation submitted for Plan Commission approval.
 - p. A lighting location and iso-footcandle plan shall be submitted showing cut-off type fixtures, pole types and height. Light at all property lines shall be 0 footcandles.

Q. Solar Energy Systems

1. **Where Permitted.** Subject to the provisions of this subsection, solar energy systems as defined in Wisconsin Statutes Section 13.48(2)(h) 1.g. are a conditional use which may be permitted in any district in the Town of Delafield.
2. **Standards Under Which Permitted.**
 - a. District Regulations. The location, height, area, yard, parking, loading, traffic and highway access and other regulations of the district in which the use is located shall not apply to the solar energy system, unless the Town Board finds that the restriction satisfies one of the following conditions.
 - i. Serves to preserve or protect the public health or safety.
 - ii. It does not significantly increase the cost of the system or significantly decrease its efficiency.
 - iii. It allows for an alternative system of comparable cost and efficiency.

If one or more of the foregoing conditions is found to apply with regard to any such restriction of this Code, then such restriction shall apply to the solar energy system.

- b. The Town Plan Commission may recommend, and the Town Board may require compliance with such other conditions as may be deemed necessary in the specific situation, provided that any such restriction imposed must be found to meet the following conditions:
 - i. Serves to preserve or protect the public health or safety.
 - ii. It does not significantly increase the cost of the system or significantly decrease its efficiency.
 - iii. It allows for an alternative system of comparable cost and efficiency.

SECTION 17.06

ACCESSORY USES, ACCESSORY BUILDINGS AND OTHER STRUCTURES

1. ACCESSORY USES RESTRICTED.

In any District, no land, accessory building or accessory structure shall be used and no accessory building or accessory structure shall be erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied except for the uses as stated for that District and in compliance with the regulations established for that District in this chapter. No accessory building or accessory structure shall be erected until the principal building or principal structure has been constructed or is under construction. No occupancy permit for any accessory building or accessory structure shall be issued until the principal building or principal structure is occupied.

2. ACCESSORY USE REQUIREMENTS.

In any District, accessory uses, accessory buildings and accessory structures customarily incident to the permitted uses in that District and located upon the same lot occupied by the principal use, building or structure, shall conform to the established requirements for the District in which it is located.

3. ACCESSORY BUILDINGS OR STRUCTURES. (rep & rec 2002-09-002A)

- A. Any accessory building or accessory structure over 200 square feet in area in any District may be submitted to the Plan Commission if deemed necessary by the Code Enforcement Officer for approval. The accessory building or accessory structure shall be constructed in such a way that its exterior appearance is compatible with the principal building or structure on the lot and on adjacent lots.
- B. **Boathouses.** Boathouses, as defined by this chapter, are permitted in the R-L Residential Lake District, subject to the regulations of this chapter. Boathouses may be permitted in the W-F Wetland Floodplain District abutting an R-L Residential Lake District and any Business Districts abutting the lake as a conditional use.
- C. **Garages.** A private garage at least 480 square feet in area shall be required for each dwelling unit hereafter erected. Such structures shall be either attached or detached and conform to the offset and setback requirements of the District involved. The maximum size of a detached garage shall not exceed the requirement for the District in which it is located. The maximum size of an attached garage shall not exceed 1440 square feet. In the event that the size of an attached garage exceeds 960 square feet, that amount of square footage in excess of 960 square feet shall be deducted from the maximum allowable size for any detached garages or other accessory building in the District in which the building is located and the maximum size for all such accessory buildings built upon the same property shall be reduced by the amount by which the attached garage exceeds 960 square feet. Garages may have no more than four (4) single bay doors or no more than three (3) double bay doors, which shall be of uniform height not to exceed nine feet. The total linear width of all bay doors may not exceed 48 feet. Any application for a permit to construct garage doors of non-uniform height or for a door or doors in excess of nine (9) feet shall be subject to Plan Commission approval.
- D. **Rustic Buildings and Structures.** As defined at §17.02 2. of the Town Zoning Code, rustic buildings or structures may be allowed in any district. Rustic structures shall not be counted in determining whether a proposed use complies with the open space, accessory building or other restrictions of that district. If there is a question as to whether a structure meets the definition of rustic so as to exempt it from District requirements, the Code Enforcement Officer or the Property Owner may request an opinion from the Plan Commission. In those instances, the Plan Commission shall make the final determination as to any such issues.

Section 17.06 3. D. 1.

1. Rustic structures shall be subject to a maintenance agreement acceptable to the Town Board which shall be recorded with the Waukesha County Register of Deeds. The maintenance agreement shall set forth the minimum standards agreeable to the owner and the Town that will preserve the rustic structure in the form that it is at the time of approval. The owner may, at any time, permanently remove the structure; however, any subsequent building must meet the requirements of the zoning district in which it is located.
2. Any such structure shall be used in conformance with permitted uses of an accessory building and shall not be used for the following:
 - a. any income producing business;
 - b. storage of vehicles that are not personal vehicles of the lot owner or occupant;
 - c. keeping of animals beyond that which is allowed in the underlying zoning district.

The owner shall include the restrictions above in a deed restriction on the property prior to issuance of a building permit or approval by the Plan Commission and/or Town Board.

3. The footprint of any rustic structure shall not occupy more than 25% of the parcel area.
4. Rustic structures may be permitted on lot or outlots, without a principal building, subject to the maintenance and deed restrictions provisions herein.

4. STRUCTURES OTHER THAN BUILDINGS. (amended 12-001)

- A. **Structures other than Fences and Retaining Walls.** Structures, other than fences and retaining walls, not classified as buildings shall be subject to the setback, offset, height and open space requirements of this chapter, except as may be specifically otherwise provided.
- B. **Fences.** Fences and other architectural screening devices where anchored to supports embedded in the ground shall be considered permanent structures and shall be subject to the following:
 1. No fence or other architectural screening device as described above may be constructed unless a zoning permit is first secured through the building inspection department, except a fence to enclose a farming operation.
 2. Any such structures not in excess of three feet in height may be permitted anywhere on the lot consistent with standards set forth in this chapter, subject to acquiring a zoning permit as specified in 1 above.
 3. Any such structure greater than three feet in height and up to six feet in height may be permitted anywhere behind the nearest portion or projection of the principal structure as measured from the right-of-way, extended to the side lot line, except as regulated below, subject to acquiring a zoning permit as specified in 1 above.
 4. Any such structure greater than three feet in height located between the road right-of-way line and the nearest portion or projection of the principal structure measured from the right-of-way line, extended to the side lot lines may be permitted with the approval of the Plan Commission.
 5. Any such structure located between the Ordinary High Water Mark (OHWM) (as determined by the Wisconsin Department of Natural Resources (WDNR)) of a lake or stream and the nearest portion or projection of the principal structure measured from the OHWM, extended to the side lot lines, shall be no greater than three feet, without Plan Commission approval.

Section 17.06 4. B. 6.

6. Any such structure greater than six feet in height may be permitted, provided it conforms to the height, offset and setback requirements of the district in which it is located, subject to the approval of the Plan Commission; however, any such structure may be permitted closer to the required offset from the adjoining lot line with the written consent of the adjoining property owners and subject to the approval of the Plan Commission.
 7. Any fence shall be erected so that the finished side faces the abutting property.
- C. **Retaining Walls.** (created 06-007) Retaining walls shall be considered permanent structures and shall be subject to the following, in addition to the requirements of Section 17.03 7. of the Code of Ordinances:
1. Any retaining wall located within five (5) feet of an adjoining property line may be permitted subject to:
 - a. A hearing before the Plan Commission at which the adjoining neighbor has been given notice at least 10 days prior to the meeting of the time and place of the hearing by the applicant. The applicant shall certify in writing to the Town Clerk at least 7 days prior to the meeting that notice has been provided to the adjoining owner.
 - b. Submission of plans showing the location and elevation of the retaining wall, materials, and schedule for building the retaining wall. Submission of a drainage plan may also be required if requested by the Town Engineer.
 - c. Plan Commission approval.
 2. Any retaining wall, 2 feet in height or less, located greater than five feet from the adjoining property line may be permitted without the approval of the Code Enforcement Officer or Plan Commission.
 3. Any retaining wall greater than 2 feet in height and located greater than 5 feet from the adjoining property line may be permitted with the approval of the Code Enforcement Officer. If, in the opinion of the Code Enforcement Officer, the retaining wall may adversely affect drainage, aesthetic values to the surrounding area or safety, the Code Enforcement Officer may require that the applicant gain approval through the Plan Commission.
- D. (Rep. and Rec. 2008-004) **Walks and Driveways Serving a Single Lot.** Walks 3 feet or less in width and driveways shall be permitted in setback and offset areas, but not closer than three feet offset from an adjacent property.
- E. **Signs.** See § 17.08 of this chapter.
- F. **Swimming Pools.** (Am. 2008-004)
1. **Use Permitted.** Swimming pools are permitted in any District provided they comply with the following conditions and requirements:
 - a. **Exclusive Private Use.** The pool is intended and used solely for the enjoyment of the occupants of the principal use of the property on which it is located and their guests.
 - b. **Offset and Setback Requirements.** No pool shall hereafter be erected or structurally altered so that any part thereof is closer to any lot line or base setback line than the offset and setback distances specified for the District in which it is located.

Section 1706. 4. F. 1. c.

- c. **Enclosing the Pool.** Every swimming pool, whether heretofore or hereafter erected, shall be completely enclosed before filling the same, by a secure fence or wall not less than four feet above ground elevation. Such fence or wall shall be provided with a self-closing and self-latching gate or door with the latch located at the top of the gate or door or made inaccessible to small children in any other manner approved by the Code Enforcement Officer. An unobstructed areaway of not less than four feet shall be provided between the pool and such fence. No such fence or wall shall be required in the case of aboveground pools whose walls are perpendicular to the ground and are not less than four feet high, provided that the ladder or steps leading up to the pool is hinged at the top thereof and capable of being raised out of the reach of small children.
 - d. **Electricity to Pool.** All electrical connections to any swimming pool shall be properly grounded so that no electrical current can be discharged into any part of such pool or surrounding fences. No electrical wires or other electrical conductor shall be strung over any swimming pool.
- 2. **Permit Required.** No swimming pool will be constructed unless a building permit is first secured pursuant to this chapter.
- 3. (Amd. 2008-004). The provisions of 17.06 4. F. 1.a. through c. shall apply to hot tubs, except that a fence is not required if there is a latched cover on the hot tub.
- G. **Fuel Tanks.** All accessory structures involving the utilization or storage of inflammable 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, the State (DILHR) Flammable Liquids Code and/or Code Enforcement Officer.
- H. **Special Use Structures.** Special use structures, as herein defined, are permitted in any District other than WF-1, when used solely by the occupants of the principal use of the property and subject to the following:
 - 1. **Permit Required.** A separate special use permit from the Town Board shall be required for each system. The permit shall be applicable solely to the systems, structures, use and property described in the permit.
 - 2. **Basis of Approval.** The Town Board shall base its determination on general consideration as to the effect of such grant on the property values and general desirability of the 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.
 - 3. **Types of Special Uses.** (repealed 2014-02)
 - a. ~~**Solar Energy Conversion System.** Such as "active" or "passive" solar collection and heating systems.~~
 - b. **Wind Energy Conversion Systems.** Such as "windmills" or other devices used to produce power.

Section 17.06 4. H. 3. c.

- c. **Communication Systems.** Such as private cable television devices (disks, dishes), etc. not preempted by Federal law.
- 4. **Fees.** Before receiving approval for a Special Use Structure, a fee shall be paid as designated from time-to-time by resolution of the Town Board.
- 5. **Permit Procedure.**
 - a. The Town Board is designated as the agency which may approve special use permits and the Code Enforcement Officer is 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 Code Enforcement Officer on forms provided by the Town and include the name and address of the applicant, a site plan a plan of operation, describing proposed improvements to the site and any additional information deemed necessary by the Code Enforcement Officer for proper review of the application.
 - c. The Code Enforcement Officer shall review the application and, if the application is complete and contains all required information, shall refer it to the Town Board. The Town Board may refer the matter to the Plan Commission for its recommendation.
 - d. Upon receipt of any requested recommendation from the Plan Commission, and following public hearing per this chapter, when deemed necessary by the Town Board and following 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 Board may impose any conditions or exceptions necessary to minimize any burden on any person affected by the granting of the special use permit.
 - e. 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 use permit may be terminated by action of the Town Board following a public hearing per this chapter.
- 6. **Standard Requirements.**
 - a. Except as may be specifically otherwise provided, any such special use shall conform to the structure location, height, structure size and open space regulations of the District in which it is located.
 - b. Building, site and operation plans for the proposed use shall be submitted for approval of the Town Board. Such plans shall be in sufficient detail to enable the Town Board to evaluate the suitability of architectural and landscape treatment; the proper location of the structure on the lot; the satisfactory provision for drainage and sewage disposal, for adequate planting screen where necessary and for operations control devices where necessary to eliminate noise, glare, dust, odor, smoke or other objectionable operating conditions; and the general compatibility of the proposed use within the area in which it is located.

Section 17.06 4. H. 7.

7. **Special Requirements.** 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 out in a supplementary guide for special use regulations adopted by the Town Board and modified from time to time in order that they reflect the best and most contemporary of regulatory practices.
8. **Modification of Regulations.** Requirements applicable to uses by the regulations of this chapter may be modified or waived by the Town Board in their application to special use if in the Town Board's opinion they are not appropriate or necessary to the proper regulations of the special use and where such modification or waiver would not in the Board's opinion result in adverse affect upon the surrounding properties.

I. Television Satellite Dish Antennas Regulations.

1. No television satellite dish antenna unless exempted from local permitting processes by Federal Law shall be installed or erected in the Town without a permit from the Code Enforcement Officer. Applications for a permit shall be on forms provided by the Code Enforcement Officer and shall be accompanied by two copies of a survey and details of the antenna to be installed.
2. All applications for roof dish antennas and other antennae not conforming to Section 3 below shall be referred to the Plan Commission. The Plan Commission shall determine if the proposed antenna conforms with the intent of this subsection, is aesthetically harmonious with the building on which it is to be located and would not adversely affect the appearance of or property values in the neighborhood.
3. Ground dish antennas may be approved by the Code Enforcement Officer on the following conditions:
 - a. Shall be mesh. No solid dishes shall be allowed.
 - b. Shall not be in the setback area.
 - c. Offset shall be equal to or greater than the offset of the particular District.
 - d. Maximum diameter, 10 feet.
 - e. Maximum total height, 12 feet.
 - f. Shall be adequately screened, as determined by the Code Enforcement Officer.
 - g. Color shall harmonize with screening and surroundings.
 - h. Only one dish per lot shall be allowed.
4. Letters of approval or disapproval from neighboring property owners shall be considered by the Code Enforcement Officer or Plan Commission in making their determinations hereunder.

Section 17.06 5.

5. **KEEPING OF CHICKENS.** (created 2012-02)

Certain zoning districts describe within their use regulations that the keeping of chickens is allowed subject to the requirements of this section. In all such cases, the use is subject to all of the following requirements:

- A. No more than 8 chickens shall be allowed per lot.
- B. Roosters shall be prohibited.
- C. Owners shall acquire and maintain in effect an annual license from the Town of Delafield in accordance with Chapter 12 of the Town Code of Ordinances. The license shall apply to the individual applicant, to authorize keeping of chickens on the parcel that is subject to the application, and shall not be transferable to new persons or entities, or to new properties. The license shall apply to all chickens on the parcel, not to particular chickens which may change over the term of the license.
- D. Chickens shall be kept in a chicken coop and/or chicken run as defined in this code. Slaughtering may take place in an enclosed area on the property. No more than one chicken coop and run shall be allowed on any one property. The chicken coop shall be equal to or less than 50 square feet and shall not be included in the open space calculations, composite area of all accessory buildings or be included in the number of accessory buildings requirement of the district in which they are located.
- E. All chicken coops must meet double the required setback and offset provisions for structures in the district in which they are located; or if said doubled setbacks and offsets cannot be met due to lot dimensions, must be located the maximum distance as far off the property lines as is feasible. Chicken runs shall meet the required setback and offset provisions of the district in which it is located.
- F. No commercial activities shall be permitted by the homeowner, such as sale of eggs at a roadside stand, sale of live or dressed chickens, sale of live chicks, feathers, etc.
- G. Owners shall exercise proper care and control of the chickens to prevent them from becoming a public nuisance.
- H. Chicken coops and chicken runs shall be removed no later than 12 months after the keeping of chickens is no longer a use on the property.

6. **WIRELESS TELECOMMUNICATIONS MOBILE SERVICE FACILITIES.** (created 2013-10)

- A. **Purpose.** This section is intended to regulate mobile service facilities to the full extent allowed by Wisconsin Statutes Section 66.0404 and other applicable laws. Nothing herein is intended to regulate or to authorize the regulation of mobile service facilities in a manner that is preempted or prohibited by Wisconsin Statutes Section 66.0404 or other applicable laws.
- B. **Definitions.** All terms used herein shall have the meaning described in Wisconsin Statutes Section 66.0404(1).

Section 17.06 6. C.

- C. **New Towers and Facilities.** The siting and construction of a new mobile service support structure and facilities shall be subject to the following requirements:
1. **Application Process.** The applicant shall submit a written application which shall include all of the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed tower.
 - c. The location of the mobile service facility.
 - d. A construction plan which describes the tower, equipment, network components, antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
 - e. An explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.
 2. **Determination of Completeness within 10 Days of Submittal.** The Town Zoning Administrator shall review the application and determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Town Zoning Administrator shall notify the applicant in writing within ten days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their applications as often as necessary until it is complete.
 3. **Conditional Use Review Procedure.** The wireless telecommunications mobile service facility shall be a conditional use, however it is not subject to Section 17.05 of this code, and instead shall be reviewed pursuant to the following procedures:
 - a. **Public Hearing.** Within a reasonable time after an application and all required information has been filed, a public hearing shall be held by the Plan Commission pursuant to this chapter. Within 40 days after the public hearing and all investigation, the Plan Commission shall make a recommendation to the Town Board unless the time is extended by the Petitioner.
 - b. **Fee.** Any petition shall be accompanied by a fee as set from time-to-time by the Town Board to defray the cost of notification and holding of public hearing. Costs incurred by the Town in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be improved shall be charged to the Petitioner. Such fee shall not exceed the limits established by Wisconsin Statutes Section 66.0404(4)(d).

Section 17.06 6. C. 3. c.

c. **Requirements.**

- i. Conditional use status shall not be granted to communication towers unless the tower is located so that there is sufficient radius of clear land around the tower so that its collapse shall be completely contained on the property, subject to the following. If an applicant provides the Town with engineering certification showing that the tower is designed to collapse within a smaller area than the radius equal to the height of the tower, the smaller area shall be used unless the Town has and provides to the applicant substantial evidence that the engineering certification is flawed.
- ii. Offsets and setback distances shall be increased according to Section 17.036.D. "Increase Permitted" of this Code.
- iii. All facilities shall meet all State and federal codes.

d. **Determination.** The Town Board shall make a decision on the application within a reasonable time after receipt of the Plan Commission recommendations, provided further that final action shall be taken within 90 days of receipt of a complete application unless the time extended by the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Town records. If conditional use status is not granted, the reasons therefor will be included in such record. A grant of conditional use status, subsequent changes or additions thereto and terminations thereof shall be recorded as follows:

- i. An official record of such conditional grant shall be prepared by the Town Clerk on a form prescribed therefor which shall include the description of the use for which the grant is given and all conditions attached thereto as well as a copy of the resolution of the Town Board approving the grant. A copy of the completed form shall be recorded at the Waukesha County Register of Deeds as a covenant on the title for the premises for which the conditional use was granted.
- ii. The occupancy permit shall be appropriately noted as to the conditional status granted.
- iii. Indication shall also be made on the zoning map by appropriate code number or symbol.

e. **Changes or Additions.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Plan Commission and, if in the opinion of the Plan Commission, such change or addition constitutes a substantial alteration, a public hearing before the Plan Commission shall be required and notice thereof be given pursuant to this Chapter.

f. **Conditions.** Conditions such as landscaping, architectural design, type of construction, floodproofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, among other issues as deemed appropriate may be required by the Plan Commission upon its finding that these are necessary to fulfill the

Section 17.06 6. C. 4.

purpose and intent of this Chapter; subject to the limitations of Section 17.06(6)C.4., below.

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

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

1. Substantial Modification.

- a. **Application and Review Process.** The application and review process for a substantial modification is identical to the application and review process for a new tower, as described in Section 17.066.C. above, except that the required plans should describe the proposed modifications, rather than describe the new structure.

2. Not Substantial Modifications.

- a. **Application Information.** The applicant shall submit a written application that describes the applicant's basis for concluding that the modification is not substantial, and all of the following information:
 - i. The name and business address of, and the contact individual for, the applicant.
 - ii. The location of the affected support structure.
 - iii. The location of the proposed facility.
- b. **Completeness Determination within Five Days.** The Town Zoning Administrator will determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Town Zoning Administrator must notify the applicant in writing within five (5) days of receiving the application if it is found not to be complete, specifying in detail the required information that was incomplete. The applicant may resubmit as often as necessary until it is complete.
- c. **Fee.** Any petition shall be accompanied by a fee as set from time-to-time by the Town Board to defray the cost of review. Costs incurred by the Town in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be improved shall be charged to the Petitioner. Such fee shall not exceed the limits established by Wisconsin Statutes Section 66.0404(4)(d).

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- d. **Determination.** The Town Board shall make a decision on the application within a reasonable time after receipt of the Plan Commission recommendations, provided further that final action shall be taken within 45 days of receipt of a complete application unless the time extended by the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Town records. If approval is not granted, the reasons therefor will be included in such record.
- e. **Limitations Upon Authority.** The Town review and action in the matter shall be subject to the limitations imposed by Wisconsin Statutes Section 66.0404(4), and such other laws as may apply which may include 47 USCA §1455. In the event the applicant believes the Town has exceeded its authority in this regard, the applicant shall notify the Town Board in writing and the Town Board reserves the right to reconsider the matter, to ensure that applicable laws are followed.

SECTION 17.07

NONCONFORMING USES, STRUCTURES, AND LOTS

1. CONTINUANCE OF USE.

- A. 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.
- B. 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.
- C. 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.

2. CLASSIFICATION AND REGULATIONS.

A. Existing Nonconforming Uses.

The lawful nonconforming use of land without buildings or structures, or

The lawful nonconforming use of water, or

The lawful nonconforming use in a conforming building or structure, or

The lawful nonconforming use in a nonconforming building or structure, or

The lawful nonconforming use on a conforming lot, or

The lawful nonconforming use on a nonconforming lot, or

The lawful nonconforming use of land with conforming buildings or structures, or

The lawful nonconforming use of land with nonconforming buildings or structures which existed at the time of the enactment of this chapter or any amendment applicable thereto may be continued although the use does not conform with the provisions of this chapter; however:

- 1. Only that use in actual existence at the time of the enactment of this chapter or any amendment applicable thereto may be so continued as a legal nonconforming use and said use may not in any way be extended, enlarged, substituted, intensified, moved, added to or changed.
- 2. No structure containing a legal nonconforming use or, on lands containing a legal nonconforming use, may be extended, enlarged, rebuilt, substituted, intensified, moved, remodeled, modified, or added to except when required to do so by law or until the legal nonconforming use has been made to conform with this chapter.

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3. No lot on lands containing a legal nonconforming use, may be reduced in size, modified, increased in size or changed in any manner except when required to do so by law or until the legal nonconforming use has been made to conform to this chapter.
4. If a legal nonconforming use is discontinued or terminated for a period of twelve months, any future use of the structure, land or water shall conform to the provisions of this chapter.

B. Existing Conforming Uses on Nonconforming Lots Containing Conforming Structures.

1. A conforming building or structure existing at the time of enactment of this chapter or any amendment applicable thereto may be continued, although the lot does not conform to the requirements of this chapter, as long as all uses on the lands containing the building or structure and all uses of the buildings or structures on the lands are legal conforming uses.
2. The aforementioned building or structure may be extended, enlarged, substituted, moved, remodeled, modified, or added to as long as any such change conforms with the established setback, offset, height, parking, loading, and access provisions of this chapter or may be totally rebuilt if such reconstruction is identical in size, style, shape and use to the original building or structure.

C. Legal Conforming Uses on a Conforming Lot or Nonconforming Lot Containing Legal Nonconforming Structures.

1. The legal conforming use of a nonconforming building or structure existing at the time of the adoption or amendment of this chapter whether on a conforming lot or nonconforming lot may be continued, although the building's or structure's size or location does not conform with the established setback, offset, height, parking, loading or access provisions do not conform with this chapter.
2. The aforementioned building or structure may be extended, enlarged, substituted, moved, remodeled, modified or added to as long as any such change conforms with the established setback, offset, height, open space, parking, loading, and access provisions of this chapter. (Amd. 00-507a)
3. Legal nonconforming buildings or structures existing at the time of the adoption or amendment of this chapter with a legal conforming use whether on a conforming or nonconforming lot may be moved and if moved must conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter.
4. (Created 2013-01) Notwithstanding subsections 1, 2, and 3, above, repair, maintenance, renovation, remodeling and restoration of such legal nonconforming building or structure can be conducted under circumstances allowed by Wisconsin Statutes Section 62.23(7)(hb) or (hc), in full compliance with statutes. This subsection (4) is intended to comply with Wisconsin Statutes Section 62.23(7)(hb) and (hc).

D. Current File.

A current file of all legal nonconforming uses, legal nonconforming structures, and legal nonconforming lots, shall be maintained by the Code Enforcement Officer listing the following: owner's name and address, description of all uses of the structure, land or water, a site plan of the property showing the location and size of all structures on the same, a plat map showing the dimensions of the lot, and equalized value of the land and improvements at the time the legal non-conformity was created.

E. Burden of Proof.

The property owner has the burden of showing that a use, structure or lot is legal nonconforming. The determination shall be made by the Plan Commission after a majority of the members of the Plan Commission have been satisfied by proof presented by the property owner or agent that the use, structure and/or lot is in fact legal nonconforming. Appeals from the decision of the Plan Commission concerning the determination of legal non-conformity may be made by any person aggrieved to the Town Board. Such appeal shall be filed with the Clerk within thirty (30) days after the determination by the Plan Commission.

F. Reversion.

Once a legal nonconforming use, legal nonconforming structure or legal nonconforming lot has been changed to conform, it shall not revert back to legal nonconforming status.

G. Substandard Lots.

In any District, substandard lots are regulated by section 17.03 5.B.

H. Conditional Use Status.

Subject to the provisions of section 17.05 of this code, conditional use status may be granted to existing legal nonconforming uses upon petition of the owner where such use is determined to not be any of the following:

1. adverse to any of the following:
 - a. public health,
 - b. safety, or
 - c. welfare;
2. in conflict with the spirit or intent of the chapter; or
3. otherwise detrimental to the community and particularly the surrounding neighborhood.

Section 17.07 2. I.

I. Limited Shoreland Exception. (created 2013-01)

Notwithstanding limitations that may apply to structures and lots by this Section 17.07, in locations that are subject to the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance, and State DNR Shoreland Zoning Standards, legal nonconforming structures may be located, maintained, expanded, replaced, repaired or relocated as allowed by the State DNR Shoreland Zoning Standards; and construction of buildings or structures may be allowed on legal nonconforming lots as allowed by the State DNR Shoreland Zoning Standards; provided that this exception applies only to the extent as is required by Wisconsin Statutes Section 59.692(2m).

SECTION 17.08

SIGNS

1. PURPOSE.

It is declared that the regulation of signs within the Town is necessary and in the public interest to: (a) protect property values within the Town; (b) preserve the beauty and the unique character of the Town; (c) aesthetically complement the development which a sign identifies; (d) promote a healthy and properly designed business environment; (e) safeguard the general public from damage and injury which may be caused by the faulty and uncontrolled construction of signs within the Town; (f) protect against hazards to vehicular traffic movement through improper placement of signs; and (g) promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic within the Town; (h) prevent blight; (i) prevent clutter; and (j) encourage free speech.

2. REQUIREMENT OF CONFORMITY.

A sign permit is required before the erection, re-erection, construction, alteration, placement, maintenance or location of all signs except as otherwise provided in this chapter. Where signs are illuminated electrically, a separate electrical permit shall be obtained as required by the Electrical Code of the Town. It shall be illegal for a sign to be erected, constructed, repaired, altered, located or maintained in the Town except as provided in this chapter. All new signs constructed or maintained contrary to the provisions of this chapter are declared to be illegal and a public nuisance. Any person or entity violating any provisions of this chapter or failing to comply with any orders or regulations made hereunder shall be subject to the penalties hereof, and those otherwise provided by law.

3. SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A PERMIT.

A permit shall not be required for the following signs or activities; provided, however, that such signs or activities shall be subject to any and all applicable provisions of this chapter.

- A.** Any temporary sign eleven (11) square feet or less in area, subject to compliance with all applicable total sign area limitations of the applicable lot.
- B.** Repainting of signs without changing wording, composition or colors, or minor non-structural repairs of signs (except electrical repair).
- C.** Relocation of signs if required by the Town.
- D.** Window signs, as permitted under subsection 6.G.
- E.** Signs located in the interior of any building or structure, not visible from the exterior.
- F.** Government signs, as defined herein.
- G.** The United States flag, State of Wisconsin flag, Waukesha County flag, or flag bearing the official emblem or insignia of the Town of Delafield, and associated poles; as such signs are tantamount to government signs for the observance of the applicable institutions of our participatory democracy.

- H. Address markers and nameplate signs, not to exceed 4 sq. ft. in total area; as such signs are tantamount to government signs, to assist with the provision of emergency services.

4. **TEMPORARY SIGNS.**

Temporary signs shall be placed in conformance with this Code for no longer than 120 days, unless a longer time is expressly allowed by Wisconsin Statutes Section 12.04, or other applicable laws, or as follows. In the event a longer time is expressly allowed by Wisconsin Statutes Section 12.04 such sign shall be placed for no longer than the time expressly allowed by such statute.

- A. **Signs on Property Under Construction.** Temporary signs may be permitted by the Code Enforcement Officer in any district for the duration of a building permit, where a building permit is in effect and construction is occurring. The Code Enforcement Officer may restrict the number, size, and location of temporary signs on any property to ensure safety for traffic and pedestrians.
- B. **Signs on Property Marketed for Sale or Lease.** Temporary signs may remain on a property for all time that the property is actively marketed, as defined herein, for sale or lease. Whether the property is being actively marketed for sale or lease shall be subject to the determination of the Code Enforcement Officer. Any such sign that would exceed 11 square feet in area shall require a permit, and such sign shall be treated as a permanent sign for purposes of permitting, but shall remain a temporary sign for purposes of removal once the marketing of the property is concluded. The sign must be removed no later than ten calendar days after the marketing of the property is concluded. The total sign area requirements of the district in which the sign is located shall apply.
- C. **Signs on Property Under Development.** Temporary signs may remain on a property under some circumstances while the property is under development, subject to the following limitations. A sign permit is required for any Development Sign. A Development Sign shall be treated as a permanent sign for purposes of permitting, but shall remain a temporary sign for purposes of removal once the approval for the Development Sign expires. All Development Signs may remain on the lot for one year following the date the sign permit is granted, unless otherwise restricted in the grant of the sign permit. Prior to expiration of the sign permit or any extension thereof, upon request of the owner or developer, the Plan Commission may extend the sign permit for successive periods of up to one year each, if the Plan Commission finds the development is actively proceeding and the sign is not otherwise in violation of the standards of this Section. The Development Sign must be removed no later than thirty calendar days following the expiration of the permit unless specified otherwise by the Plan Commission. The total sign area requirements of the district in which the sign is located shall apply, except as follows: if during the process of development, the property is rezoned, the sign area calculations of the original zoning district shall continue to apply for the duration of the development; and if the property being developed includes multiple contiguous parcels, the calculation of sign area shall include all such contiguous parcels as though they were one parcel.

5. **MAXIMUM SIGN AREA PERMITTED BY ZONING DISTRICT.**

- a) **Residential Districts (R-1, R-1(A), R-2, R-3, R-L, and A-3).** The total sign area allowed on a lot that is zoned R-1, R-1(A), R-2, R-3 R-L, or A-3, shall be eleven (11) sq. ft., subject to such additional square footage as may be permitted by the standards of this Section. Monument signs may be allowed to exceed the

foregoing size limitations, subject to Section 6(E), below. Unless specifically approved as a Monument Sign pursuant to Section 6(E), below, or pursuant to the grant of a conditional use permit for a use described in Section 17.05 5. of this Code, all of the following are prohibited: awning signs; changeable copy signs; electrical message boards; permanent signs; projecting signs; roof signs; seasonal signs; shingle signs; and wall signs.

- b) **Agricultural Districts (A-1, A-E, and A-2).** The total sign area allowed on a lot that is zoned A-1, A-E, and A-2 shall be 11 square feet for every 200 lineal front feet of the lot line abutting a public roadway. In making this calculation, the lineal front feet of the lot line shall be rounded down to the nearest number divisible by 200. Notwithstanding the foregoing, if the lot abuts less than 200 feet of public roadway, the total sign area allowed on the lot is 11 square feet.
- c) **Business Districts (B-1, B-2, and B-3), Industrial Districts (M-1), Park & Conservancy Districts (P-1 and WF-1).** The total sign area allowed on a lot that is zoned B-1, B-2, B-3, M-1, P-1 and WF-1 shall be computed as either .5 sq. ft. x the lineal front foot of the lot line or .65 sq. ft. x the building or structure front foot, whichever is greater, to a maximum of 120 sq. ft. for retail and 80 sq. ft. for office, mixed use, or other uses, as allowed by the Plan Commission in its consideration of the site plan.

6. SIGN REQUIREMENTS FOR SPECIFIC TYPES OF SIGNS.

Particular types of signs are subject to the following requirements, which are in addition to, and not in lieu of, the other requirements of this Section 17.08.

A. **Changeable Copy Signs.**

1. The computation of sign area for changeable copy signs shall be included in the total permitted sign area allowed for the building or development, where changeable copy signs are permitted by this chapter and/or by the Plan Commission.
2. Changeable copy signs must be integrated into the free-standing or wall sign for such building or development.
3. In addition to the uses specifically enumerated elsewhere in this chapter, changeable copy signs may be permitted for businesses of a seasonal nature, public uses, institutional uses, schools, churches, motels/hotels and theaters, if approved by the Plan Commission to be justified at such location and for such use. Unless in the discretion of the Plan Commission such use is justified, changeable copy signs shall not be permitted for retail use.
4. Where changeable copy signs are allowed, the following restrictions apply in all cases, subject to further restriction as may be imposed by the Plan Commission to particular applications:
 - a. There shall be only one changeable copy sign on each lot or parcel of land.
 - b. If free-standing, the sign may be double-faced.
 - c. Each sign shall be permanently installed or located.
 - d. Each sign shall be placed in such a manner so as to not interfere with, confuse, or present any hazard to traffic.

B. **Flags.** Except as excluded by subsection 3(G), all flags are subject to the following limitations.

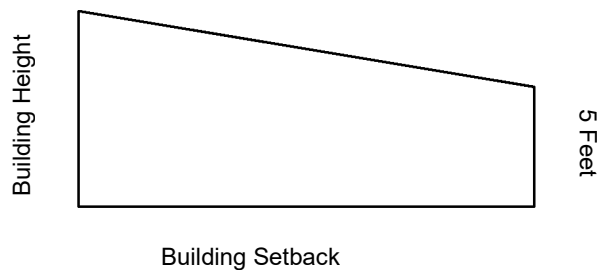
1. Maximum area of a flag shall be 24 square feet.
2. Flags may be suspended on a pole no higher than 35 feet.

3. The flag pole shall be located in a setting of meaningful open space, as defined in this chapter.

C. Free-standing Signs.

1. Application. All applications for free-standing signs shall be filed with the Code Enforcement Officer and forwarded to the Plan Commission for consideration pursuant to the procedure outlined in subsection 7.B.2.
2. Placement and Construction Requirements.
 - a. A free-standing sign shall be permanent in construction and subject to the requirements of the Building Code of the Town as determined, imposed and inspected by the Code Enforcement Officer.
 - b. The sign may be double-faced if so permitted by the Plan Commission. Only one face of a double-faced sign shall contribute to the calculation of total sign area.
 - c. The height of a free-standing sign shall be regulated and approved by the Plan Commission in consideration of the location of the proposed sign, the height, size, appearance, number and location of other signs in the vicinity of the proposed sign, the propriety of the proposed sign with respect to a master sign plan, if any, and such other facts as the Plan Commission deems appropriate, provided that the height shall not exceed the limits shown in subsection d., below.
 - d. The allowable height of a free-standing sign at a particular site is to be established by drawing a line from the height of the building or structure at setback to a theoretical wall of five (5) feet at the center line of the adjacent road. A free-standing sign must be of no greater height than what can be placed within the area of the resulting geometric figure. (See Figure 1). However, in no event shall the height of such sign be greater than twelve (12) feet for office, retail or mixed use. Notwithstanding the foregoing, the Plan Commission may allow a sign to exceed the limits provided in this subsection if the topography of the lot slopes down from the center line of the adjacent road, by adding the difference between the elevation at the centerline of the adjacent road and the elevation where the sign will be located to the sign height limitations, so that the intent of this subsection is maintained. Dimensions shall be provided by the applicant. An offset of no less than five (5) feet from the ultimate right-of-way line should be maintained.

Figure 1: Sign Height/Setback Standards.



- e. The area of a free-standing sign shall be regulated and approved by the Plan Commission in consideration of the factors enumerated in subsection c., above, subject to the maximum sign area limitations of the district in which it is located. Should the Plan Commission approve both a free-standing sign and a wall sign for a given building or center, the area allowed must be apportioned between these signs.
- f. The sign shall be located in an area of meaningful open space, which shall be appropriately landscaped.
- g. Free-standing signs located on the subject property or adjoining or abutting properties must be at least 150 feet apart.
- h. The sign structure or post of a free-standing sign must be wrapped in or constructed of a material compatible with the materials utilized in the construction of the building or structure to which the sign refers. The sign must also be architecturally compatible with the building or structure to which it refers.

D. Master Sign Program.

A Master Sign Program is required for multi-tenant operations, office parks, industrial parks, multi-tenant office and retail buildings, and commercial developments that include separate commercial activities, and shall be considered by conditional use per Section 17.05 of this Code. The requirements of this Section may be modified by the express terms of the Master Sign Program conditional use order.

E. Monument Signs.

Monument Signs placed at the entrance to a subdivision, residential development or commercial development shall be not less than 5 feet from a side or rear lot line and may be placed in the right-of-way only within an easement granted for said purpose and upon approval of the Town for the same. The Plan Commission shall determine the appropriate size of the sign based on the design of the sign, its impact on traffic safety and its compatibility with adjacent land uses.

F. Wall Signs.

1. Application. All applications for wall signs shall be filed with the Code Enforcement Officer and forwarded to the Plan Commission for consideration pursuant to the procedure outlined in subsection 7.B.2.
2. Total Area. The area of a wall sign shall be regulated and approved by the Plan commission in consideration of the location of the proposed sign, the height, size, appearance, number and location of other signs in the vicinity of the proposed sign, the propriety of the proposed sign with respect to a master sign plan, if any, and such other facts as the Plan Commission deems appropriate.
3. Placement.
 - a. A wall sign may not project more than twelve (12) inches from the wall surface.
 - b. A wall sign must be placed on an exterior wall of the business which the sign identifies.
 - c. No part of a wall sign shall extend more than four (4) feet above the plate line, nor shall a wall sign extend above a roof line except when it is erected on a parapet wall or fascia which

extends above the roof line of a flat roof on at least three (3) sides of a building.

- d. A wall sign may be allowed on a roof surface only if the roof surface is within twenty-five (25) degrees of vertical (such as a mansard roof), and only if the Code Enforcement Officer deems that such use is acceptable.
- e. The height of a free-standing sign shall be regulated and approved by the Plan Commission in consideration of the location of the proposed sign, the height, size, appearance, number and location of other signs in the vicinity of the proposed sign, the propriety of the proposed sign with respect to a Master Sign Plan, if any, and such other factors as the Plan Commission deems appropriate, provided that the height shall not exceed the height that could be allowed for a free-standing sign per Section 6.C.2.d.

- G. Window Signs.** Permanent window signs do not need a permit if less than ten (10) percent of all of the windows are covered by all of the window signs. If greater than ten (10) percent of the window is covered, a sign permit must be obtained pursuant to the procedures outlined in subsection 7.B. In no instance, may more than twenty-five (25) percent of the window space be covered by window signs. All window signs which are to be illuminated must be inspected and cannot be installed except upon prior written approval by the Code Enforcement Officer.

7. PERMITS, REQUIREMENTS AND PROCEDURES.

A. Permit Application and Expiration.

1. Application. All applications to obtain a sign permit shall be made on forms furnished by the Code Enforcement Officer. All such applications shall be signed by the owner(s) of the premises on which the sign is to be located and the lessee(s) of the premises to which the sign pertains, which signatures shall indicate agreement to be bound by the terms of this ordinance. Throughout this chapter, these owner(s) and lessee(s) may be referred to collectively as holders of the permit, as defined herein.
2. Requirement of Plans. Two copies of specifications, plans, renderings, or other visual representations of nonresidential signs shall be submitted with the application. One copy shall be returned to the applicant(s) at the time the permit is granted. Such submissions shall detail the size of the sign, the method of attachment or support, the location of the proposed sign, the location of any building(s) on the premises and any other signs located or proposed to be located on the premises or within 150 feet of the proposed sign, the materials to be used, and the name, address and profession of the person designing plans and specifications for such sign. The content of the sign message is not required, and need not be submitted. Plans for supports for any sign subject to excessive stress as determined by the Code Enforcement Officer shall be accompanied by structural computations. Sufficient data shall be submitted to show that the supporting surface and other members of an existing building to which the sign is to be attached are in good condition and are adequate to support the load, including the proposed sign.
3. Permit Fees. In conjunction with the filing of an application for a sign permit, the applicants must tender a fee as set from time-to-time by separate resolution of the Town Board, except as follows. No fee is

required to bring a legal nonconforming sign into compliance with the terms of this Section. If work for which a permit is required by this Section began before a permit was obtained, the fees specified shall be quadrupled, but the payment of such quadrupled fee shall not relieve any persons from complying fully with the requirements of this Section in the execution of the work or from any penalties prescribed herein.

B. Procedure.

1. All applications for sign permits shall be reviewed by the Code Enforcement Officer. The Code Enforcement Officer shall have the authority to deny such permits if the proposed signs do not comport with the requirements of this chapter and shall otherwise issue the sign permits.

C. Construction Requirements.

1. Wind Pressure and Dead Load Requirements. All signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square feet of area and shall be constructed to receive dead loads as required in the Building Code or other ordinances of the Town.
2. Lighting. Illumination shall be so installed to avoid any glare or reflection into any adjacent property, or onto a street or alley to create a traffic hazard as determined by the Code Enforcement Officer.
3. Town of Delafield Marking. Permanent signs shall be marked prominently with the words "Town of Delafield" beneath the sign content, to aid in the purpose of this chapter, including promotion of the public safety, welfare, convenience, and enjoyment of travel in the Town of Delafield, except as follows: this is not required for signs that require no permit, per subsection 3 or that are temporary signs per Section 4, or may be waived by the Plan Commission if it finds that the purpose of this subsection would not be met by the Town of Delafield Marking in the circumstances applicable to any particular sign.

D. Prohibitions.

1. Lighting. Bare light bulbs shall not be permitted. No flashing, blinking, or rotating lights shall be permitted for either permanent or temporary signs other than for Time and Temperature signs if so permitted by the Plan Commission.
2. Action Signs. No sign shall be permitted which moves by any means, except flags as permitted in subsection 6.B.
3. Prohibited Signs. It shall be unlawful to erect or maintain the following signs:
 - a. Electronic Message Boards
 - b. Portable Signs
 - c. Projecting Signs
 - d. Off Premise Signs
 - e. Roof Signs
 - f. Pennants or Streamers
 - g. Sandwich Boards

E. Required Signs. Every building or group of buildings must be identified by a street number.

F. Location Requirements.

1. Obstruction of Exits. No sign shall be constructed or maintained so as to obstruct any door, window, stairway or fire escape of any building.
2. Obstruction and interference prohibited. No sign shall be erected, placed, located or maintained at or near the intersection of any streets, roads or highways so as to obstruct free and clear vision; or at any location where, by reason of position, shape and color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the words "STOP", "LOOK", "DANGER" or other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.
3. Signs Prohibited Within or in Proximity to Limits of any Street or Highway.
 - a. No sign shall be erected, placed, located, or maintained within the limits of any street, road or highway, except as allowed by subsections d., below. Street, road or highway limits include all the dedicated right-of-way, encompassing the travelled portion of the street, road or highway, the shoulders, ditches and adjacent dedicated areas. This prohibition applies to free-standing signs and those placed on trees, utility poles, fence post stakes, and all other structures within the right-of-way limits.
 - b. Failure to comply with the provisions of this subsection shall be a violation of Section 86.19, Wis. Stats., as well as this chapter.
 - c. Any sign in violation of this subsection shall be removed without notice by the Highway Department or the Police Department.
 - d. This prohibition shall not apply to signs placed within the limits of streets, roads or highways by duly constituted municipal, county, or state authorities for the guidance or warning of traffic, as provided in Sections 86.19(1) and (4), Wis. Stats., or to mail boxes and paper boxes. This prohibition also does not apply to approved Monument Signs.
4. Construction Over Public Property. No person or entity shall erect or cause to be erected any sign which projects over any public sidewalk, street, road, highway, alley or public place.

G. Inspections. Unless waived by the Code Enforcement Officer, all signs for which a permit is required shall be subject to the following inspections:

1. Electrical Inspection on all illuminated signs.
2. Site inspection to ensure that the sign has been constructed according to an approved application and a valid sign permit.

H. Maintenance. Each sign, including those specifically exempt from the permit requirements of this code, shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant material. The Code Enforcement Officer shall have the authority at any time to inspect and order the painting, repair, alteration, or removal of a sign which constitutes a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or change in local conditions. The Code Enforcement Officer shall follow the procedure of notification concerning such maintenance or removal as outlined in subsection 13.

8. CONFLICT OF LAWS.

In the event that Wisconsin Statutes Section 12.04 would permit a sign that is larger than the size limitations described in this Section, such sign, regardless of sign content, is allowed only for the period described in Wisconsin Statutes Section 12.04.

9. NON-COMMERCIAL SIGNS PERMITTED.

Any sign authorized or otherwise permitted under this ordinance shall be allowed to contain non-commercial copy in lieu of any other copy.

10. SIGN ORDINANCE VARIANCES.

A. Purpose. Sign Ordinance variances are intended to allow flexibility in sign regulation while fulfilling the purpose of the ordinance. Nothing in this Section, however, is intended to permit the erection or maintenance of signs which create the potential of public harm or for which there is no public benefit or which are in conflict with the Town's Master Plan or relevant portions thereof.

B. Procedure.

1. Any applicant who desires a variance from any provision or requirement of this chapter may request an oral hearing before the Plan Commission by submitting a written request therefor to the Town Clerk not less than twenty one (21) days before the next regularly scheduled meeting of the Plan Commission. A fee of \$75.00 shall be required of the applicant at the time that a request for a hearing before the Plan Commission is made.
2. The Plan Commission shall review such requests for variances using the following criteria:
 - a. Area Enhancements.
 - (1) The sign as proposed will not result in an undue concentration of signage which renders it difficult or confusing to read existing signs;
 - (2) The proposed sign is unique and of exceptional design or style, so as to enhance the area.
 - b. Site Difficulties. Unusual site factors preclude the construction of a sign in accordance with this chapter which would be visible to the roadway adjacent to the site frontage.
3. Should the Plan Commission find that a variance should be granted, the application will be forwarded to the Code Enforcement Officer with directions to issue a permit in accordance with its decision. If the Plan Commission finds that a variance should not be granted, it shall inform the applicant of the reasons for such decision in writing within ten (10) days of the date of such decision. The decision of the Plan Commission shall be final unless the Plan Commission requests review of same by the Town Board.

11. SIGN ORDINANCE MODIFICATION BY CONDITIONAL USE.

Additional sign square footage and alteration of otherwise applicable height, setback, offset or other standards of this Chapter may be granted by the Town Board in its consideration and grant of a conditional use pursuant to Section 17.05 of this Code. In considering this possible grant, the Plan Commission and Town Board shall be guided by the purpose of this Section 17.08 along with the basis for approval described in Section 17.05(2), without consideration of the content of any such signage.

12. LEGAL NONCONFORMING SIGNS.

- A. Reasonable repairs and alterations may be made to legal nonconforming signs provided that they may not be relocated, expanded, enlarged, repositioned or raised in height. However, in the event any such sign and/or its supporting structure is hereafter damaged or altered to an extent exceeding fifty (50) percent of the reproduction value according to appraisal thereof by competent appraisers, or is removed by any means whatsoever, including an act of God, such sign must be restored, reconstructed, altered or repaired to conform with the provisions of this chapter, subject to the following. Repair, maintenance, reconstruction or replacement is permitted if, and to the extent that, Wisconsin Statutes Section 62.23(7)(hb) or (hc) (applicable per 60.62, and 61.35, Wis. Stats.) specifically preempt local control and permit the same.
- B. Any change in ownership or tenancy of premises which is accompanied by any change in the signs for the premises shall necessitate that the signs for the premises be brought into compliance with the provisions of this chapter.

13. REMOVAL OF SIGNS.

- A. The Code Enforcement Officer is hereby authorized to remove any illegal sign as defined by this chapter.
- B. Except as described in subsection H, below, before taking action to require removal of any illegal sign, the Code Enforcement Officer shall give a written compliance notice to the holders of the permit for the sign or, if no permit has been issued, to the owner(s) of the premises on which such sign is located and to the lessee(s) of the premises to which such sign pertains. The notice shall state the reasons and grounds for removal, specifying the deficiencies or defects in such sign with reasonable definiteness, and the violations charged, if any. Such notice shall specify what repairs, if any, will make the sign conform to the requirements of this chapter and specify that the sign must be removed or made to conform with the provisions of this chapter within the compliance period provided below. Service of notice shall be made on the parties specified above (a) by delivering personally copies of the notice to said parties, or (b) by leaving a copy of the notice with any person in charge of the premises, or (c) in the event that no such person can be found on the premises, by affixing a copy of the notice in a conspicuous position at an entrance to the premises and by the certified mailing of copies of the notice to the post office addresses of the holders of the permit as specified in the application for the permit, if any, or to the last known post office addresses of the parties specified above.
- C. Except as described in subsection H, below, the compliance period shall be:
 - 1. Ten (10) days for permanent signs.
 - 2. Forty-eight (48) hours for temporary signs.
- D. Re-erection of any sign or any substantially similar sign on the same premises after a compliance notice has been issued shall be deemed a continuance of the original violation.
- E. If the holders of the permit or the owner(s) and lessee(s) of the premises upon which the sign is located have not demonstrated to the satisfaction of the Code Enforcement Officer that the sign has been removed or brought into compliance with the provisions of the chapter by the end of the compliance period, the Code Enforcement Officer shall certify the violations to the Town Attorney for prosecution.

- F. The Code Enforcement Officer is authorized to cause the removal of any sign adjudged to be illegal by a court of competent jurisdiction if the court so orders. The actual cost and expense of any such removal by the Code Enforcement Officer shall be borne by the holders of the permit or, if no permit had been issued, by the owner(s) of the premises on which the sign is located and the lessee(s) of the premises to which such sign pertains. All such parties shall be jointly and severally liable for such cost and expense and subject to the penalties provided by the provisions of this chapter.
- G. In addition to any remedies and penalties noted above, any person who fails to remove a sign after being notified to remove the sign by the Code Enforcement Officer shall be subject to penalties as provided in Section 17.10 of this chapter.
- H. Notwithstanding the foregoing procedures, any temporary sign located in violation of this chapter on Town property or within any right-of-way may be summarily removed by the Code Enforcement Officer immediately upon observing the noncompliant sign. The Code Enforcement Officer shall retain the sign for a period of 48 hours and if the sign is claimed by the owner during such time, the Code Enforcement Officer shall make the sign available to the owner for return. Any such sign not claimed within 48 hours may be summarily destroyed. This exception is intended to preserve the Town's authority as proprietor of Town property, and also to preserve the health, safety and welfare of the traveling public along public rights-of-way.

14. DEFINITIONS.

The following definitions, unless further defined or applied herein, specifically apply to this Section 17.08:

"Actively Marketed" means (1) proactive measures are being taken to connect and engage with potential customers, which may include listing with a real estate agent, publishing advertisements in a newspaper or other print publications, or engaging in online advertising activities, such as posting on a website; and (2) these actions are repeated, updated, and modified regularly to continue to seek engagement with potential purchasers. The mere fact of placing a sign on a lot does not itself demonstrate that the property is being actively marketed.

"Awning Sign" means a fireproof space frame structure with translucent flexible reinforced vinyl or similar covering designed in awning form, but whose principal purpose and use is signage. Such signs may be internally illuminated by fluorescent or other light sources in fixtures approved under national and local electrical codes.

"Area of Sign" means that area enclosed by one continuous line, connecting the extreme limits or edges of writing, representation or similar figures or characters together with any material forming an integral part of the display or forming the backing surface or background on which the message or symbols are displayed on a sign. The area shall be determined using the largest sign area or silhouette visible at any one time from any point. This area does not include the main supporting sign structure, but other ornamental attachments are to be included in determining area of sign.

"Banner Sign" means any sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic, fabric, or similar flexible material of any kind.

"Building Front Foot" means the maximum building width measured at grade on a straight line parallel to the street on which the building is addressed.

"Business Front Foot" means the lineal distance of the building space occupied by the particular business measured on a straight line parallel to the street. Where a business does not parallel a street, the front foot shall be measured along the exterior of the building space occupied by the particular business.

"Changeable Copy Sign" means a sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face or the surface of the sign.

"Commission" means the Plan Commission of the Town.

"Development Sign" means any temporary sign used to identify future residential or nonresidential development, or such a development under construction or completed.

"Double-faced Sign" means one sign that is constructed in a single plane that has two faces or sides designed for use.

"Electronic Message Board" means a type of changeable copy sign whose message or display is presented with patterns of lights or other means that may be changed at intermittent intervals by an electronic process.

"Flag" means banner sign as defined above.

"Free-Standing Sign" means any sign which is supported by structures or supports in or upon the ground and independent from any building.

"Government Sign" means any sign that is owned, operated, or required by a governmental entity having jurisdiction, including, but not limited to, the signs designated in this chapter as government signs, and signs that are required by applicable laws. Such signs include official traffic, fire and police signs, signals, devices, and markings of the State of Wisconsin and the Town or other public authorities, or posted notices required by law.

"Height of Sign" means the overall height of a sign and/or the supporting structure of a sign, where applicable, measured from the nearest adjacent road grade at the edge of the pavement to the highest point of the sign and/or supporting structure of the sign.

"Holders of Permit" means collectively the owner(s) of the premises on which a sign is located and the lessee(s) of the premises to which such sign pertains, all of whom must sign the application for a sign permit. (See subsection 7.).

"Illegal Sign" means any sign except the following:

- i) A sign allowed by this chapter and not requiring a permit.
- ii) A sign allowed by this chapter carrying a valid permit.
- iii) A sign not allowed by this chapter but which has been legalized by variance or conditional use and proper permit granted.

"Legal Nonconforming Sign" means a sign that met code regulations when it was originally erected, either by adherence to a previous sign ordinance or by a variance

granted to that ordinance, but which does not comply with all the present regulations of this chapter.

"Maintenance" means the replacing or repairing of a part or portion of a sign made unusable by ordinary wear, tear or damage beyond the control of the owner, or the reprinting of existing copy without changing the wording, composition or color of said copy.

"Master Sign Program" means the establishment of an identification program for any multi-tenant operation within the town, including but not limited to office parks, industrial parks and multi-tenant office and retail buildings. A Master Sign Program may also include a commercial development in which there exists a number of separate commercial activities, in which there are appurtenant facilities (such as parking or pedestrian mall), and which is designed to provide a single area in which the public can obtain varied products and services. The intent of a Master Sign Program is to give a uniform theme of size, color and style to signs in such a development.

"Meaningful Open Space" means the area around the base of a sign, determined to be necessary for aesthetics and safety by the Board. Meaningful Open Space shall be no less than 250 square feet and shall be landscaped with plantings and grass or ground cover as per site development standards.

"Monument Sign" means a sign placed upon or supported by the ground independent of any other structure for the purpose of delineating a neighborhood or a commercial development area. Monument signs are tantamount to government signs, to identify neighborhoods or commercial development areas, and assist with the provision of emergency services.

"Off-Premise Sign" means a sign which is not appurtenant to the use of the property or to a product sold or a service offered upon the property where the sign is located, and which does not identify the property where the sign is located as a purveyor or source of the merchandise or services advertised upon the sign.

"Pennant" means a tapered or dove-tailed banner, sign, streamer or flag, with or without any representation or writing thereon.

"Permanent Sign" means any sign which is intended to be and is so constructed as to be lasting and enduring, remaining unchanged in character, condition (beyond normal wear) and position, and in some permanent manner affixed to the ground, wall or building.

"Portable Sign" means any sign not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building, including but not limited to trailerized signs and vehicles.

"Projecting Sign" means any sign other than a wall sign affixed to any structure, building or wall whose leading edge extends beyond such structure, building or wall.

"Roof Line" means the highest point of the main roof structure or highest point on a parapet but shall not include cupolas, pylons, projections or minor raised portions of the roof.

"Roof Sign" means a sign extending above the roof line.

"Sandwich Board" means a two-sided portable sign constructed of wood, cardboard or similar rigid material generally displayed outside of a commercial establishment to identify a product or service.

"Seasonal Sign" means a sign for seasonal commercial establishments, including but not limited to garden centers, Christmas tree lots and fruit and vegetable stands.

"Shingle Sign" means a sign whose front is under a roof overhang, covered walkway, covered porch, or open lattice walkway.

"Sign" means any device for visual communications and the structure which supports it, which is used or is intended to attract the attention of the public, when the display of this device is visible beyond the boundaries of the property upon which the display is made.

"Streamer" means pennant as defined above.

"Temporary Sign" means any sign constructed of cloth, canvas, wood, light fabric, cardboard, wallboard, plastic or other like materials, with or without frames, and any type of sign not permanently attached to the ground, wall or building which is permitted for display for a limited period of time only.

"Wall Sign" means any sign painted on, or attached to and erected parallel to the face of, or erected and confined within the limits of, the exterior wall of any building or structure and supported by such wall, building or structure and which displays only one advertising surface. This definition includes signs composed of individual letters or symbols.

"Window Sign" means any sign placed inside or upon a window facing the outside of a building and which is usually intended to be seen from the exterior of the building. Signs displayed on glass panels which are integral to doors visible from the exterior of the building will be considered to be window signs for purposes of this chapter.

SECTION 17.09

LOADING AND OFF-STREET PARKING

1. LOADING REQUIREMENTS.

- A. An individual loading space shall be at least 10 feet wide by 45 feet long and have a minimum clearance of 14 feet.
- B. The number of such spaces provided shall be based upon the operating characteristics of the individual use and shall be subject to approval by the Plan Commission upon the submittal of building, site and operational plans.
- C. No building for commercial or industrial purposes shall be erected on a lot in a manner requiring servicing directly from the abutting public street.
- D. The use of public streets for the maneuvering of trucks to service industrial or commercial buildings is expressly prohibited. Sufficient on-site space shall be provided for such maneuvering.

2. PARKING REQUIREMENTS.

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

A. Approval.

All business, institutional, multi-family residential and industrial parking areas plans shall obtain approval of the Plan Commission.

B. Adequate Access.

A driveway access to a public street, road or highway shall be provided for each lot and every driveway access shall be at least 10 feet wide for one and two-family dwellings and a minimum of 22 feet wide for all other land, buildings and structures.

C. Location.

Parking shall be located on the same lot as the principal use unless the Plan Commission specifically approves of parking being located on an adjoining parcel with the recording of appropriate access and parking easements and any necessary maintenance agreements and also providing that all parcels involved meet the requirements of this section.

D. Dimensional Requirement.

Parking spaces, driveways and aisles for access to parking spaces shall have the following minimum dimensions unless specifically varied by the Plan Commission.

Stall Width	9 feet
Stall Depth	20 feet
Parking Aisle Width	
Two-Way Traffic (90°)	25 feet
One-Way Traffic (60°)	18 feet
Driveway (no parking stalls)	
Two-Way Traffic	22 feet
One-Way Traffic	12 feet

Section 17.09 2. E.

E. Parking Spaces for Use by Physically Disabled Persons.

Parking spaces for use by physically disabled persons shall be in accordance with State and federal requirements.

F. Surfacing.

All off-street parking areas, and driveways, except parking areas accessory to single-family and two-family dwellings, shall be surfaced with a bituminous or Portland cement concrete pavement. Such parking areas shall be kept free of dust, loose stones, and gravel. Such parking areas shall be so arranged and marked to provide for orderly and safe parking and storage of vehicles and must be completed within one (1) year of issuance of the building and zoning permit.

G. Flexibility in Application.

1. The Town recognizes that, due to the particulars of any given development, the inflexible application of the parking standards set forth in this section may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations on adjacent streets as well as unauthorized parking in nearby lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, the Plan Commission may allow deviations from the requirements of this section whenever it finds that the deviation will not adversely impact traffic circulation or public safety.
2. The site plan must, subject to Plan Commission approval, be designed to provide sufficient open space on the subject site to accommodate the additional parking spaces otherwise required by this section. Such open space shall be in addition to required yards, setbacks, driveways, private streets, loading and service areas and open space requirements. Sufficient open space shall be provided which, if converted to parking spaces, would provide off-street parking to meet the full requirements of this section at the time of application for a deviation from the requirements of this section.
3. The Plan Commission may at any time, at its sole discretion, require that all off-street parking as required by this section be constructed.

H. Changes in Occupancy or Intensity of Use.

When the parking needs of a building, structure or site is increased due to additional employees, gross floor area, seating capacity or due to a change of occupancy, additional parking spaces shall be constructed in the amount necessary to conform to this section, as determined by the Plan Commission.

I. Required Number of Stalls.

The following parking standards shall be applied unless deviations have been specifically approved by the Plan Commission in accordance with §17.09 2. G. or H. of this section.

<u>Type of Use</u>	<u>Number of Stalls</u>
Residential	2 per family
Auditorium	1 per each 3 seats
Church	1 per each 3 seats
Theater	1 per each 3 seats
Retail Business	1 per each 100 sq. ft. of floor area
Nonretail Commercial	1 per each 200 sq. ft. of floor area
Office Building	1 per each 200 sq. ft. of floor area
Customer Service	1 per each 100 sq. ft. of floor area

Section 17.09 2. J.

Restaurant	1 per each 100 sq. ft. of floor area
Tavern	1 per each 100 sq. ft. of floor area
Club	1 per each 100 sq. ft. of floor area
Industrial*	1 per each 200 sq. ft. of floor area
Industrial*	1 per each 2 employees
Other	As determined by the Plan Commission

*Whichever will provide the greater number of stalls.

J. Residential Parking.

Parking of cars, vans, sport utility vehicles and light duty pick-up trucks accessory to a residential use shall be limited to those actually used by the residents or for temporary parking of guests.

K. Parking of Vehicles, Trucks and Equipment.

1. One commercial panel truck or pick-up truck per lot. Such truck and any attached extraneous material shall not exceed 20 feet 6 inches in length, 8 feet in height nor 7 feet in width.
2. No bus, truck or other equipment shall be parked regularly on road rights-of-way.
3. Recreational vehicles shall be kept in a garage or shall have a planting screen, landscaped fence, or wall at least four feet in initial height along a side abutting or fronting a residential district, except for boats in the R-L district.
4. Recreational equipment parked or stored shall not have fixed connections to electricity, water, gas or sanitary sewer facilities and at no time shall this equipment be used for living or housekeeping purposes.
5. If camping or recreational equipment is parked or stored outside of a garage, it shall be parked or stored subject to the following: There shall be a minimum setback of 50 feet when parked or stored adjacent to a public street or highway. It shall be parked or stored in the rearyard of the lot and it shall be parked or stored not closer than 10 feet from a side or rear lot line. Notwithstanding the above, camping or recreational equipment may be parked anywhere on the premises for loading or unloading purposes for a period of not more than 48 hours.
6. There shall be no parking or storage anywhere in a residential zoned District of any equipment which is no longer capable of the use intended or requiring repair over and above ordinary maintenance. All recreational equipment shall be kept in good condition. The ground area under and immediately surrounding where such recreational equipment is stored shall be maintained free of noxious weeds, debris or overgrowth.

L. Screening.

Any off-street parking area, other than that provided for a residence, which abuts or faces a residential district, shall provide a planting screen, landscaped fence or wall at least 4 feet in initial height along the side abutting or fronting on a residential district.

M. Offset.

In any off-street parking area, other than that provided for a residence, which abuts a residential district, no vehicle shall be allowed to park closer than 10 feet to the abutting residential lot line.

N. Setback.

No vehicle shall be parked closer than 10 feet to the base setback line.

Section 17.09 2. O.

O. 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.

P. Storage Prohibited.

The unenclosed parking or storage of unlicensed, unregistered, inoperable or junk vehicles is expressly prohibited within the Town. The use of any vehicle for storage purposes is expressly prohibited within the Town.

Q. Driveway Slope (created 12-001)

1. The maximum driveway slope shall be 12%, with the following exceptions:

- a. Existing driveways that exceed 12% may remain.
- b. Repair or repaving of existing driveways that exceed 12% shall be allowed; however, shall not increase in slope.
- c. The Plan Commission may grant a driveway slope variance at the petition of the property owners.

SECTION 17.10

ADMINISTRATION AND ENFORCEMENT

1. PLAN COMMISSION.

In addition to the responsibility and authority granted the Plan Commission pursuant to Wisconsin State Statutes, the Plan Commission shall be responsible for the functions identified in this chapter.

2. STAFF.

- A. *Unless otherwise specified, the Building Inspector shall be designated as the Code Enforcement Officer, and shall generally be responsible for administering this chapter. The Code Enforcement Officer or authorized appointee is hereby designated as the primary enforcement agency for the provisions of this chapter. The duty of the Code Enforcement Officer, among other things, shall be:*

To interpret and administer this chapter;

To authorize issuance of all permits required by this ordinance;

To keep an accurate record of all building and occupancy permits issued; and

To keep accurate records and maps of the Zoning Code and any amendments or changes thereto.

- B. *In the enforcement of this chapter, the Code Enforcement Officer under the direction of the Town Board 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 and make inspection thereof.*
2. *Upon reasonable cause or question as to proper compliance, to revoke any building or occupancy permit and issue cease and desist or stop work orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter. Such revocation shall be in effect until reinstated by the Code Enforcement Officer or the Board of Appeals.*
3. *Enforce the provisions of this chapter and the Building Code.*

3. VIOLATIONS.

A. Penalties.

Any person, firm, company or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter, will be subject to a monetary forfeiture as provided in § 25.04 of this General Code. Each day that a violation exists shall constitute a separate violation and be punishable as such.

B. Injunction.

Compliance with the provisions of this chapter may also be enforced by an injunction order at the suit of the Town or one or more owners of real estate situated within an area affected by the regulations of this chapter.

C. **Declared Nuisances.**

Any building erected, converted, relocated, enlarged, occupied, reoccupied, structurally altered, moved or placed on a lot or any use carried on in violation of the provisions of this chapter is hereby declared to be a nuisance per se and the Town may apply to any court of competent jurisdiction to restrain or abate such nuisance.

4. **BOARD OF APPEALS.**

A. **General Administration.**

Board of Appeals administration and authority shall be as follows:

1. **Establishment.**

a. **Authority. (repealed and recreated 2013-02)**

- (1) *There is hereby created a Board of Appeals, pursuant to § 62.23(7)(e), Wis. Stats., to consist of 5 members to be appointed by the Chair of the Town, subject to confirmation by the Town Board for terms of three years, except those first appointed, one shall serve for one year, two for two years and two for three years, respectively; and, thereafter, on January 1 of each year, the new appointments shall be for three year terms. The Town Chair shall also appoint, for staggered terms of three years, two alternate members, to serve as required and established pursuant to § 62.23(7)(e)(2), Wis. Stats. The Board of Appeals is encouraged to establish a procedure which allows all members and alternates to serve on an alternating, random or periodic basis, so that all members and alternates share equivalent work loads and gain equivalent experience.*
- (2) *Members and alternates of the Board of Appeals shall be removable by the Town Chair, for cause, upon written charges and after public hearing.*
- (3) *The Town Chair may appoint for a term of three years two alternate members of such Board, in addition to the five members above provided for, who shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent.*
- (4) *The provisions, with regard to removal and the filling of vacancies, shall also apply to such alternate.*

b. **General.**

- (1) *All members of the Board shall reside within the Town.*
- (2) *The Town Chair shall designate one of the members Chair.*
- (3) *A vacancy shall be filled for the unexpired term of any member whose term becomes vacant, by appointment by the Chair of the Town Board.*

Section 17.10 4. A. 1. b. 4.

- (4) *The members of the Board shall serve at such compensation to be fixed by ordinance, in addition to the actual and necessary expenses incurred by the Board in the performance of its duties.*

2. Rules.

a. General.

- (1) *The Chair, or in his or her absence, the acting Chair, may administer oaths and compel the attendance of witnesses.*
- (2) *The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.*

b. Meetings.

Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine and shall be subject to the open meetings law.

c. Procedural.

The Board shall adopt such other rules governing its procedures as are necessary, consistent with this chapter.

d. Cooperation With Plan Commission.

The Board shall keep the Plan Commission informed as to any matters brought before it and shall request of the Plan Commission such information as is pertinent to the matter under consideration.

B. Powers.

The Board of Appeals shall have the following powers as defined by statute:

1. *Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of § 62.23, Wis. Stats., or of this chapter and such additional other powers as provided by the State statutes.*
2. *To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.*
3. *Establishment or expansion of a use otherwise prohibited by Chapter 17 shall not be allowed by variance.*

4. *The Zoning Board of Appeals shall have no authority to grant a variance to the minimum lot size or lot area requirements of this zoning code. (adopted 7/27/04 – Ord. 2004-003)*

C. *Additional Variance Requirements. (repealed and recreated 2013-02)*

In making its determination the Board shall consider whether the proposed variance 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 locations, construction, maintenance and operation, in addition to any which may be stipulated in this chapter, as the Board may deem necessary for the protection of adjacent properties and the public interest and welfare. Any action authorized by a variance granted by the Board shall be completed no later than two years of the date such variance is granted, except as follows. The Board may specify in the variance a specific date by which the action authorized by the variance must be completed, which shall control, provided that such date is less than 2 years from the date the variance is granted.

D. *Required Vote. (repealed and recreated 2013-02)*

If a quorum is present, the Board may take action under this Section by a majority vote of the members present, including such alternate members as may form part of the quorum. The grounds of every such determination shall be stated.

E. *Further Appeal.*

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

F. *Appeals. (repealed and recreated 2013-02)*

1. *How Filed.*

- a. *Appeals to the Board of Appeals may be taken by any person aggrieved or by any taxpayer or any officer, department, board or bureau of the Town affected by any decision of the administrative officer. Such appeal shall be taken within 20 days from the date of the decision appealed from by filing with the administrative officer from whom the appeal is taken and with the Board of Appeals, a notice of appeal specifying the grounds thereof. The administrative officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.*
- b. *The Town Board may, by ordinance or resolution, establish reasonable filing fees for the filing of an appeal to the Board of Appeals. Such filing fees shall be paid at the time of filing of the appeal.*

2. *Stay.*

An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the administrative officer from whose decision the appeal is taken certifies to the Board of Appeals 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

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Board of Appeals or by a court of record on application, on notice to the administrative officers from whom the appeal is taken and on due cause shown.

3. Hearing.

Each appeal shall be held within a reasonable time from the time the appeal was filed with the Zoning Board of Appeal. Notice of hearing shall be given by publication thereof in a newspaper of general circulation in the Town as a Class 2 notice, under Ch. 985, Wis. Stats., the last insertion to be at least one week prior to the date set for the hearing. If the Town has an official newspaper, the notice shall be published therein. In addition, written notice shall be given to the Plan Commission, any administrative officer whose decision is appealed from, the petitioner, the Town Clerk, the owners of each parcel of land adjoining the land in question and any other specifically interested parties. At the hearing, any person may appear in person, by agent, or by attorney.

4. Decision.

The decision on any appeal shall be in writing and shall be made within a reasonable time after completion of the hearing thereon.

5. AMENDMENTS TO ZONING REGULATIONS OR MAP.

A. Town Board Action.

Pursuant to the provisions of § 62.23(7) of the Wisconsin Statutes, the Town Board may, after first submitting the proposal to the Plan Commission for report and recommendation and after notice and public hearing as hereinafter provided, amend the regulations of this chapter or change the District boundaries.

B. Initiation.

A proposal to amend the text or change the District mapping of this chapter may be initiated by motion of the Town Board or by motion of the Plan Commission. A petition to change the District mapping of this chapter may be initiated by one or more property owners in the area to be affected by the amendment.

C. Filing of Petition.

A petition to change the District mapping of this chapter submitted by a private property owner shall be prepared on printed forms provided for that purpose and filed with the Clerk and shall be accompanied by the appropriately established current fee to defray the cost of giving notice, investigation and other administrative processing.

D. Data Required.

In addition to all information required on the petition form, the petitioner shall supply 3 copies of the following:

- 1. A legal description of the land in question.*
- 2. A plot map drawn to a scale of not less than 100 feet to the inch showing the land in question, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land and the principal use of all properties within 600 feet of such land.*

3. *The names and addresses of owners of all properties within 300 feet of any part of the land included in the proposed change.*
4. *Any further information which may be required by the Code Enforcement Officer or the Plan Commission to facilitate the making of a comprehensive report to the Town Board.*

E. Referral.

1. *The Clerk shall transmit without delay one copy of such petition or motion of the Plan Commission or Town Board to the Town Board at its next meeting for formal referral to the Plan Commission, to be placed on the agenda of the next meeting of the Plan Commission.*
2. *The Plan Commission shall conduct the necessary investigation, hold an informal hearing where deemed desirable and report its recommendation to the Town Board within a reasonable time of the receipt of such petition.*

F. Hearing.

Upon receipt of the Plan Commission report or at least 60 days after submitting the petition or motion to the Plan Commission, the Town Board shall hold a public hearing thereon in the manner provided in § 6 of this section.

G. Action.

1. *As soon as reasonable after such public hearing the Town Board shall act to approve, approve with conditions, modify and approve, modify and approve with conditions, or disapprove the proposed change or amendment.*
2. *Approval shall be by appropriate ordinance and necessary changes in the official zoning map or texts shall be made promptly by the Code Enforcement Officer.*

H. Effective Upon County Approval.

1. *Any such amendatory ordinance when so adopted shall, within 7 days thereafter, be submitted by the Town Clerk to the County Clerk for approval by the County Board.*
2. *Any such amendatory ordinance shall become effective in the Town upon the approval of the County Board.*

5.5 SPECIAL EXCEPTION DUE TO ERRONEOUSLY PERMITTED WORK (created 2013-04)

The Town Board is authorized to grant a special exception to waive or modify any requirements of

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this Ordinance if, in the judgment of the Town Board, it would be inappropriate to apply literally the provisions of this Ordinance due to erroneously permitted work, to the extent deemed just and proper on a case-by-case basis after receiving and considering a recommendation from the Town of Delafield Plan Commission. The procedures and standards to be applied are as follows.

A. Procedures.

1. **Petition.**

A party seeking a special exception shall file a petition with the Town Clerk. The petition shall include all of the following:

- a. **Plat of Survey.** *A plat of survey, drawn to a reasonable scale and properly dimensioned, shall be prepared and certified by a surveyor registered by the State. Such survey shall bear the date of the survey, which shall be within one year of the application for the special exception. The survey shall also show the following:*
 - (1) *The boundaries of the property involved.*
 - (2) *The location of the centerline of any abutting streets.*
 - (3) *The ordinary high water line of any stream or lake on which the property abuts.*
 - (4) *The location on the property of any existing buildings, structures, hard surfaces, including the measured distances between such buildings and structures and the lot lines, and a chart indicating the area, measured in square feet, of each structure or hard surface.*
 - (5) *The location and grade of the existing driveways and parking areas.*
 - (6) *The nearest portion of such buildings and structures and the centerline of any abutting street.*
 - (7) *The nearest portion of such buildings and structures and the ordinary high water line of any abutting stream or lake.*
 - (8) *The proposed floor elevation of all existing buildings and structures in relation to the existing and/or established grade of any abutting streets and the ordinary high water line of any abutting stream or lake.*
 - (9) *The elevation and setback of any existing buildings or structures on adjacent parcels within 200 feet of any existing buildings, structures or additions.*
- b. *The names and addresses of the owners of all properties within 300 feet of the property involved.*
- c. *A detailed written description of the existing development or use, and conditions for which the special exception is sought.*

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- d. *Any further information as required by the Town Staff, Town Plan Commission, or Town Board to facilitate the making of an evaluation of such request, such as, parking, traffic impact, landscaping treatment, drainage, sanitary sewer, erosion control and other factors as would be pertinent including the impact on public facilities.*

2. **Fee.**

The petition shall be accompanied by a fee payment as set from time to time by the Town of Delafield Town Board to defray the cost of publication, notification, and holding a public hearing, administrative expenses and expenses of Board members. The Petitioner shall also pay reimbursement to the Town of Delafield for all costs incurred for legal, planning, engineering, and administrative work necessary to administer the application and oversee all procedures and activities related to the application.

3. **Plan Commission Evidentiary Hearing.**

The Town Plan Commission shall hold an evidentiary hearing upon receipt of such petition. All interested persons may be heard, in sworn oral testimony. Notice of such hearing shall be provided as described in 17.10(6) of this Ordinance, to the same extent as though this were consideration of a conditional use.

4. **Plan Commission Findings and Recommendation.**

As soon as practicable following the evidentiary hearing, the Town Plan Commission shall make written findings and a recommendation to the Town Board, regarding whether the petitioner has proved an adequate basis for granting a special exception, and if so, regarding any conditions that the Plan Commission recommends be included in any such grant of a special exception.

5. **Town Board Action.**

The Town Board shall review the recommendation of the Town Plan Commission, and make a decision in writing, of whether to grant, conditionally grant, or deny the requested special exception.

B. **Basis of Approval.**

An application for a special exception may be approved, denied, or approved with conditions. The Town Board shall consider the recommendation of the Town Plan Commission, but is not bound to follow the Town Plan Commission's recommendation. The Town Board may rely upon the sworn testimony received by the Town Plan Commission, or in its discretion the Town Board may take additional testimony from any witness(es) of their choosing. In order to approve or conditionally approve the special exception, the Town of Delafield Town Board must find that the applicant has demonstrated all of the following:

1. *Permit Error. That the Petition seeks approval of a structure that was constructed pursuant to a building permit or zoning permit issued by the Town of Delafield Building Inspector or Zoning Administrator, in accordance with the plans filed with the permit application and all conditions of the permit approval, and only after completing construction was the structure found to be in violation of the yard,*

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building height, area, setback, offset, or open space requirements of this Ordinance.

2. *Preservation of Property Rights. That the special exception is necessary for the preservation and enjoyment of substantial property rights possessed by the applicant.*
3. *No Substantial Detriment. That the special exception will not create substantial detriment to adjacent property or the general desirability of the Town of Delafield and its environs, and will not materially impair or be contrary to the purpose and spirit of this Ordinance, or the adopted Town of Delafield Comprehensive Plan, or the public interest.*

C. **Determination.**

The action of the Town of Delafield Board shall be stated in writing, and shall include findings of facts setting forth the basis for the decision. If a special exception is granted, or is conditionally granted, it shall be subject to the written approval of the applicant, and upon such approval it shall be recorded at the office of the Waukesha County Register of Deeds. Such recorded document shall be in a form approved by the Town Attorney and shall include all of the following: (a) A description of the particular non-compliant conditions on the property that are allowed to remain; (b) all conditions imposed by the Town Board upon the grant of the special exception; (c) a statement that in the event a non-compliant structure or use is destroyed or otherwise removed from the property, either wholly or in part, for any reason, such non-compliant structure or portion thereof shall not be replaced; (d) a statement that the grant of a special exception under this Section 17.10(5.5) does not render the structure or use legal non-conforming, and no legal non-conforming rights shall apply. The decision of the Town of Delafield Town Board shall be final, and shall not be subject to appeal to the Zoning Board of Appeals.

6. **PUBLIC HEARINGS.**

A. **Notice.**

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

B. **Procedure.**

1. **Posting and Publishing.**

- a. *Except as may be otherwise herein specifically provided, notice of hearing shall be given not less than 10 days prior to the date of such hearing by posting such notice in at least 3 public places in the Town, and publishing the notice as a Class 2 notice, under Ch. 985, Wis. Stats., in a newspaper likely to give notice to the area affected. If the Town has an official newspaper the notice shall be published in the official newspaper.*

- b. *When the hearing involves a proposed change in the zoning district classification of any property, or the granting of a conditional use, one of the notices shall be posted in the vicinity of such proposed change of*
Section 17.10 6. B. 2.

conditional use where practical, and notice of the public hearing shall be mailed to the owners of all lands in the Town which lie within 300' of any part of the land included in such proposed change or conditional use at least 10 days before such public hearing. The failure of such notice to

reach any property owners provided such failure is not intentional, shall not invalidate any amending ordinance, grant of conditional use or decision. Such mailed notice shall not be required where the Town Board determines that the Zoning District changes are of such a nature that such notice would involve excessive administrative effort and expense and is not necessary for reasonable notification of affected property owners.

2. **Fee.**

Where a hearing is required by the provision of this chapter, such petition shall be presented in writing to the Town Clerk and shall be accompanied, in addition to the data required, by a fee as set from time-to-time by the Town Board to defray the cost of notification and holding of a public hearing.

7. **ADMINISTRATIVE AND ON-SITE DEVELOPMENT FEES.**

A. **Administration.**

All persons, firms or corporations whose application, petition and/or plans require appearance at a public meeting, staff review of plans, staff inspection of site improvements and/or issuance of a permit shall pay a fee to the Town to help defray the cost of administration, investigation, advertising, inspection and processing. All fees shall be established by separate resolution of the Town Board and amended from time-to-time as deemed appropriate.

B. **Consultant Fees.**

Costs incurred by the Town for retaining outside consultants to assist in review and analysis of any application shall be paid by the applicant.