TITLE 13

Zoning

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CHAPTER 1

Introduction

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SEC. 13-1-1 ZONING REGULATIONS AMENDED.

The Zoning Ordinance of the Town of Waukesha passed and adopted by the Town Board on September 22, 1948; November 21, 1956; and July 24, 1979 approved by the Waukesha County Board of Supervisors, is amended as hereafter provided.

SEC. 13-1-2 PURPOSE.

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

SEC. 13-1-3 SCOPE.

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants or agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or structure or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this ordinance shall govern.

SEC. 13-1-4 DEFINITIONS.

(a) **General Interpretation.** For the purposes of this ordinance, and when not inconsistent with the context, words used herein in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular; the word "person" may be taken for persons, associations, co-partnership or corporation; the word "structure" includes buildings; the word "occupied" includes designed or intended to be occupied; the word "used" includes designed or intended to be used; the word "shall" is always mandatory and not merely permissive; "Town" refers to the Town of Waukesha, Waukesha County, Wisconsin; "Plan Commission" refers to the Town Plan Commission established under Section 62.23 of the Wisconsin Statutes or any other agency created by the Town Board and authorized by statute to plan land use; and reference to any officer such as "Clerk," "Building Inspector," "Planner," "Engineer," or "Attorney" means that officer appointed or otherwise officially designated by the Town in such capacity.

(b) **Specific Words and Phrases.** For the purposes of this ordinance, certain words and phrases shall be defined as follows:

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

(2) **Attached, detached and semi-detached Single Family Dwellings:**

a. Attached: A single family dwelling with other single family dwellings on both sides and separated only by party walls in common.

b. Detached: A single family dwelling autonomous within its own exterior walls and separated from other buildings by air space.

c. Semi-detached: A single family dwelling with three autonomous walls and the fourth wall being a party wall in common. A side-by-side duplex consists of two semi-detached dwellings. The end units of a row of townhouses are also classified as semi-detached units.

(3) **Base setback line:** The ultimate street line as established by Section 13-2-10(a)(1), and from which all required setbacks shall be computed.

(4) **Basement:** That portion of any structure which is below grade, or which is partly below and partly above grade but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling. Basements shall not be considered as part of the living area requirements.

(5) **Boarding house:** A building or premises where meals or meals and lodging are offered for compensation for 5 or more persons, but not more than 12 persons, and having no more than 5 sleeping rooms for this purpose. An establishment where meals are served for compensation for more than 12 persons shall be deemed a restaurant. An establishment with more than 5 sleeping rooms shall be deemed a hotel.

(6) **Building:** Any structure used, designed or intended for the protection, shelter or enclosure of persons, animals or property.

(7) **Building, accessory:** A building or portion of a building subordinate to the principal building, and not attached to it, and used for a purpose customarily incident to the permitted use of the principal building.

(8) **Building, height of:** The vertical distance from the finished grade at the building setback line, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the height of the highest gable of a gambrel, hip or pitch roof.

(9) **Building, principal:** The main building on a lot, intended for primary use as permitted by the regulations of the district in which it is located. Any building in an agriculture or residence district intended to be used for human habitation shall constitute the principal building, except in the case of a permitted guesthouse.

(10) **Building unit:** In a planned development project, each building separated from others by a party wall or walls shall be considered a separate building unit. Each dwelling in a row house group is a separate building unit. A single store, in a row of stores, separated from the next by a fire wall is considered to be a building unit. Each apartment in an apartment building is considered to be a building unit, etc. A free standing single family home is one building unit.

(11) **County:** Shall mean Waukesha County.

(12) **District:** An area of the Town of Waukesha for which the regulations governing the use and size of premises and the use, size and height are the same.

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

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

(15) **Dwelling, multiple:** A building or portion thereof designed for and occupied by two or more families including two-family flats, duplexes and apartment houses.

(16) **Enclosed Storage:** Storage of materials, vehicles, etc. inside of a building that has at least 4 walls and a roof as defined in Section 101.65 State Statutes. Fences, landscaping, plantings, etc. do not constitute enclosed storage.

(17) **Family:** A person living alone or more than one person living together in one dwelling unit as a single housekeeping entity, as distinguished from a group occupying a boarding house, lodging house, motel or hotel, fraternity or sorority house. A single housekeeping entity infers the use in common of all spaces, household services and utilities with a single source of food preparation for all occupants.

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

(19) **Farm, pig:** A tract of land devoted principally to the raising or feeding of pigs or hogs.

(20) **Farm, poultry:** A tract of land devoted principally to the raising of poultry for commercial purposes.

(21) **Floor area:** The total area bounded by the exterior walls of a building at the living floor levels, but not including non-living basement space, garages, porches, breezeways, and unfinished attics. In calculating the area of an apartment, the "net" area shall be considered as all space enclosed within the exterior walls, the corridor walls, and the walls separating one apartment from the next.

(22) **Floor area ratio (or F.A.R.):** The total floor area of all buildings, principal and accessory, allowed on a given lot, expressed as a percentage ratio to the total area of the lot: i.e., an F.A.R. of 100% allows a floor area equal to the total area of the lot; and a F.A.R. of 50% allows a floor area of 1/2 the total area of the lot, etc. A floor area ratio of 50% could be applied to a one-story building occupying 50% of the lot, or two-story building occupying 25% of the lot.

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

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

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

(26) **Grade, established:** 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.

(27) **Guesthouse:** A building used principally for occasional occupancy by guests of the occupants of the principal residence and shall not be leased or rented for human occupancy outside of the principal family.

(28) **Hereafter:** After July 24, 1979.

(29) **Highway:** Same as "Traffic artery."

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

(31) **Horticulture:** The growing and cultivating of fruits, flowers, and related plant material.

(32) **Hotel:** A building in which lodging, with or without meals, is offered for compensation and which may have more than 5 sleeping rooms for this purpose.

(33) **In-Law Unit:** A room or suite of rooms having a separate kitchen facility located in a single family dwelling occupied by not more than two persons related by blood or marriage to the family occupying the dwelling. Such extra living units shall not be rented or occupied by anyone outside the family who is not related by blood or marriage.

(34) **Kennel, commercial:** An establishment where dogs or other household pets are raised, bred, boarded or cared for as a gainful occupation.

(35) **Lodging house:** A building where lodging only is provided for compensation and having not more than 5 sleeping rooms for this purpose.

(36) **Lot:** A single parcel or tract of contiguous land which is legally recognized as a separate parcel, held in separate ownership and bounded by lot lines, or one or more of any of the following recognized boundaries such as public rights-of-way, officially approved ways, railroad or utility rights-of-way, and the center line of natural, altered or man-made water courses. The uses to which such lot may be put and the buildings or structures that may be placed upon such lot are regulated by this ordinance, and such lot must abut a public right-of-way or have access via an officially approved private way.

(37) **Lot area:** The area of contiguous land bounded by lot lines, exclusive of land provided for public thoroughfare.

(38) **Lot, corner:** A lot abutting on 2 or more streets at their intersection, provided that the interior angle of such intersection is less than 135°.

(39) **Lot, depth:** The mean horizontal distance measured between the street line and the opposite rear line or lines of the lot.

(40) **Lot, grade:** As distinguished from "Grade, established," is the elevation of the finished grading of soil at the perimeter of a building.

(41) **Lot, interior:** A lot other than a corner lot.

(42) **Lot, legal nonconforming:** A legally recognized lot which existed at the time of passage of this ordinance but which does not conform to the District Regulations of the district in which it is located.

(43) **Lot lines:** The lines bounding a lot as defined herein.

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

(45) **Lot, through:** An interior lot having frontage on 2 streets.

(46) **Lot Width, minimum average:** The mean horizontal distance measured between side lot lines perpendicular to the mean lot depth at the building setback line. The lot width at the base setback line shall be no less than 30 ft. along a straight road section or 45 ft on a cul-de-sac turn-around.

(47) **May:** The word "may" is permissive not mandatory.

(48) **Mobile Home:** That which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any addition, attachments, annexes, foundations, and appurtenances, except that a house trailer is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations and appurtenances equals or exceeds 50 percent of the assessable value of the house trailer. (Wisconsin Statutes 66.058(1)(e).

(49) **Motel:** A building or series of buildings in which lodging, with or without an attached restaurant, 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.

(50) **Nonconforming use, lot and structure:** Any structure, land or water lawfully used, occupied, or erected at the time of the effective date of this ordinance or amendments thereto that does not conform to the regulations of this ordinance or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use. See Definitions - Lot, legal nonconforming, Structure, legal nonconforming and Use, legal nonconforming.

(51) **Offset:** The distance between any lot line, other than a street line, and any part of a permanent building or structure. The offset shall be measured from the lot lines to the overhang or any enclosed area of the structure.

(52) **Open space:** An unoccupied space open to the sky on the same lot with the building it serves and not used for any other purpose. Required off-street parking space does not qualify as open space, nor do drives except with respect to single family residences and duplexes.

(53) **Open space, Common:** In planned unit developments, common open space shall be the area that is designated as an outlot or easement and not part of a developable lot or building site.

(54) **Parking space or parking stall:** A graded and surfaced area as set forth in Section 13-2-13, either enclosed or open, but in fact usable, for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

(55) **Planting screen:** An area landscaped with natural growing plant material which effectively screens from vision the objects it is intended to hide from view.

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

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

(58) **Property owner.** Any person, tenant, firm, company, partnership or corporation who is responsible for the use of property.

(59) **Public building:** Public buildings in the sense of this ordinance are structures principally of an institutional nature and serving a public need such as: churches, hospitals, schools, including private academic schools and nursery schools, libraries, museums, post offices, police and fire stations, public utilities and other public services, but not including the operation of a public bar, restaurant, or recreational facility as a commercial enterprise.

(60) **Quarrying:** The removal of rock, slate, gravel, sand, topsoil, or other natural material from the earth by excavating, stripping, leveling or any other such process.

(61) **Quarrying operation:** Any use related to the act of quarrying as defined herein, including the necessary accessory building or other structures, access roads, machinery, equipment, and stockpiles.

(62) **Refuse disposal site:** A tract of land operated by a public or private agent, subject to restrictions of use and under supervision, and where more than one family may take all types of refuse, including organic and inorganic wastes (but excluding human excreta, sewage, and/or other liquid wastes), for compacting and burial by sanitary land fill methods. Hard or clean fill operations involving materials such as foundry sand, dirt, gravel, concrete or other forms of clean fill material shall not be required to conform to the provisions of Section 13-2-9(i).

(63) **Restaurant:** Means and includes any building, room or place wherein meals or lunches are prepared, served or sold to transients or the general public, and all places used in connection therewith. Meals or lunches shall not include soft drinks, ice cream, milk, milk drinks, ices and confections. The serving in taverns of free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall not constitute such taverns to be restaurants. The term restaurant does not apply to churches, religious, fraternal, youth or patriotic organizations, which occasionally serve or sell meals or lunches to transients or the general public, nor shall it include any private individual selling foods from a movable or temporary stand at public farm sales. (Wisconsin Statutes 50.50(3).

(64) **Riding Academies:** A commercial or private institution catering to equestrian pursuits including the boarding of horses for a fee. Synonymous with "Riding Stables."

(65) **Road:** Synonymous with "Street."

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

(67) **Sand and gravel pits:** See "Quarrying."

(68) **Setback:** The horizontal distance between the base setback line and the nearest roofed or enclosed portion of a building.

(69) **Shall:** The word "shall" is mandatory not permissive.

(70) **Sign:** Any sign or device displaying advertising in the form of lettering, pictures, symbols or other media.

(71) **Special Exception:** A unique or unusual land use or situation excluding a change in use or a use prohibited in a zoning district except as may be authorized as a conditional use, may be deemed appropriate in a given location or zoning district by the Board of Appeals following procedural due process. Granting of a special exception does not require the demonstration of unnecessary hardship or practical difficulty.

(72) **Stable:** "Stable" shall have the same meaning as "Garage," one draft animal or saddle horse being considered the equivalent of one self-propelled vehicle.

(73) **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 be no floor above it, then the space between the floor and the ceiling next above it.

(74) **Street:** A public or private right-of-way usually affording primary access to abutting property.

(75) **Street, frontage:** A street contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property.

(76) **Street line:** A dividing line between a lot, tract or parcel of land and a contiguous street.

(77) **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. Enclosures, such as tennis courts, backstops and similar game court or swimming pool enclosures are, for the purpose of this ordinance, considered to be permanent structures and must be treated as such with respect to all regulations of this ordinance.

(78) **Structure, legal nonconforming:** A building, structure, or portion thereof, lawfully existing at the time of the passage of this ordinance, but which does not conform in one or more respects to the regulations of this ordinance.

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

(80) **Sustained yield forestry:** The management of forested lands to provide annual or periodic crops of forest products.

(81) **Swimming pool:** A structure, designed to hold water 30 inches deep or more for the purpose of swimming.

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

(83) **This ordinance:** This Title 13 of the Town Code.

(84) **Tourist home:** A building in which lodging, with or without meals, is offered to transient guests for compensation and having no more than 5 sleeping rooms for this purpose with no cooking facilities in any such individual room or apartment.

(85) **Traffic artery:** A right-of-way, designated on a comprehensive system, for the principal purpose of providing vehicular thoroughfare and not necessarily affording access to abutting property.

(86) **Traffic artery:** Same as "Highway."

(87) **Unenclosed Storage:** Storage of materials, vehicles, etc. outside of a building that has at least 4 walls and a roof as defined in Section 101.65 State Statutes.

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

(89) **Use, legal nonconforming:** The use of a building or land lawfully carried on or occupied at the time of the passage of this ordinance***** (*7/24/79) or amendments thereto, but which use or occupancy does not conform to the Use Regulations of this ordinance or any amendments thereto.

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

(91) **Vision setback:** An unoccupied triangular space, at the street corner of a corner lot, as established by Section 13-2-10(a)(2).

CHAPTER 2

General Provisions

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SEC. 13-2-1 COMPLIANCE WITH REGULATIONS.

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

SEC. 13-2-2 BUILDING PERMIT.

(a) **Required.** No building or structure shall be erected, structurally altered, or relocated until a building permit has been issued by the Building Inspector, certifying that such building, as proposed, would be in compliance with the provisions of this ordinance and with the Building Code of the Town.

(b) **Plat of Survey.** A plat of survey prepared by a registered land surveyor showing the location of proposed boundaries, dimensions, elevations, uses and sizes of the following: subject site, proposed and existing buildings or structures, existing and proposed easements, other public ways, off street parking, loading areas and driveways, existing highway access restrictions and existing, proposed street, side and rear yards and any C-1 zoned lands. In addition, the plat of survey shall

show the location, elevation and use of any abutting lands and their structures within 40 feet of the subject site. Applicants may utilize an existing plat of survey that indicates the house location as noted above, for decks, additions and accessory buildings when drawn to scale at the discretion of the building inspector. The building inspector shall have the right to request a re-certification of any structure location and elevations if the structure is closer than 3 feet to the minimum offset, setback or elevation requirements.

(c) **Sewage Disposal System.** Where the use involves human occupancy, a plan of the proposed sewage disposal system which, if not connected to an approved municipal sewage system, shall require the certification of the Building Inspector and the Plumbing Inspector that it conforms to all Town ordinances and other governmental laws or regulations then applicable to sewage disposal systems. Prior to the granting of a building permit, a county sanitary permit is needed signifying conformance with the County Sanitary Ordinance.

(d) **Water Supply.** Satisfactory evidence that a safe and adequate supply of water is to be provided, and the location of any well for that purpose on the property.

SEC. 13-2-3 OCCUPANCY AND USE PERMIT.

(a) **Required**. No vacant land shall be occupied or used except for agricultural purposes and no building shall be hereafter erected, structurally altered, relocated, used or occupied, until occupancy and use permits have been issued, certifying that any such building, use or occupancy complies with the provisions of the Zoning Ordinance of the Town of Waukesha, and like permits shall be obtained before any change is made in any business, commercial or industrial use, or before any nonconforming use for business, commercial or industrial use is resumed or changed.

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

(c) **Expiration.** If within six (6) months of the date of issuance of a permit the proposed construction or preparation of land for use has not commenced or if within 18 months an occupancy and use permit has not been issued, said permit shall expire, except that upon showing of valid cause the Building Inspector may grant an extension of such permit for a period not to exceed six (6) months.

(d) **Temporary Occupancy and Use Permit.** Pending the issuance of a regular occupancy permit, a temporary occupancy permit may be issued for a period not exceeding 90 days during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary occupancy permit shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants. A temporary occupancy permit shall be voided if the building fails to conform to the provisions of this chapter to such a degree as to render it unsafe for the occupancy proposed.

SEC. 13-2-4 SITE PLAN AND PLAN OF OPERATION REVIEW.

(a) **Purpose, Scope and Intent.** For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure or addition, with the exception of single-family and two-family dwellings, accessory buildings or related structures, without first obtaining the approval of the Town Plan Commission and Town Board of detailed site, plan of operation and architectural plans as set forth in this section.

The Town Plan Commission and Town Board, hereinafter in this subsection referred to as the "Town," shall approve, conditionally approve, or reject the detailed site and architectural plans. The Town shall review the site, existing and proposed structures, architectural plans, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading in the case of commercial and industrial uses, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.

(b) **Administration.** Plan data shall be submitted to the Town Clerk who shall transmit all applications and their accompanying plans to the Town, Zoning Administrator/Planner, and Building Inspector for their review. Plans shall be accompanied by the application fee as established by the Town Board. Plan data to be submitted with all plan review applications shall include the following:

(1) Site plan drawn to a recognized engineering scale not to exceed 1" = 60 feet
(2) Name of project noted.
(3) Owners and developer's name and address noted.
(4) Architect and/or engineer's name and address noted.
(5) Date of plan submittal.
(6) Scale of drawing noted on plan.
(7) Existing and proposed topography shown at a contour interval not less than two (2) feet. Topography shall extend 40 feet onto adjacent property or to the building on the adjacent lot, whichever is greater.
(8) The characteristics of soils related to contemplated specific uses.
(9) Total number of parking spaces and layout, including driveways shall be shown on the plan.
(10) The type, size and location of all structures with all building dimensions shown.
(11) Indicate height of building(s).
(12) Indicate existing and proposed street locations on the site plan.
(13) Indicate existing and proposed public rights-of-way and widths.
(14) North arrow shown.
(15) Locate existing and general location of proposed sanitary sewers, storm sewers and water mains.
(16) Submit a storm water management plan indicating all facilities, including detention/retention areas. The design criteria shall meet the requirements as stated in the County Erosion Control and Storm Water Ordinance.
(17) Locate existing trees that are 6 inches in diameter or larger.
(18) Note location, extent, and type of proposed plantings.
(19) Note location of pedestrian sidewalks and walkways.
(20) A graphic outline of any development staging that is planned is required to be shown on the site plan.
(21) Architectural plans, elevations and perspective drawings and sketches illustrating the design and character of proposed structures.
(22) Landscaping plan and point calculations.
(23) Lighting plan and a photometrics plan may be required upon Town request.

(c) **Plan of Operation.** No use shall be approved until the Town and staff has reviewed/approved the **plan of operation application form** that shall indicate:

(1) The Proposed Use of the land and/or structures;
(2) Activities to occur both inside and outside all principal and accessory structures;
(3) The Frequency and Duration of all activities;
(4) The Number of Employees of any commercial or industrial enterprise;
(5) The Estimated Number of Occupants of a residential use;
(6) The Number, Size and Type of all Vehicles associated with the use;
(7) Plans for Compliance with the performance standards set forth in this Ordinance;
(8) The Season, days and hours of operation;
(9) The Expected Starting and Completion dates of construction;
(10) The Proposed Phasing of the project, if appropriate;
(11) Other Information as requested by the Town.

(d) **General Architectural Principles.** To implement and define criteria for the purposes set forth in this Ordinance, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

(1) No building regulated by this section shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
(2) No building regulated by this section shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.
(3) No building regulated by this section shall be permitted where any exposed façade is not constructed or faced with a finished material that is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
(4) No building or sign regulated by this section shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
(5) No building or use regulated by this section shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Town.
(6) Buildings and uses regulated by this section shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The Plan Commission may require that drainage easements be executed.
(7) Buildings and uses regulated by this section shall provide for adequate site construction erosion control measures. The Plan Commission may require erosion control plans and may establish time schedules for landscaping and re-vegetation of construction sites.
(8) Buildings and uses regulated by this section shall provide for safe traffic circulation and safe driveway locations.
(9) Buildings and uses regulated by this section shall provide adequate parking and loading areas.
(10) Buildings and uses regulated by this section shall be provided with adequate public services as approved by the appropriate utility.
(11) Use of exterior lighting shall be designed in such a manner that all light rays are directed downward onto the property. No rays shall be directed towards adjacent properties. [See Subsection (g)]

(e) **Detailed Architectural Standards.** To implement the purposes set forth in Section 13-2-4(a) Purpose and Intent, the following architectural criteria and review guidelines are established:

(1) Building Facades. For retail business, service, multi-family and offices uses all building exteriors shall be brick, decorative masonry, glass panel E.F.I.S. for only 50% of the exterior building face, or other appropriate finished façade as may be approved by the Plan Commission and Town Board. Colors need to be shown and material samples need to be submitted as requested by the Town Planner, Plan Commission or Town Board.

For industrial and warehouse use all building exteriors facing a street or approved way shall have 50% of the street face constructed with brick, decorative masonry, glass panel, or other appropriate similar finished façade as may be approved by the Plan Commission and Town Board. Such brick, masonry, glass, or other decorative facing shall extend for a distance of at least 25 feet along the sides of the structure from the street face.

(2) Overhead Doors. No overhead doors in a business, industrial, or public district shall face a public street. The Plan Commission may permit overhead doors to face a public street when it has made a finding that there is no feasible alternative location for such doors.

(3) Heating, Air Conditioning and Ventilating Equipment. HVAC equipment shall be located in a manner to be unobtrusive and screened from view. Landscaping to be used to screen equipment.

(4) Storage of Garbage/Trash. All garbage cans, trash containers, and other storage devices situated on any lot shall be in closed containers with lids and shall be concealed or suitably screened from public view. Fencing or landscaping shall be used to totally obstruct vision into the storage areas by the alternatives set forth in Figure 1 or their equivalent.

(5) Other Architectural Standards. The Plan Commission and Town Board may impose other architectural standards deemed appropriate such as; but not limited to: building material samples, building color samples, roof pitch designs and architectural breaks in walls over 75 feet in length. Except for flat roofs, the minimum pitch shall be 2:12. The Plan Commission and Town Board may allow a roof pitch less than 2:12 when it has made a finding that there is no feasible alternative to meet the 2:12 roof pitch.

(f) **Landscaping.**

(1) On-Site Landscaping and Screening. The following landscape standards are to be utilized in preparing landscaping plans to be submitted with site plans. The Plan Commission and Town Board will review each landscape plan to determine if it conforms with the intent of these Standards.

(2) Landscaping Point System and Minimum Installation Sizes for Plants. On-site landscaping shall be required for all development. All landscaping standards are stated in terms of the number of landscaping points. The number of landscaping points is dependent upon the size of the development. A different number of points are awarded for each plant, depending upon its typical growth rate, its mature height, and whether it is a deciduous or evergreen species. A minimum installation size is required for each of these plant categories. These recommendations are per Table 13-2-4 A.

(3) Depiction of Sample Landscaping Schemes. *Illustrations* A, B, C & D shown on the following pages, depicts sample landscaping schemes that may be used for building foundations, developed lots, street frontages and paved areas. In general, landscaping schemes similar to *Illustration A* are best for building foundations, *Illustration B* are best for developed lots, *Illustration C* are best for street frontages and *Illustration D* are best for paved areas (including parking lots, walkways and plazas).

(4) Measurement for Landscaping Standards. A minimum amount of landscaping points are required for the linear feet of building foundations, the gross floor area of buildings on developed lots, the linear feet of street frontage and the total combined area of paved areas.

(5) Landscaping Standards for Building Foundations.

a. New Buildings and additions shall be accented by a minimum amount of landscaping placed within a minimum depth of 7 feet from the building foundation.

b. Landscaping for building foundations shall be placed so that at maturity, the plant's drip line is located within ten feet of the building foundation. Such landscaping shall not be located in those areas required for landscaping as street frontages or paved areas. See *Illustration A*, for a suggested scheme. Landscaping shall not impede vehicle or pedestrian visibility.

c. For each 100 feet of building foundation perimeter, 40 landscaping points shall be provided on a prorated basis, and installed and permanently maintained.

d. Tall or medium trees shall not be used to meet this requirement. The intent of this section is to require a visual break in the mass of buildings and to require a visual screen of a minimum of five feet in height for all exterior perimeter appurtenances (such as HVAC/utility boxes, standpipes, stormwater discharge pipes and other pipes).

(6) Landscaping Standards for Developed Lots.

a. This section shall apply to already developed lots when building additions or remodels with improvements of more than 25% of the assessed value of the structure are proposed.

b. Landscaping for developed lots shall be placed away from those areas required for landscaping as building foundations, street frontages, and paved areas. See *Illustration B*, for a suggested landscape scheme. Landscaping shall not impede vehicle or pedestrian visibility.

c. For each 1,000 square feet of gross building floor area, ten landscaping points shall be provided on a prorated basis, and installed and permanently maintained.

d. The intent of this section is to provide yard shade and to require a visual screen of a minimum of five feet in height for all detached exterior appurtenances (such as HVAC, electrical transformers, utility boxes, standpipes, stormwater discharge pipes and other pipes).

(7) Landscaping Standards for Street Frontages.

a. Street frontages for new buildings and additions shall contain a minimum amount of landscaping in those areas that abut the right-of-way of a public street.

b. Landscaping for street frontages shall be located within ten feet of the public right-of-way. In no instance shall such landscaping be located within a public right-of-way. Landscaping shall not impede vehicle or pedestrian visibility.

c. For each 100 linear feet of street frontage where a developed lot abuts a public street right-of-way, 40 landscaping points shall be provided on a prorated basis, and installed and permanently maintained.

d. Shrubs shall not be used to meet this requirement. A minimum of 50% of all points shall be devoted to tall and medium deciduous trees and a minimum of 30% of all points shall be devoted to medium and low Evergreen trees.

(8) Landscaping Standards for Paved Areas.

a. Paved areas for new buildings and additions shall contain a minimum amount of landscaping within ten feet of the paved area. The intent of this subsection is to provide a visual screen of the parking lot from abutting properties that breaks up the parking lot look and separates the parking lot stalls by providing shade trees within the parking lot. The screening around the perimeter of the parking lot shall have a minimum height of 40 inches from the street view.

b. A minimum of 270 square feet of landscaped area, which shall be located in the parking lot for every ten linear stalls of the paved area. The landscape island shall take up 1½ parking stalls. See *Illustration D*, for a suggested landscaping scheme. Plants used to fulfill the perimeter requirement should provide 50% solid screening of the parking, loading and circulation areas from view from public streets. Plants used for landscape islands shall be tall and medium deciduous trees and low shrubs.

c. For every 20 off-street parking stalls located in a development, one landscape island a minimum of 270 square feet shall be installed and permanently maintained. Each island shall have a minimum of 80 landscaping points and be devoted to tall or medium deciduous trees and shrubs.

d. A ten-foot wide green buffer shall be provided around the perimeter of all lots excluding areas for driveway connections to the public street or approved way.

(9) Classification of Plant Species.

For the purpose of these Standards, plant materials are classified into 12 groupings: "tall deciduous tree", "medium deciduous tree", "low deciduous tree," "tall evergreen tree", "medium evergreen tree", "low evergreen tree", "tall deciduous shrub", "medium deciduous shrub", "low deciduous shrub", "medium evergreen shrub", "low evergreen shrub", and non-contributory plants. Species suitable for landscaping use and compatible with vicinity climate and soil factors are listed in the table below. The Plan Commission and Town Board shall review proposals for, and the applicability of, species not contained in this list and is authorized to approve appropriate similar species.

TABLE 13-2-4 A
CLASSIFICATION OF PLANTS

TALL DECIDUOUS TREES (40 Landscaping Points) (3" Caliper and 8' Tall Minimum)		**TALL EVERGREEN TREES (40 Landscaping Points) (3" Caliper and 8' Tall Minimum)**	
Botanical Name	**Common Name**	**Botanical Name**	**Common Name**
Acer saccharum	Maple: Red, Silver, Norway, Sugar	*Abies concolor*	White Fir
Ginkgo biloba	Ginko	*Pinus sp.*	Pine: Red, White, Scots
Quercus sp.	Oak: Red, White, Pin	*Psendotsuga Menzieiesii*	Douglas Fir
Fraxinus sp.	Ash: White, Green	*Tsuga Canadensis*	Canada Hemlock
Gleditsia triancanthos	Honeylocust		Spruce: Colorado Blue
Populus grandidentata	Bigtooth Aspen		
Tilia sp.	Linden: Basswood, Littleleaf, Redmond		
MEDIUM DECIDUOUS TREES (15 Landscaping Points) (2" Caliper and 6' Tall Minimum)		**MEDIUM EVERGREEN TREES (15 Landscaping Points) (2" Caliper and 6' Tall Minimum)**	
Botanical Name	**Common Name**	**Botanical Name**	**Common Name**
Betula sp.	Birch: River, Paper	*Thuja occidentalis*	American Arborvitae
Prunus sp.	Cherry: Choke, Pin		
Salix sp.	Willow		

LOW DECIDUOUS TREES (10 Landscaping Points) (4' Tall Minimum)		**LOW EVERGREEN TREES (10 Landscaping Points) (3' Tall Minimum)**	
Botanical Name	**Common Name**	**Common Name**	
Corpinus Caroliniana	Hornbeam Thornless	*Juniperus sp.*	Juniper: Mountbatten, Redcedar
Crataegus sp.	Hawthorne: Cockspur, Downy, Washington	*Thuja sp.*	Arborvitae: Pyramidal, Techny
Malus sp.	Crabapple sp.		Colorado Dwarf Blue Spruce
Sorbus sp.	Mountain Ash: European, Korean		
Syringa Reticula	Lilac		
TALL DECIDUOUS SHRUBS (7 Landscaping Points) (36" Tall Minimum)		**TALL EVERGREEN SHRUBS (7 Landscaping Points) (36" Tall/Wide Minimum)**	
Botanical Name	**Common Name**	**Botanical Name**	**Common Name**
Cornus sp.	Dogwood: Grey, Pagoda, Redosier	*Juniperus Chinensis*	Juniper: Hetz
Syringa sp.	Lilac: Chinese, Hyacinth, Common Misskim	*Taxus sp.*	Yew: Japanese
Hydrangea lc Panicolata sp.	Reege Hydrangea	*Thuja Occidentalis*	Broad Pyramich
Viburnum sp.	Viburnum: Arrowwood, Wayfaringtree, Nannyberry		
Hamanelis sp.	Common Witchazel		
Evonymous lc Astro Purporea	Eastern Wahoo		
Lonicera sp.	Honeysuckle: Zabel, White Belle		
Rhus	Sumac: Smooth, Stagham		
Salix Caprea	Pussy Willow		

MEDIUM DECIDUOUS SHRUBS (5 Landscaping Points) (24" Tall/Wide Minimum)		**MEDIUM EVERGREEN SHRUBS (5 Landscaping Points) (24"Tall/Wide Minimum)**	
Botanical Name	**Common Name**	**Botanical Name**	**Common Name**
Corylus americana	American Filbert, Hazelnut	*Juniperus Chinensis*	Juniper Pfitzer
Myrica Pensylvanica	Bayberry	*Juniperus lc. Communis*	Juniper Old Field Common
Cotoneaster sp.	Cotoneaster	*Picea glavca*	Alberta Spruce
Forsynthia sp	Forsythia: Border, Early, Weeping	*Taxus sp.*	Yew Japanese
Ligustrum	Privet	*Thuja Woodwardi*	Globe Arborvitae
Rosa sp.	Rose: Virginia, Rugosa		
Spirea	Spirea: Bridalwreath, Thunberg Vanhoutte		
LOW DECIDUOUS SHRUBS (3 Landscaping Points) (18" Tall Minimum)		**LOW EVERGREEN SHRUBS (3 Landscaping Points) (18" Tall/Wide Minimum**	
Botanical Name	**Common Name**	**Botanical Name**	**Common Name**
Amerlanchier Stolonifera	Running Service berry	*Juniperus sp.*	Juniper: Sargent, Creeping, Andorra
Berberis thunbergii	Japanese Barberry	*Pinus Mugo*	Mugo Pine
Cotoneaster	Cranberry	*Nana*	Dwarf Japanese Yew
Spiraea sp.	Spirea: Froebel, Snowmound	*Juniper Sabina*	Savin Voniperi Broadmour, Tamarix
Hydranga sp.	Hydranga: Anabelle, Snowhill		
Lonicera sp.	Honeysuckle: Clavey's Dwarf Emerald Mound		
Source: A Guide to Selecting Landscape Plants for Wisconsin, Hasselkus, UW-Ext. Publication: A2865			

(10) Requirements for Installation of Landscaped Areas.

a. Installation. All landscaping material recommended by the provisions of these Standards and Guidelines shall be installed on the subject property, per the approved site plan, within 365 days of the issuance of an occupancy permit for any building on the subject property or as determined by the Plan Commission but no later than the time period stated above.

b. Cash Deposit.
   1. If the subject property is to be occupied prior to the installation of all required landscaping material, the property owner shall file, subject to approval by the Planner, a certificate of deposit or a certified check in the amount equal to 110% of the estimate of landscaping materials and installation cost. An enforceable contract, for all work on the subject property indicated on the detailed landscaping plan required under the provisions of these Standards and Guidelines, from a qualified contractor (valid for 365-day period), shall be used to determine the amount of surety.
   2. If a part of a phased project approved per the requirements of the Standards and Guidelines, said amount may be split into amounts which are applicable to phases of the project.
   3. Governmental units to which these bond and guarantee provisions apply, may, in lieu of said contract or instrument of guarantee, file a resolution or letter from officers authorized to act in its behalf, agreeing to comply with the provisions of these Standards and Guidelines.

c. Existing plant material which meets the recommendations of these Standards and Guidelines and which will be preserved on the subject property following the completion of development, may be counted as contributing to the landscaping recommendations.

d. All landscaping areas shall be seeded with lawn or native ground cover unless such vegetation is already fully established.

e. The exact placement of required plans and structures depicted on the required detailed landscaping plan component of the required site plan shall be the decision of each property owner within the recommendations of this Subchapter, except that the following requirements shall be met:
   1. Evergreen shrubs shall be planted in clusters in order to maximize their chance of survival.
   2. Where a combination of plant materials, and/or berming and/or fencing is used, the fence and/or berm shall be located toward the interior of the subject property and the plant material shall be located toward the exterior of the subject property.
   3. In no manner shall landscaping materials be selected and/or located in a manner that results in the creation of a safety or visibility hazard.

(11) Requirements of Maintenance.

The continued and continual maintenance of all required landscaping materials shall be a requirement of these Standards and Guidelines and shall be the responsibility of the owner of the property on which said materials are required. This requirement shall run with the property and is binding upon all future property owners. Development of any and all property following the effective date of these Standards and Guidelines shall constitute an agreement by the property owner to comply with the provisions of these Standards and Guidelines. Upon failure to comply with these provisions, the Town may enter upon the property for the purpose of evaluating and maintaining all required landscaping materials, and may specially assess the costs thereof against the property. Failure to comply with this requirement shall be considered a violation of these Standards and Guidelines, and shall be subject to any and all applicable enforcement procedures and penalties.

(12) Use of Required Landscaped Areas.

Any and all required landscaped areas may be used for passive recreation activities. Said areas may contain pedestrian, bike, or equestrian trails provided that: (1) no required materials are eliminated; (2) the total width and area of required landscaping is maintained; and (3) all other regulations of these Standards and Guidelines are met. In no event,

however, shall swimming pools, tennis courts, sports fields, golf courses, or other such active recreation use be permitted in such areas. Furthermore, in no instance shall any parking be permitted in such areas, nor shall any outdoor display or storage of materials be permitted in such areas. Paving in such areas shall be limited to that required for necessary access to, through, or across the subject property.

(13) Utility Easements.

Landscaping materials, fences and berms that are located within a duly-recorded utility easement and/or a pedestrian easement shall not count toward meeting a landscape requirement. However, the width of such areas may be counted as part of a landscaping requirement.

(14) Calculating Landscaping Recommendations.

In calculating the number of recommended landscaping points under the provisions of these Standards and Guidelines, all areas and distances on which required calculations are based shall be rounded up to the nearest whole number of square feet or linear feet. Any partial plan derived from the required calculations of these Standards and Guidelines (for example, 23.3 points shall be rounded up to the nearest whole 24 points).

(g) **Exterior Lighting Standards.**

These standards are intended to protect motorists and surrounding areas from excessive light or glare. This Section is not, however, intended to apply to public street lighting.

(1) Internal Lot Lighting. Lighting standards and luminaries for parking lots, internal roads, drives and walkways shall conform to the following requirements:

TYPE OF LUMINAIRE*	PERMITTED ILLUMINATION	MAXIMUM HEIGHT
No cut-off	2 footcandles	12 feet
Cut-off	3 footcandles	28 feet
*See description of types of luminaries in Paragraph 3. below.		

(2) Method of Light Measurement. Illumination shall be measured in footcandles at six (6) inches above the ground level in a horizontal position at the lot line. A direct reading portable light meter with color and cosine corrected sensor and multiple scales shall be used. The meter shall have been tested and calibrated to an accuracy of plus or minus five (5) percent within one (1) year of its use. Measurements shall be made after dark. The difference between "lights on" measurements and "lights off" measurements shall be used to determine the illumination, thereby eliminating the effects of ambient light.

(3) Types of Luminaries. Luminaries and lighting which may be used:

a. No Cut-off Luminaire. This is a luminaire whose light source is visible from above a line parallel to the ground running through the center of the luminaire (i.e., an angle of greater than ninety [90] degrees.) Such luminaries have the maximum glare potential.

b. Cut-off Luminaire. This luminaire has a cut-off of less than ninety (90) degrees, so that at the centerline of the street, the luminaire is totally shielded from view. This fixture reduces glare to a minimum. Except as in Paragraph (3)c. below, all cut-off fixtures shall be designed and located so that the cut-off line is at least ten (10) feet within the lot line.

c. Floodlighting. Floodlighting of buildings shall not exceed three (3) footcandles measured from a height equal to one-half (0.5) the building height at the face of the building and shall be focused on the building with no fugitive light leaving the fixture (shielded).

(4) Additional Lighting Regulations.

Notwithstanding any other provision of this Section to the contrary:

a. No flickering or flashing lights shall be permitted.

b. Light sources, or luminaries, shall not be located within buffer yard areas except on pedestrian walkways.

(h) **Exterior Site Usage.**

(1) Outside Storage of Materials and Equipment:

In all non-residential districts and non-residential uses outside storage of materials and equipment may be permitted subject to the following:

a. Storage area is allowed in the rear yard only as determined by the Plan Commission. The side yard could be used if the Plan Commission determines rear yard is not a practical location with screening of the side yard.

b. Storage area shall not be visible from any public right-of-way.

c. Storage area shall be enclosed with a 6 foot high wooden fence or a chain link fence with Evergreen plantings on the street side at the height of the fence at planting to screen/break up the view of the fence from the public.

d. Storage area shall not exceed 20% of the lot area.

e. Stored items shall be accessory to the approved business operation.

(2) Outside Display of Merchandise:

In the B-2, B-3, I-1 and I-2 Zoning Districts the outside display of merchandise may be permitted subject to the following:

a. Scaled Site Plan requires approval by the Town Plan Commission and Town Board.

b. Display area is allowed in any yard with layout and use detailed on a plat of survey and approval by Plan Commission and Town Board.

c. Display area shall not exceed 30% of lot area.

d. Displayed items shall be in working condition and displayed in a neat and orderly condition at all times so that the premises will not detract from the neighboring premises.

(i) **Modifying and/or Termination of Site Plan or Plan of Operation.**

If any item of the site plan or plan of operation does not continue in conformance with the approved plan or operation, the use and site plan approval may be modified and/or terminated by action of the Town Board. Notwithstanding the foregoing, prior to any decision made by the Town Board which would result in the modification and/or termination of the use and site plan as previously approved, the property owner shall be given written notice of the proposed action to be taken by the Town Board, and shall be afforded an opportunity to present evidence and be heard by the Town Board prior to any final action being taken by the Town Board which could result in the modification or termination of the use and site plan.

SEC. 13-2-5 SITE REGULATIONS.

(a) **Building Must Be on a Lot.**

(1) In all Residential Districts every building hereinafter erected, structurally altered or relocated shall be located on a lot, as defined herein, and in no case shall there be more than one principal building on a lot.

(2) In all other Districts where buildings are permitted, more than one principal building may be located on a lot, subject to the approval of the Town Plan Commission, and where such grant would not be contrary to the spirit or intent of this ordinance and provided that sufficient lot area is available for each principal building to be so located as to individually meet the setback, offsets, lot size, and open space requirements of the district in which they are located.

(3) No accessory building, except in the C-1 Conservancy District where all buildings or structures are accessory to a principal use, shall be constructed until the principal building is under construction or completed.

(4) In the A-l Agricultural District, barns, storage sheds, pens, coops, and other agricultural buildings related to and necessary for the pursuit of agriculture on that parcel of land will be considered as accessory buildings and may be permitted without the requirement that a principal residential use be in existence on that parcel with Plan Commission and Town Board approval.

(5) In the A-1 Agricultural District where Planned Unit Developments are planned or exist, agricultural buildings related to or necessary for the pursuit of agriculture shall not be allowed without Plan Commission or Town Board approval.

(b) **Construction Standards for Private Streets and Private Drives.**

(1) Definitions.

a. As used herein, the term "private street" shall include all private routes of ingress and egress from any public right-of-way which provides access to two (2) or more residential dwellings/units, commercial buildings, or properties.

b. As used herein, the term "private drive" shall include all private routes of ingress and egress from any public right-of-way, which provides access to one (1) residential dwelling/unit, commercial building, or property. Notwithstanding anything contained herein to the contrary, this ordinance shall not apply to private drives that are 200 feet in length or less, as measured from the edge of the public right-of-way along the centerline of the proposed driveway to the nearest exterior point of the principal building located on that property.

(2) Construction Standards for Private Streets.

a. At the end of the private street, a minimum paved cul-de-sac shall be provided. This cul-de-sac and the private street shall be constructed in accordance with the Town's Standard Road Specifications and the Town's Standard Road Sections in effect at the time of construction.

b. The road ditch construction along the private street shall be required per the Town's standard road specification and road section. The property owner shall obtain all drainage easements necessary to construct these ditches.

c. All costs necessary for the maintenance of the private street to conform to these requirements for the safe passage of emergency vehicles shall be at the property owner's expense.

(3) Construction Standards for Private Drives in Excess of 200 Feet in Length.

a. All private drives shall be constructed utilizing a compacted subgrade consisting of quality material suitable for standard highway loading.

b. Drainage structures or culverts, at least 24 feet long with end sections, shall be installed under the surface at the low points in grades, sloped to drain to the existing storm drainage outlet. These structures or culverts shall be sized to drain their entire storm drainage contributing areas based on the ten (10) year frequency storm design.

c. A minimum of road ditch construction along these private drives shall be required in those areas where storm runoff would otherwise be forced onto the traveled surface due to the topography. The property owner shall obtain all drainage easements necessary to construct these ditches.

d. The minimum depth of the stone base shall be 5 inches of 1-1/2 inch crushed stone traffic bond (TB) material compacted in place, over which 5 inches of 3/4 inch crushed gravel or crushed stone (TB) material shall be compacted in place.

e. All private drives shall have a gravel surface not less than 14 feet in width, together with turn-around areas as provided in subparagraph h, and together with emergency vehicle pull off areas as noted below with final approval by the Town Board. The emergency pull off areas shall be:

--Every 300 linear feet of driveway

--50 feet long – 10 feet wider than driveway

--Same construction standards as indicated in subparagraph d.

--All branches and shrubbery shall be cut back to a distance of 5 feet beyond the edge of the pull off area as provided in subparagraph f.

f. All vegetation, trees and shrubbery must be cut back so that a 10 foot clearance height is provided. All branches and shrubbery shall also be cut back to a distance of 15 feet on either side of the centerline of the traveled surface portion of the private drive.

g. All curves and bends in the surface shall be constructed to safely transport a fire truck with cab and trailer so that this vehicle is confined to the 14-foot surface width.

h. At the end of the private drive, a cul-de-sac or turn around area shall be provided for emergency vehicle use. The minimum size shall be a 40 foot radius cul-de-sac or 40 foot depth x 40 foot wide T turn around.

i. All costs necessary for the maintenance of the private drives to conform to these standards for safe passage shall be at the property owner's expense.

(4) Plan Submittal and Review.

a. The applicant shall submit construction, site and drainage plans to the Town Clerk's office indicating dimensions, location and construction materials as needed/requested by the Town. The plans shall be drawn to scale and shall not exceed 1 inch = 50 feet for private streets and 1" = 200 feet for private drives. The applicant shall submit copies of the plans as determined by the Town Board.

b. The Town shall review the plans for compliance with this ordinance and forward recommendations to the Town Plan Commission and Board for review. Town Board approval is required prior to building permit issuance.

c. The private driveway or street shall be completed prior to an occupancy permit being issued.

d. The Town Building Inspector or designee may inspect the private driveway and streets at the following stages:

--After subgrade is graded

--After stone/gravel is installed

--During asphalt installation (if applicable)

e. The cost of reviewing the plans by the Town Engineer or other Town officials, as well as any inspection services required to insure installation of the private drive and/or private street in accordance with this ordinance, shall be borne by the property owner. The property owner shall reimburse any such expense within thirty (30) days after invoicing, and if not reimbursed, shall constitute a special assessment upon the property in accordance with the provisions of Section 66.60(16), State Stats.

(c) **No Undesirable Objects or Structures.** No structure or building shall be erected, structurally altered or relocated, and no lumber, materials, furniture or other equipment shall be stacked, piled or stored in a manner which adversely affects the property values and general desirability of the neighborhood. A motor vehicle which is no longer licensed, which has been abandoned, disassembled, is non-operable, disabled, junked or wrecked, shall not be stored anywhere on any premises except in an authorized salvage yard or unless it is completely enclosed in a structure.

(l) The Building Inspector may submit any such case in question to the Plan Commission for its determination.

(2) The Plan Commission shall base its determination upon the following considerations:

a. Design or appearance of such unorthodox or abnormal character in relation to the surroundings as to be considered unsightly or offensive to the degree that would have a substantial adverse effect on the property values and general desirability of the neighborhood.

b. Identical design and appearance with adjoining buildings to the degree that monotony and commonness would have a substantial adverse effect on the property values and general desirability of the neighborhood.

(3) The decision of the Plan Commission shall be stated in writing and include the reason for refusing a permit or any conditions of approval.

(d) **Street Grade.** Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Building Inspector as being in satisfactory relationship with the established street grades, if any, and if not, with the existing street grade where one is established, with particular consideration for proper drainage and safe vehicular access.

(e) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of land shall be made which would result in increasing any portion of the slope to a ratio greater than 3 horizontal to l vertical within a distance of 20 feet from the property line, except with approval of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.

SEC. 13-2-6 DRAINAGE REGULATIONS.

(a) **Adequate Drainage Required.** No principal building shall be erected, structurally altered, or relocated on land which is not adequately drained at all times nor which is subject to periodic flooding, nor so that the lowest floor level, including any basement floor, is less than 2 feet above the highest anticipated seasonal ground water level. The highest anticipated seasonal ground water elevation shall be determined by the Building Inspection Department at the time of excavation for the lowest floor. The building inspector may request test holes to be excavated to a level 2 feet below the planned lowest floor elevation prior to the footing inspection approval. The inspector will be looking for ground water that fills the test hole. The Building Inspection Department may request test holes be dug or a soil boring inside the building pad area if prior evidence such as soil boring(s) or soil maps show signs of high ground water.

(b) **Obstruction to Drainage Prohibited.** The damming, filling, relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with approval of the Town Plan Commission and the County Park and Planning Commission and the Department of Natural Resources pursuant to Chapter 30 or the Wisconsin Statutes.

(c) **Building Restricted Adjacent to Drainage Channels or Water Courses** No building other than a bridge, dam or revetment subject to the aforesaid approval, shall be erected, structurally altered or relocated within 75 feet of the average annual high water line of such natural water course nor so that the lowest floor of said building is less than 2 feet above the average annual high water line or 100 year flood elevation.

SEC. 13-2-7 SANITATION AND WATER SUPPLY.

(a) **Safe Sewage Disposal Possible.** No principal building shall be erected, structurally altered, or relocated unless it has been certified by the Building Inspector that it conforms to all Town ordinances and other governmental laws or regulations then applicable to sewage disposal systems, and that satisfactory evidence has been submitted to show that suitable provision for disposal of sewage, based on the proposed use, is possible on said lot if it is not served by an approved municipal or other state approved sewage disposal system. (Explanatory note: While every attempt has been made, through control of minimum lot size, building location and plumbing standards, to insure that proper disposal of sewage will be provided on any lot, it is recognized that no such standards 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 development in a situation where the normal requirements will not insure proper sewage disposal).

(b) **Approved Septic System.** No principal building shall be erected, structurally altered or relocated unless a sewer is installed running to a septic tank designed and located in accordance with the Town 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 in the Town unless specifically authorized by the County Board of Health and in strict compliance with the County Sanitary Code.

(d) **Water Supply Required.** No occupancy and use permit shall be issued for a building used for residence purposes unless provision is made for a safe and adequate supply of water in or within 300 feet of said dwelling or connection is to be made to an approved municipal or community water system.

(e) **Reduction in Area Requirements; Reduction in Lot Size, Lot Width, Setback Offset, Open Space and Increase in Floor Area Ratio and Increase in Density in Planned Unit Developments.** In case of any lot proposed to be served by municipal or municipally approved communal sewage system or water system, and where such service would be provided prior to any occupancy of such lot, the Town Board may reduce the lot size, lot width, open space, setback and offset requirements applicable to such lot and increase the floor area ratio and increase the amount of density in Planned Unit Developments upon the recommendation of the Town Plan Commission, without the necessity of a public hearing. In making such recommendations, the Plan Commission shall give particular consideration to the following and shall make written finding of facts relative thereto:

(1) The suitability of soil, terrain and groundwater table conditions and the practicality of providing municipal sewer or water service to the parcel.

(2) The effect of any reduction in the lot size, lot width, open space, setback and offset requirements and the increase in floor area ratio and density requirements on the character and value of surrounding development.

The maximum amount of reduction in the lot size, lot width, open space, setback and offset requirements or increase in floor area ratio of individual lots and the maximum increase in the density of Planned Unit Developments shall not exceed 30% and in no case shall reduce the lot area requirements for individual lots to less than 12,000 square feet.

SEC. 13-2-8 GENERAL USE REGULATIONS.

(a) **Uses Restricted.** In any district no building nor land shall be used and no building shall be hereafter erected, structurally altered or relocated except for one or more of the uses as hereinafter stated for that district and in compliance with the regulations hereinafter established for that district.

(b) **Accessory Uses.** In any district accessory structures and uses customarily incident to the permitted uses in that district shall be permitted, but not until the principal structure is present or under construction, and shall be subject to such requirements as may be hereinafter designated for that district in which they are located. Residential accessory uses shall not involve the conduct of any business, trade, or industry, except as provided for under the district regulations where Household Occupations or Professional Home Offices are allowed.

(1) Outdoor lighting installations in residential districts and in other districts when adjacent to a residential district or a residential use may be permitted, and where not specifically otherwise regulated, shall not exceed 15 feet in height and shall be adequately shielded or hooded and so placed that no excessive glare or illumination is cast upon the adjoining residential use. Lighting facilities including, but not limited to, street lights, athletic field lighting, parking lot lights, other lighting poles, towers, apparatus and/or equipment erected on municipal or public school property or public streets or alleys are exempt from this section.

(2) Game courts shall not be permitted closer than 5 feet to an abutting property line and shall be screened from view of adjoining property by adequate landscaping or architectural screen or combination thereof.

(3) Fences, retaining or decorative walls and other architectural or landscape screening devices, when anchored to supports imbedded in the ground, shall be considered permanent structures not needing a building permit for their erection, but subject to the following:

a. Location and Height of Fences:

1. Except as provided herein a fence may be erected, placed or maintained along a lot line on residentially zoned property or adjacent thereto to a height not exceeding 6 feet above the ground level, except that no fence that is located in a required street yard shall exceed a height of 4 ½ feet. Where such lot line is adjacent to a non-residentially zoned property, there shall be a 10-foot limit on the height of a fence along such lot line that is not in the street yard.
2. Except as set forth in paragraph d., the height of such structure shall be the vertical distance measured from the top of the structure to the lot grade level, at the point of measurement, of the lot on which it is located.

b. Security Fences: Security fences are permitted along property lines in all districts except residential districts, except as noted above, but shall not exceed 10 feet in height and shall be of an open type construction.

c. Barbwire: Barbwire may be placed on top of security fences. The barbwire shall project inward toward the fenced property and shall be a minimum of 10 feet above the ground. Barbwire shall be no more than 2 feet in height from the top of the fence to the top of said barbwire.

d. Vision Triangle: No such structure, excepting fences of 50% open construction, shall be permitted in the vision setback area if it exceeds a height of 3 feet above the elevation of the center of the intersection.

e. Aesthetics: The finished aesthetic side of all fences shall be toward the adjacent properties.

f. Prohibited Fences:
   1. No fence shall be constructed which conducts electricity or is designed to electrically shock except for agricultural uses.
   2. No barbed wire fence, except as may be necessary for the purpose of confining livestock in connection with farming operations and on top of security fences, shall be constructed in any residentially developed area of the Town of Waukesha.

g. Maintenance: All fences shall be maintained and kept safe and in a state of good repair as determined by the Plan Commission or Building Inspector.

(c) **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 a use, the question shall be submitted to the Town Plan Commission for determination.

(d) **Additional Requirements.** Any use, in any district, which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood may be required to correct or improve such condition by such measures as are directed by the Town Board, consistent with reasonable technological and economic practicality.

(e) **Temporary Uses.** Temporary uses such as real estate sales field offices, shelters for materials and equipment being used in the construction of a permanent structure, or living unit in conjunction with constructing a dwelling, shall be permitted provided that such use is not contrary to the intent of the ordinance. The Town Board shall review and issue a permit if they find the temporary use meets the intent of this ordinance. Such permit shall be valid for a period of 6 months and may be renewable for one additional 6-month period. (See Section 13-2-17)

(f) **Unenclosed Storage.**

(1) No more than one pick-up truck, panel truck or cube van with a one to three ton load capacity per DOT Administrative Codes may be parked in the open on a lot in a residential zoning district: see Section 13-2-9(i)(8) for trucks over one ton load capacity.

(2) No more than one each or more than two in combination, of the following: folding camper trailer, camper, snowmobile trailer with snowmobiles, boat trailer and boat, trailer with less than one ton load design capacity, motor home, or other recreation vehicle, not exceeding 35 feet in length may be stored in the side or rear yards outside the offset areas on a lot in a residential zoning district.

(3) No motor home, camper or other recreational vehicle, boat or trailer exceeding 35 feet in length may at any time be stored in the open on a lot in a single family residential district.

(4) Flatbed trailers, trailers designed with a one ton load capacity or greater and semi-tractor/trailers shall not be parked in the open on any lot in a single-family residential district.

(5) No passenger motor vehicle other than those actually used by the persons residing on the lot or for the temporary parking of such vehicles of their guests not to exceed 30 days per calendar year nor any unlicensed or inoperable vehicle shall be stored in the open on a lot in a single family residential district.

(g) **Agricultural Uses.** Any existing agricultural use may be continued in any non-agricultural district except that construction of accessory buildings shall be subject to the provisions of Section 13-3-4.

(h) **First Amendment Protected Adult-Oriented Establishments.**

(1) Findings of Fact.

a. The Board finds that adult-oriented establishments, as defined in this code, require special zoning in order to protect and preserve the health, safety and welfare of the Town.

b. Based on its review of studies conducted in Phoenix, AZ, Garden Grove, CA, Los Angeles, CA, Whittier, CA, Indianapolis, IN, Minneapolis, MN, St. Paul, MN, Cleveland, OH, Oklahoma City, OK, Amarillo, TX, Austin TX, Beaumont, TX, Houston, TX, Seattle, WA, and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Colman A. Young v. American Mini-Theaters, Inc., 427 U.S. 50 (1976), the 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.

c. 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.

d. 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 that addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.

e. 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.

f. 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.

(2) Location of First Amendment protected Adult-Oriented Establishments.

a. The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined by the Town Zoning Code are entitled to certain protections. Therefore, only 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 a permitted use in the I-1 and I-2 zoning districts and shall be a prohibited use in any other zoning district. The Adult-Oriented Establishment may locate in the I-1 and I-2 zoning districts only if an Adult-Oriented Establishment License has been granted by the Town, and all requirements of this section and the applicable zoning district's regulations are met.

b. Adult-Oriented Establishments shall be located at least 1,000 feet from:

1. Any residential district line, playground lot line, or public park lot line;
2. Any structure used as a residence, place of religious worship, public or private school, or youth facility as defined herein;
3. Any other structure housing an Adult-Oriented Establishment;
4. Any structure housing an establishment which holds an alcohol beverage license.

c. Distance requirements are to 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.1-4 above.

d. 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.

e. 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.

f. 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).

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

(3) Definitions.

The following terms have the meanings indicated:

a. "Adult Arcade" means any place to which the public is permitted or invited wherein coin, slug, electronically, or mechanically controlled or operated still or motion picture machines, projectors, computers, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so describing "Specified Sexual Activities" or "Specified Anatomical Areas."

b. "Adult Bathhouse" means a commercial establishment which provides a bath as a service and which provides to its patrons an opportunity for engaging in "Special Sexual Activities."

c. "Adult Body Painting Studio" means a commercial establishment wherein patrons are afforded an opportunity to be painted or to paint images on Specified Anatomical Areas. An Adult Body Painting Studio does not include a tattoo parlor.

d. "Adult Bookstore" means any commercial establishment having as its stock in trade the sale, rental or lease for any form of consideration, any one or more of the following:

1. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on "Specified Sexual Activities" or "Specified Anatomical Areas;"
2. Instruments, devices, or paraphernalia which are designed for use in connection with "Specified Sexual Activities;"
3. Facilities for the presentation of "Adult Entertainment" as defined herein, including Adult-Oriented films, motion pictures, video cassettes, video reproductions, slides or other visual representations for observation by patrons therein.

e. "Adult Cabaret" means a nightclub, bar, restaurant, or similar commercial establishment which features:
   1. Live performances which are characterized or distinguished by the exposure of "Specified Anatomical Areas" or the removal of articles of clothing; or,
   2. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas."

f. "Adult Entertainment" means any exhibition or any motion picture, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by any one or more of the following:
   1. "Specified Sexual Activities;"
   2. "Specified Anatomical Areas;"
   3. Removal of articles of clothing.

g. "Adult Massage Parlor" means a commercial establishment with or without sleeping accommodations which provides the service of massage or body manipulation, including exercise, heat and light treatment of the body, and any form or method of physiotherapy, which also provides its patrons with the opportunity to engage in "Specified Sexual Activities."

h. "Adult Motel" means a hotel, motel or other similar commercial establishment which:
   1. Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, film motion pictures, video cassettes, video reproductions, slides, or other visual reproductions characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas" and, has a sign visible from the public right-of-way which advertises the availability of this type of adult entertainment; or
   2. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
   3. Allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than 10 hours.

i. "Adult-Oriented Establishment" includes: Adult Arcade, Adult Bathhouse, Adult Body Painting Studio, Adult Bookstore, Adult Cabaret, Adult Massage Parlor, Adult Motel, Adult Theater, and any commercial establishments presenting Adult Entertainment, whether or not such establishment is operated or maintained for a profit.

j. "Adult Theater" means an enclosed building such as theater, concert hall, auditorium, or other similar commercial establishment that is used for presenting "Adult Entertainment."

k. "Specified Anatomical Areas" means:
   1. Less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or
   2. human male genitals in a discernibly turgid state, even if opaquely covered.

l. "Specified Sexual Activities" means and includes any of the following, simulated or actual:
   1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
   2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus;
   3. Showing of human genitals in a state of sexual stimulation or arousal;
   4. Excretory functions during a live performance, display or dance of any type.

m. "Youth Facility" means any facility where minors gather for education or recreational activities including but not limited to playgrounds, swimming pools, libraries, licensed child-care facilities, or youth clubs.

SEC. 13-2-9 CONDITIONAL USES.

Conditional uses and their accessory uses are considered as special uses requiring review, public hearing**,** recommendation by Plan Commission and approval by the Town Board in accordance with the regulations of this section. Public hearings and notice thereof shall be in accordance with the regulations set forth in Section 13-2-23, except that publication of the notice need only be 2 times prior to the hearing and within only 10 days prior to the hearing, and property owners within 300 feet of the proposed conditional use property lines shall also be notified by mail 10 days prior to said hearing.

(a) **Approval Required.** Certain uses and situations are of such a special nature or are so dependent upon actual contemporary circumstances as to make impractical predetermination of permissibility or the detailing in this ordinance of specific standards, regulations, or conditions which would permit such determination in each individual situation, may be permitted as conditional uses. The fact that the conditional use may be permitted, shall not infer any right thereto. Conditional uses may be denied by the Town Board upon Planning Commission recommendation so long as such action is not discriminatory or unreasonable.

(b) **Application.** Application for a conditional use permit shall be made in writing to the Town Clerk, setting forth the proposal and shall include the following where pertinent and necessary for adequate review**.**

(1) A plat of survey with topographic information, drawn to scale of not less than 200 feet to 1 inch by a registered land surveyor showing the land in question; its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable waters within 100 feet of the land in question; and the proposed location and use of any buildings, sanitary systems and wells on such land and within 300 feet of such land in question and any and all information listed in Section 13-2-4.

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

(3) Additional information as may be required by the Town.

(4) A fee to be periodically established by the Town Board shall be payable to the Town Clerk to defray the cost of official notification of public hearing. Costs incurred in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of conditional use applications and preparation of conditions to be imposed on such uses shall be charged/paid by the applicant.

(5) Where necessary, to comply with certain Wisconsin Statutes, an application will be submitted to the Department of Natural Resources.

(c) **Public Hearing.** The Town Clerk and Planner, upon receipt of the application, shall establish a date for a public hearing and the Town Clerk shall publish notice of said hearing once each week for 2 consecutive weeks in the official newspaper, or in a newspaper of general circulation in the area of the proposed conditional use. Notice of the public hearing shall be mailed to all property owners within 300 feet of any part of the land included in the conditional use at least 10 days before such public hearing is held. Testimony of all interested parties will be recorded at the hearing and the Plan Commission and Town Board will take action as soon as possible.

(d) **Basis of Approval.** The determination of such conditional use shall be by the bodies hereinafter designated and shall be based on consideration of whether or not the proposed use will violate the spirit or intent of the ordinance; 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 a substantial 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 and area 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 hereinafter stated.

(e) **Final Review and Approval.** The Plan Commission and Town Board shall review the proposal as submitted. Any conditions deemed necessary by the Plan Commission and Town Board or other governmental agencies may be made an integral part of the permit. These conditions shall be complied with by the applicant and any deviation or alteration of those conditions set forth in the permit shall constitute a violation of the terms of the conditional use permit. Such violation shall constitute a violation of this ordinance and will be subject to prosecution and penalties under the terms of this ordinance.

(f) **Determination in Writing.** The conditions of approval or reasons for disapproval shall be stated in writing by the determining body and a copy made a permanent part of the minutes of such body.

(g) **Application for Change of Conditional Use Permit.** If any holder of a conditional use permit wishes to extend or alter the terms of said permit, he must apply for such extension or alteration through the procedure of application for conditional use permits detailed herein.

(h) **Expiration of Conditional Use Status.** Conditional use status will terminate when, after public hearing, the Plan Commission determines any of the following:

(1) The conditional use has not continued in conformity with the conditions of the permit.

(2) A change in the character of the surrounding area or in the conditional use itself causes such use to be no longer compatible with surrounding uses.

(3) The conditional use has been discontinued for a period of 12 consecutive or 18 cumulative months in a 3 year period. A business of a seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e., summer camps, snowmobile courses, ski areas, marinas, quarries, etc.)

Upon such determination, the owner of the premises shall be required to bring all such land and buildings into conformity with the district regulations of the district in which such former conditional use is located, and all other provisions of this ordinance within 90 days from such determination.

(i) **Conditional Uses Permitted.** Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted in the districts specified, provided further that a joint public hearing shall be held by the Town Plan Commission and Town Board before approval for any such conditional use is granted:

(1) Airports, Helicopters, Landing Fields and Take-Off Strips
(2) Antique Shops, Gift Shops, Art Studios and Similar Uses
(3) Automobile Service and Gas/Convenience Stations
(4) Bed and Breakfast Establishments
(5) Cemeteries and Mausoleums for the Burial of Human Remains Only
(6) Commercial and Residential Ponds, Fish or Bait Ponds, Hatcheries, Recreational Ponds, Ditching, Draining, Grading, Dredging, Topsoil and Sod Removal and Channel Improvement, but not including normal road and home construction or agricultural ditching and draining as may be excepted by Section 30 of the Wisconsin Statutes.
(7) Commercial Kennels and Laboratories using Animals or Animal Products
(8) Commercial Truck Parking

(9) Communication Structures, such as radio, wireless communication devices, and television transmission and relay towers, aerials, and radio and television receiving and transmitting antennas, not including ground and building mounted earth station dish antennas.
(10) Drive-Through Lanes Serving Food or Beverages to Customers other than at a Booth or Table
(11) Fur Farms, Pig Farms, Pea Vineries, Creameries and Condenseries
(12) In-Law Unit
(13) Laboratories for Testing, Experimental or Analytical Purposes
(14) Legal Nonconforming Uses
(15) Motels
(16) Multi-Family Unit
(17) Outdoor Theater
(18) Public Buildings and Uses
(19) Quarrying
(20) Recreation Facilities (Private, Commercial) such as campgrounds, golf courses, swimming facilities, horse boarding operations, racquetball clubs, tennis clubs, etc.
(21) Refuse Disposal Sites, Landfill, Public and Commercial
(22) Residential Planned Unit Developments
(23) Riding Academies, Commercial Stables and Paddocks
(24) Salvage Yards
(25) Senior Housing
(26) Uses or situations not specifically provided for

(1) **Airports, Helicopters, Landing Fields, and Take-Off Strips:** The location, building and site plans and plan of operations shall be submitted for approval per Section 13-2-4.
(2) **Antique Shops, Gift Shops, Art Studios and Similar Uses:** Subject to the following:
   a. The location, site plans and plan of operations shall be submitted for approval per Section 13-2-4.
   b. Such use is compatible with respect to architecture and operation with surrounding residential land uses.
(3) **Automobile Service and Gas/Convenience Stations:** Subject to the following:
   a. The location, building and site plans, and plan of operations shall be submitted for approval per Section 13-2-4.
   b. No gasoline pump or other accessory equipment shall be closer than 25 feet to the base setback line.
   c. No lighting installations shall be permitted which create a hazard to traffic or a nuisance to surrounding property.
   d. A traffic impact study may be required by the Town Board following recognized Wisconsin Department of Transportation standards.
(4) **Bed and Breakfast Establishments:** Subject to the following:
   a. Site plan and plan of operations per Section 13-2-4.
   b. Off-street parking shall be provided at one parking stall per rental unit and one stall per two employees.
   c. All buildings used in conjunction with this use shall be located a minimum of 50 feet from all lot lines.
(5) **Cemeteries and Mausoleums for the Burial of Human Remains Only:** Subject to approval of the Town Board, following recommendation of the Town Plan Commission per Section 13-2-4.

(6) **Commercial and Residential Ponds, Fish or Bait Ponds, Hatcheries, Recreational Ponds, Ditching, Draining, Grading, Dredging, Topsoil and Sod Removal and Channel Improvement, but not including normal road and home construction or agricultural ditching and draining as may be excepted by Section 30 of the Wisconsin Statutes:** Subject to the following:

a. The location, site plan and plan of operations shall be submitted to and approved by the Town Plan Commission and Board. No such use shall create flooding, concentrated runoff, inadequate drainage, unfavorable topography or restrict navigation in navigable waters.

b. No such use shall be permitted on a parcel less than 5 acres in area.

c. No building other than one used only for residence purposes shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.

d. Note: Waukesha County Shoreland and Floodland Protection Ordinance provisions may also have jurisdiction and it is suggested that where such projects are proposed which may be within the jurisdiction of Waukesha County, that said project be referred to Waukesha County for review prior to the petitioner proceeding ahead so a joint Conditional Use request may go forward with the Town and County.

e. Proposed ponds which are not to be located within the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance shall not require County approval. Applicant shall proceed with the conditional use request with the Town.

(7) **Commercial Kennels and Laboratories using Animals or Animal Products:** Subject to the following:

a. The location, building and site plans and plan of operations shall be submitted for approval following Section 13-2-4.

b. No such use shall be permitted on a lot less than 5 acres in area.

c. No building shall be closer than 50 feet to any lot line.

d. Off-street parking shall be provided as required for office buildings and customer service establishments.

e. The number of dogs for commercial kennels shall be 1 dog per acre with a maximum of 20 dogs total.

f. All animals shall be restricted by a fence or other approved barrier to keep the animals a minimum of 20 feet from any lot line.

g. Animal feces shall be picked up and disposed of on a weekly basis, or more often, to prevent odors from causing a nuisance to surrounding properties as determined by the Plan Commission and Town Board.

h. The issuance of the use permit is subject to the Town finding that such use permit will not adversely affect the use of adjacent lands and is compatible with surrounding and nearby land uses.

i. The Town may require such measures or provisions by the applicant as may be deemed necessary to provide adequate protection of surrounding property.

j. The Town may deny the request for such use permit on the basis of a finding that such use would be incompatible with surrounding and nearby land uses, a possible nuisance, and/or not in the public interest.

(8) **Commercial Truck Parking:** Subject to the following conditions:

a. The parking and the storage of commercial type vehicles (dump trucks, school buses, construction vehicles, semi-trailers and tractors) greater than 1 ton load capacity may be allowed as long as the vehicle is owned or leased and operated by the owner or

occupant of the premises. No such use shall be allowed on any parcel except as may front or abut directly upon a major or collector street as defined in the Town of Waukesha Subdivision Control Ordinance. No such activity shall be allowed in an existing or proposed residential subdivision unless such lot directly abuts or fronts on a major or collector street.

b. No more than one such vehicle shall be allowed to be parked or stored on the occupant's property and no more than 2 additional construction vehicles (backhoes, front end loaders, grading equipment, etc.) shall be allowed. Such vehicles shall be fully operative and in active use.

c. No such vehicle shall be allowed to be parked or stored closer than 50 feet to any adjacent lot line, and not closer than 100 feet from the base setback line. In the case of refrigerator trucks, the refrigeration unit may not be operated in the open if said truck is parked closer than 500 feet to the nearest neighboring residential structure.

d. In determining whether or not the proposed conditional use permit should be issued, a determination of compatibility with adjacent land uses shall be made by the Town Plan Commission in issuing this conditional use permit. If it is determined that it would in any way be incompatible and represents an adverse effect or nuisance to adjacent land uses, the conditional use permit shall not be issued.

e. The conditional use permit shall be reviewed as determined by the Town in order to determine conformance with the terms of the permit and if it is determined that the use is no longer compatible with adjacent land uses as they develop in the vicinity, the conditional use permit may be revoked in accordance with the revocation procedures contained in this ordinance.

(9) **Communication structures, such as radio, wireless communication devices, and television transmission and relay towers, aerials, and radio and television receiving and transmitting antennas, not including ground and building mounted earth station dish antennas, shall be regulated as follows:**

a. Self-supporting (without guy wire) towers less than 200 feet shall be situated on the site to self contain any debris resulting from tower failure. In all cases, the tower shall be located no closer to a lot line than 50 feet or the offset and setback requirements whichever is greater. In the event that the self-supporting tower is located contiguous to a residential parcel, the tower shall be set back from the lot line a distance equal to the height of the tower.

b. All guy mast towers and self-supporting towers greater than 200 feet shall be situated on the site to self-contain any debris resulting from tower failure. In all cases, the tower shall be located no closer to a lot line than 50% of the tower height plus 25 feet. Also, in all cases, the guy wire anchors shall be located at a minimum 25 feet from the lot line or the offset and setback requirements whichever is greater.

c. Towers greater than 200 feet in height shall be located a minimum distance of 1,500 feet from any residential subdivision.

d. All tower apparatus shall be securely fastened to minimize noise emissions or damages from falling.

e. All changes made to towers exceeding what was requested in the original application or otherwise legally existing at the date of adoption of this section, including but not limited to, adding microwave dishes, increasing the height, or providing high power transmitting apparatus, shall require review and approval by the Plan Commission.

f. All towers and sites shall be properly maintained and shall be kept in a good condition as not to become a public nuisance or eyesore. Proper maintenance shall include but not be limited to regular lawn and landscaping care, painting of an accessory building, fences, and tower. Additionally, the site shall be kept clear of junk and debris.

g. Any tower declared to be a public nuisance due to poor maintenance, noise emissions, or other situation shall be subject to Section 13-2-26 of the Zoning Ordinance.

h. Documentation that there is a need for tower space in the area of the proposed tower shall be provided with the conditional use application. New towers shall not be constructed except upon a showing of significant need.

i. Landscaping requirements:
   1. For all commercial towers over 50 feet in height, the tower base, accessory building, anchor points, and parking area shall be screened with a 4 ft. (at time of planting) evergreen hedge consistent with the landscaping requirements for non-residential properties.
   2. For towers 200 feet or greater, at least one row of deciduous trees not less than a caliper of 2 ½ inches dbh shall be planted between the tower and public right of ways and residential properties. The type and amount of required landscaping shall be determined by the Plan Commission on a case by case basis.
   3. The Plan Commission may allow an alternative landscaping or screening plan or waive the landscape requirements if it is determined that the landscaping will not serve a functional value based on existing topography or surrounding land uses.

j. All towers over 100 feet in height shall be constructed to accommodate a minimum of three and a maximum of four other providers of similar service at market rate.

k. No apparatus shall be attached to any tower except as approved by the Plan Commission and Town Board. Apparatus attached legally to existing towers prior to enactment of this section may remain but not be increased in any way except with approval of the Plan Commission and Town Board. Approval for additional apparatus will be granted only after the applicant demonstrates a need for additional apparatus.

l. The co-location of additional antennas and installation of accessory equipment cabinets or buildings shall require site plan/plan of operation approval from the Plan Commission and Town Board without additional public hearings. Plans shall be submitted and reviewed in accordance with Section 13-2-4, Site Plan and Plan of Operation Review along with this Section.

m. Removal of Communication Facilities: Within ninety (90) days after termination or expiration and nonrenewal of this Conditional Use Permit, the owner shall remove its tower, equipment cabinets and all affiliated equipment or improvements that are part of its communication facilities. In the event the communication facilities are not removed from the premises within the ninety (90) day period, the Town shall have the right to remove the tower, equipment cabinets and all other components of the communication facilities at the expense of the owner of the premises. If such costs of removal have not been paid by the owner of the premises to the Town within thirty (30) days after billing, the Town may charge the costs of such removal to the owner of the premises by placing the charge on the tax roll as a special assessment pursuant to Section 66.60(16), Wisconsin Statutes.

n. Prior to final approval, the owners shall furnish a certificate of insurance in a form of satisfactory to the town attorney. The minimum amount of general liability insurance coverage shall be $1,000,000.00 which may be reviewed by the Plan Commission and Town Board at any time to determine the sufficiency of such amount.

(10) **Drive-Through Lanes Serving Food or Beverages to Customers other than at a Booth or Table:** The location, building and site plans, and plan of operations shall be submitted for approval per Section 13-2-4.

The application shall include and be reviewed based on the following information:
--Traffic concerns, egress/ingress lanes
--Stacking of vehicles
--Screening of headlights
--Speaker location/volume
--Adjacent uses

(11) **Fur Farms, Pig Farms, Pea Vineries, Creameries and Condenseries:** Subject to the following:

a. The location, building and site plans, and plan of operations shall be submitted for approval per Section 13-2-4.
b. No such use shall be permitted on a lot less than 20 acres in area.
c. No building other than one used only for residential purposes shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.

(12) **In-Law Unit:** Subject to the following:

a. The location, building plan, site plan and plan of operation shall be submitted for approval per Section 13-2-4. Prior to scheduling a public hearing, the Town Plan Commission shall review the specific proposal.
b. The Waukesha County Environmental Resources Department shall certify that the septic system will accommodate the proposed use in accordance with all federal, state, county and local sanitary codes, including COMM 83.
c. Maximum living area per in-law unit shall not exceed 800 square feet and shall contain no more than two bedrooms. There shall be an additional garage stall and one outside surface and parking stall for the unit.
d. Architecture of the residence shall be compatible with the adjacent residential neighborhood and shall appear to be a single-family residence. All other appropriate zoning district requirements for the principal living unit shall be complied with.
e. The Town Plan Commission shall determine if it is appropriate to have an interior door between the living units.
f. A deed restriction shall be filed in the Waukesha County Register of Deeds Office and a copy of the recorded document presented to the Building Inspector prior to issuance of the building permit. This deed restriction shall state that the in-law unit is to be occupied by not more than two persons related by blood or marriage to the family occupying the principal unit and the conditional use is not transferable without formal approval of the Town Plan Commission and Town Board.
g. Both units of the structure must have smoke alarms installed and in working order at the time the final occupancy permit is issued.

(13) **Laboratories for Testing, Experimental or Analytical Purposes:** Subject to the following:

a. The location, building and site plans, and plan of operation shall be submitted for approval per Section 13-2-4.

b. No building other than one used only for residential purposes shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.

c. Off-street parking shall be provided as required for office buildings and customer service establishments. (Section 13-2-13)

(14) **Legal Nonconforming Uses:** In any district, as provided by Section 13-2-18.

(15) **Motels:** Subject to the following:

a. The location, building and site plans and plan of operations shall be submitted for approval per Section 13-2-4.

b. No such use shall be permitted on a lot less than 3 acres in area.

c. Off-street parking shall be provided in accordance with Section 13-2-13 of this ordinance.

d. No building shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.

e. All provisions of the motel regulations of the Town shall be complied with.

(16) **Multi-Family Unit:** Subject to the following conditions:

a. Location, building plans, site plan and plan of operation shall be submitted for approval per Section 13-2-4. Prior to the public hearing being scheduled, the petitioner shall review the proposal of the multi-family units with the Town Plan Commission and Board.

b. These units shall only be permitted in areas contiguous to the City of Waukesha limits on an arterial or collector street as defined in the Town Land Division Ordinance and not on an interior subdivision street within the Town or be conversions of existing farm dwellings or other large structures where it is determined by the Plan Commission and Town Board that it is not reasonable to convert said structures from a single family residential use.

c. No more than a two-unit structure may be considered unless connected to municipal sewer system. The lot on which this use is contained shall be 1 ½ times the minimum average width required in the zoning district in which it is located. When served by private waste disposal systems, each unit shall have 15,000 square feet of open space, 4,000 square feet of which is to be on soils suitable for septic system operation. When serviced by municipal water, the open space requirement may be reduced to 10,000 square feet per unit.

d. The method of sewage disposal must be approved by the State Department of Commerce and/or the Waukesha County Health Department per COMM 83.

e. A septic system easement for the alternative septic site needs to be included on the Plat of Survey showing the septic easement, shall be recorded and a copy of the recorded document presented to the Building Inspector prior to issuance of the building permit for all new construction.

f. There shall be a two car attached garage per unit with a minimum size of 440 square feet. The location arrangement of these garages is subject to Town approval.

g. Architectural review of the project shall comply with Section 13-2-4(l) for businesses.

h. The offset, setback and landscaping requirements are subject to the approval of the Town Plan Commission and Town Board. However, the offset shall be no less than 50 feet in any residential district. The setback minimum shall be 50 feet from the base setback line.

i. The floor area ratio for the development shall not exceed 1 ½ times the requirement of the zoning district in which it is located.

(17) **Outdoor Theater:** Subject to the following:

a. The location, building and site plans, and plan of operations shall be submitted for approval per Section 13-2-4.

b. No portion of the theater area shall be closer than 200 feet to the lot line of an adjoining lot in a district permitting residential use.

c. A planting screen at least 40 feet in width and at least 6 feet high shall be provided along any lot line abutting a district permitting residential use.

d. Additional highway width sufficient to provide for the safe control of traffic at the theater entrance shall be dedicated and the necessary highway improvements constructed to provide for a divided roadway, with adequate reservoir area in the center strip to shelter cars entering the theater.

(18) **Public Buildings and Uses:** Subject to the following:

a. The location, building and site plans, and plan of operations shall be submitted for approval per Section 13-2-4.

b. Such use shall conform to the setback, height and offset requirements of the district in which it is located.

c. The height limitation may be extended to a maximum of 50 feet, provided the minimum required setbacks and offsets shall be increased 2 feet for every additional foot of height in excess of the permitted maximum of that district.

(19) **Quarrying:** Subject to the following:

a. Application for Quarrying Land Use Permit.

1. Quarrying Permit. No quarrying operation shall take place in any district until a quarrying permit (conditional use permit) has been secured from the Town Board. Such conditional use permit shall be for an initial period as is deemed appropriate to the specific situation, but not to exceed 3 years provided application therefore shall be made at least 60 and no more than 120 days before expiration of the original permit. Application after such date shall be treated as an original application.

   Application for a quarrying permit shall be made on forms supplied by the Town Clerk and shall be accompanied by:

   a) A fee as may be periodically determined by the Town Board shall be submitted to defray the cost of notification and holding a public hearing.

   b) A full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made a part of this description.

   c) A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed, and public highways adjacent to the site which will be affected by the operation.

   d) A topographic map of the area extending beyond the site to the nearest public street or highway or to a minimum distance of 300 feet on all sides.

   e) A restoration plan as required by subsection g. of this section.

b. Procedure for Action on Applications:
   1. The procedure for public hearing and approval of a quarry permit shall be as set forth in Section 13-2-9 except that the Town Board shall make the final decision relative to granting a conditional use permit for the quarry. The Town Board shall, within 90 days after receipt of the recommendation of the Town Plan Commission, grant or deny a permit 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:
      a) The effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety, and efficiency.
      b) The effect of the proposed operation on drainage and water supply.
      c) The possibility of soil erosion as a result of the proposed operation.
      d) The degree and effect of dust and noise as a result of the proposed operation.
      e) The practical possibility of restoration of the site.
      f) The effect of the proposed operation on the natural beauty, character, land value, and land uses in the area.
      g) The most suitable land use for the area with particular consideration for future residential value.
   2. Additional Conditions. Any conditions accessory to the granting of a permit shall be in writing and copies made a part of a permit and a part of the records of the Town.
   3. Renewals. The procedure as designated in paragraphs a. and b. above shall apply to applications for renewal of a permit. Determination in regard to renewal should be based particularly on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the Town.

c. General Requirements for Quarrying.
   1. No part of the quarrying operation shall be permitted closer than 1,000 feet, nor shall any accessory access road, parking area, or office building be permitted closer than 500 feet to a Residential District except with the written consent of the owners of all residentially zoned properties within 1,000 feet, but in no case shall such operation be permitted closer than 200 feet to a Residential District.
   2. No quarrying operation shall be permitted except in a Limited Industrial or General Industrial District if 30 or more families reside within a half-mile radius of the center of the proposed site.

d. Offset Requirements. No part of the quarrying operation shall be permitted closer than 200 feet, nor shall any accessory access road, parking area, or office building be permitted closer than 50 feet to any property line except with the written consent of the owner of the adjoining property, or where said line is abutting an I-1 Limited Industrial or I-2 General Industrial District or abutting an existing quarrying operation, but in no case shall such operation be closer than permitted by the regulations of the applicable zoning district or be in conflict with the provisions of Section 13-2-5(e) relating to preservation of topography.

e. Setback Requirements. No part of the quarrying operation other than access roads shall be located closer than 200 feet to the base setback line along any street or highway.

f. Operational Requirements.
   1. Fencing shall be erected and maintained around the site or around portions of the site where in the determination of the Town Board such fencing is necessary for the protection of the public, and shall be of a type specified by the Town Board.
   2. All machinery and equipment used in the quarrying operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust free condition by surfacing or treatment as directed by the Town Engineer.
   3. 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.
   4. In stone quarries, the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be otherwise specifically authorized under the terms of the grant of permit.
   5. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mix concrete and any similar production or manufacturing processes which might be related to the quarrying operations shall not be permitted except as otherwise provided in an Industrial District.
   6. 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 Engineer, seriously affect the supply for other uses in the area.
   7. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Town Plan Commission to screen the operation so far as practical from normal view, to enhance the general appearance from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding countryside. Such planting shall be started as soon as practicable, but no later than one year after quarrying operations have begun and shall be done according to the recommendations of the Waukesha County Park and Planning Commission.
   8. Quarrying operations shall not begin before the hour of 7:00 a.m. and shall not continue after the hour of 6:00 p.m. and no operation shall take place on Sundays or legal holidays. During periods of national or unusual emergency, time and hours of operation may be altered at the discretion of the Town Board and through the issuance of a special permit which shall be renewable at 30-day intervals.

g. Restorative Requirements.
   1. 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:
      a) An agreement with the Town whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the Town.

b) 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.
c) A bond, written by a licensed surety company, in an amount sufficient in the opinion of the Engineer to secure the performance of said contract.
d) Such agreement and bond shall be in a form approved by the Town Attorney.

2. In the event of the applicant's failure to fulfill this agreement, the Town may notify the applicant and his surety of its election to perform the restoration and collect the cost thereof from the applicant or his surety.
3. Restoration shall proceed as soon as practicable and at the order and direction of the 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 cases may cover progressive stages of the restoration for periods of not less than 2 years.
4. At any stage during the restoration, the plan may be modified by mutual agreement between the Town and the owner or operator.
5. The kind of material used in the back filling shall not be such as to create a health hazard nor shall it be the source of complaint because of objectionable odor, combustibility or unsightliness. In all instances, the top 2 feet of finished grading shall consist of earth and the top 6 inches of such earth shall be of a quality and fertility capable of supporting a growth of grass.
6. Within one year after the cessation of the operation, all buildings, structures (excepting fences) and equipment shall be removed and all stock piles removed or back filled into the excavation.
7. 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 1-1/2 horizontal to 1 vertical Where restoration is in a quarry, the vertical face of any step or ledge shall not exceed 6 feet in height and the line of slope from the edge of any ledge to the edge of the next ledge above or below shall not exceed a one-to-one ratio. In no case shall any slope exceed the normal angle of slippage of the material involved.

h. Exceptions.

1. The provisions of this section shall not apply to the removal of sod, provided, however, that such removal shall require approval of the Town Plan Commission.
2. When the operation is limited to the removal of topsoil, the Town Plan Commission may, consistent with the intent of these regulations, modify any or all of the provisions of this section, provided, however, that in no case shall such operation be permitted closer than 10 feet from any property line, or to a depth in excess of 18 inches, or so as to adversely affect the drainage of the area.
3. The provisions of this section shall not apply to an operation which is incident to a legitimate use of the premises, provided, however, where such operation involves the commercial disposal of the material removed, the approval of the Town Plan Commission shall be required and such operation shall be limited to a maximum period of 6 months.

4. In a General Industrial District, the Town Plan Commission may, consistent with the intent of these regulations, grant a permit for a period in excess of 5 years, and may modify the provisions relative to permitted hours of operation and to required offset and setback, provided, however, that in no case shall such requirements be less than that required by the regulations of, the General Industrial District.

i. Application to Existing Operations.
   1. Operational Requirements. The operational requirements of this section shall apply to all existing operations where such application can reasonably be made.
   2. Plan for Restoration. There shall be required, within one year after 7/24/79, the submission of a plan for restoration of the site of any existing quarrying operation as provided by subsection g. of this section. The plan for restoration in such cases shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to 7/24/79.
   3. Permit. Within 3 years after 7/24/79, 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 the ordinance, except in a General Industrial District.

(20) **Recreation Facilities (Private Commercial) such as campgrounds, golf courses, swimming facilities, horse boarding operations, racquetball clubs, tennis clubs, etc. Subject to the following:**
   a. The location, building and site plans and plan of operation shall be submitted for approval per Section 13-2-4.
   b. No such use shall be permitted on a lot less than 3 acres in area.
   c. No building, other than one used only for residence purposes, shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.
   d. Off-street parking shall be provided as required per Section 13-2-4 and be adequate to meet the particular needs of the proposed use.
   e. No such permitted use shall include the operation of a commercial facility such as a restaurant, except as may be specifically authorized in the grant of permit.

(21) **Refuse Disposal Sites, Landfill, Public and Commercial:** Subject to the following:
   a. The location, building, and site plans, plan of operations, and plan of restoration shall be submitted for approval per Section 13-2-4 and the State Solid Waste Disposal Standards.
   b. Such plans shall be approved or disapproved upon consideration of the effects on: topography, drainage, water supply, soil conditions, roads and traffic, and present and ultimate land development use.
   c. Only sanitary landfill refuse disposal methods, subject to standards established and enforced by the Waukesha County Health Department and the Department of Natural Resources shall be used. Permission to burn refuse before covering must be specifically included in the zoning permit, and may be separately withdrawn at any time the smoke or smell constitute a health or safety hazard. All garbage must be covered to the specified depth prior to the end of a day during which disposal has taken place.

d. A responsible person shall be in attendance during the hours of operation, which hours shall be subject to the approval of the Town Board. No refuse disposal shall take place except during the specified hours of operation, and with the attendant present.
   1. A non-flammable fence, with a gate which can be locked, must be erected to encompass the disposal site to prevent refuse disposal and scavenging during non-operating hours, and the attendant shall retain the key.
   2. Such fence, and additional auxiliary portable fence, such as snow fence, that will minimize the nuisance of blowing paper, shall be approved by the Town Board.

e. Requirements.
   1. Setback. No refuse disposal shall take place nor shall structures pertinent thereto be constructed closer than 200 feet to the base setback line.
   2. Offset. No refuse disposal shall take place closer than 200 feet to any property line, nor shall refuse disposal take place closer than 500 feet to any existing dwelling or to the site of a dwelling for which a building permit has been issued prior to the application date for the conditional use permit, nor closer than 500 feet to a district zoned R-E, R-1, R-2, or R-3 Residential at the time of the grant of permit. No refuse disposal shall take place closer than 500 feet to a permanent business or industrial structure without the written consent of the owner of that adjacent property, and the written approval of the Waukesha County Health Department, and the State Department of Natural Resources.
   3. Additional Requirements. Restrictions as to types and sources of refuse, if needed, shall be the responsibility of the Town Board, under advisement of the Waukesha County Health Department. A planting plan as approved by the Town Plan Commission shall be included in the plan of operations.

f. All existing refuse disposal operations shall be registered by the operator within 60 days after the adoption of this ordinance with the Town Clerk, submitting pertinent data relative to present operation, including the boundaries of the actual operation and ownership. A permit shall be granted to such existing operation subject to compliance with a plan of operations satisfactory to the approving bodies. A plan of restoration shall be submitted to the Town by the operator within one year of the adoption of this ordinance, together with a surety bond to insure such restoration. Such operation and restoration plans shall not impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this ordinance.

(22) **Residential Planned Unit Developments:** Due to the increased urbanization and the associated greater demands for open space, it is herein provided that there be flexibility in the regulations governing the development of land. This provision is intended to encourage Planned Unit Development in directions that recognize both the changes in design and technology in the building industry, and the new demands in the housing market. It is intended that these provisions create communities with open area. An overall development plan must be submitted to the Town Plan Commission and Town Board for review and approval subject to the following:

a. There shall be no specific lot size, offset, setback, minimum open space per lot required within a planned unit development. Lot areas shall be determined and may be modified according to the following conditions:
   1. That all sanitary provisions are approved by the County Health Department.

2. That the proposed development is not contrary to the general welfare or economic balance of the community, and that benefits and amenities of the resultant development justify the variation from the normal requirements of the district in which it is located.
3. That all other requirements of the Planned Unit Development are met as set forth herein.

b. Residential Planned Unit Development.

1. The following table shall be utilized as a minimum to compute the maximum dwelling unit density and minimum common open space requirements for the Planned Unit Development:

MINIMUM COMMON OPEN SPACE & DENSITY					
	DISTRICTS	**COMMON OPEN SPACE**			
		20%	**30%**	**40%**	**50%**
DENSITY	A-1	120,000	116,000	113,000	110,000
	R-E	120,000	116,000	113,000	110,000
	R-SE	85,000	82,000	80,000	78,000
	R-1	43,000	41,000	40,000	39,000
	R-2	30,000	29,000	28,000	27,000
	R-3	20,000	19,000	18,000	17,000

Example: Computing maximum dwelling unit density in a Planned Unit Development with 20% common open space in an R-1 District:

Gross Acreage	100 acres
Less 80% of 10 acres zoned C-1	- 8 acres
Less 10 acres devoted to commercial use	- 10 acres
Total Residential Acreage in square feet (82 acres x 43,560)	3,571,920 sq. ft.
Divide by square feet/dwelling unit requirements for R-1 Residential District	
(3,571,920 ÷ 43,000)	83 units

2. The common open-space of the development shall be clearly delineated within the development as an outlot or easement and shall not include open space within a developable lot. Up to 20% of the land in the proposed development currently zoned C-1 may be used in this open-space computation.
3. Adequate guarantee shall be provided for permanent retention of common open space resulting from these regulations, either by private reservation, or by public dedication. Buildings or uses for noncommercial, recreational, or accessory facilities may be permitted in such common open space area with the approval of the Town Plan Commission and Town Board.

When used in the A-1 Agricultural District, the permanency of open areas when set aside as farm fields may be subject to review and change at a future time when it is no longer desirable to retain an agricultural or rural atmosphere due to increased needs and demands for space for additional development as determined by the Town Board. Appropriate measures may be established in open space easements granted to the Town allowing the conversion of said fields to provide for additional density and development consistent with the reasonable intent of the ordinance and consistent with the density of the development on surrounding lands.

4. Perpetual care and maintenance of such open space areas shall be provided for and an operational plan shall be submitted for approval to the Town Plan Commission and Town Board.
5. Ownership and tax liability of the open space areas shall be established in a manner acceptable to the Town and made a part of the conditions of approval.

c. After all conditions of a planned unit development project are certified by the Town Board and Plan Commission as being completed, the conditional use status of such completed development shall be changed to a permitted use in the district in which it is located.

(23) **Riding Academies, Commercial Stables and Paddocks:** Subject to the following:

a. The location, building and site plans and plan of operations shall be submitted for approval per Section 13-2-4.
b. No such use shall be permitted on a lot less than 5 acres in area.
c. No building, other than one used only for residence purposes, shall be closer than 100 feet to the lot line of an adjoining lot in a district permitting residence use.
d. Off-street parking shall be provided as required by the Town Plan Commission and Town Board adequate to meet the particular needs of the proposed use.
e. No such permitted use shall include the operation of a commercial facility such as a bar or restaurant except as may be specifically authorized in the grant of permit.

(24) **Salvage Yards:** Sites used for the storage or sale of salvageable materials, or for the purpose of salvage, wrecking, dismantling, or demolition of salvageable materials, are permitted subject to the following:

a. The location, building and site plans and plan of operations shall be submitted for approval per Section 13-2-4.

(25) **Senior Housing:** The term "senior housing" shall refer to a dwelling unit or units designed and constructed to be occupied by senior persons. A senior person is a person who is 55 years of age or older on the date such person intends to occupy the premises, or one's spouse who is a senior person as defined herein. Guests are allowed to stay no more than 30 days in any calendar year.

The appropriateness of a particular site for senior housing shall be decided at the discretion of the Plan Commission and Town Board following the criteria herein.

In the R-3 Residential District, B-1 and B-3 Business Districts are subject to the following conditions:

Subject to the following conditions:

1. Building plans, site plans, landscaping plans and plan of operation shall be submitted for approval per Section 13-2-4. Prior to the public hearing being held, the petitioner shall review the proposal with the Plan Commission. Such facilities shall be located in close proximity to retail shopping including grocery stores, pharmacy, banking and restaurants or transportation services such as municipal bus, taxi, van/bus shuttle service etc., shall be available on site or along the street directly abutting the lot.

2. The primary entrance shall be located on an arterial or collector street with sidewalks as defined in Section 6-2-1 and 6-2-2 Public Works Code of Ordinance. Such facilities shall be served by municipal sewer. Municipal water, if available shall be used to serve the facilities. If a private well or water system will be utilized, a municipal size/capacity water supply system is required to meet the needs of the facility pursuant to the State Plumbing Code.
3. No such use shall be permitted on a lot less than 2 acres in area.
4. A minimum of 30% of the site's area shall be retained as green space. There shall be at least one area of continuous green space that provides for outside walking area and sitting area with a minimum width of 20 feet and a minimum size of 10,000 square feet.
5. Offsets and setbacks shall conform to the minimum dimensions required in the zoning district in which it is located with a minimum offset of 20 feet. The building height maximum is 35 feet. (See Section 13-2-11 Height Regulations)
6. Minimum living areas shall apply as follows: 650 square feet for a one bedroom unit, 850 square feet for a two bedroom unit or greater. Efficiency units shall not be permitted. Laundry facilities shall be provided on each floor of the building. A common use room is required for the residents.
7. Underground or above ground garage parking shall be provided for at least two-thirds of the units. A minimum parking ratio of 1.05 parking spaces per unit shall be provided.
8. Density shall be no more than 20 units per acre.
9. The 55 year age restriction shall not apply to one unit that is occupied by the owner, manager or operator of the building with one or more family members of such owner, manager or operator, if any of such persons that are regularly engaged in the performance of substantial duties directly related to the management or maintenance of the building.

(26) **Uses or situations not specifically provided for in this conditional use section** which may be determined to be acceptable under the provisions of this section and in the judgment of the Plan Commission and Town Board, meet the intent of the conditional use section as set forth in Section 13-2-9.

SEC. 13-2-10 BUILDING LOCATION.

(a) **Setbacks.**

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

a. On all streets or highways for which the ultimate width ordinance of Waukesha County, 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 "Established Street and Highway Width Map of Waukesha County."

b. On all other streets, which shall be designated as "local streets," the base setback line shall be 33 feet from the center line of such street or 60 feet from the center point of a cul-de-sac unless specifically designated otherwise by action of the Town Board.

c. When a lot abuts a frontage road, the base setback line shall be located at a distance from the center line of the frontage road equal to one-half the right-of-way width of said frontage road.

d. Such setback lines shall be parallel to and measured at right angles to the center line of the street or highway.

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

a. Across each sector between the intersection of a street or highway with a railroad, a vision setback shall be established by a straight line connecting points on the base setback line and the railroad right-of-way line, which points are located 120 feet from the intersection of the base setback line and the railroad right-of-way line.

b. Across each sector between intersecting streets or highways one or more of which has been established at a width of 100 feet or more, a vision setback line shall be established by a straight line connecting 2 points on the intersecting base setback lines, which points are located 60 feet distant from the intersection of said base setback lines.

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

(3) No principal building or its accessory buildings nor any other permanent structure shall be hereafter erected, altered or placed so that any part of the structure nor any roofed or enclosed portion thereof is closer to the base setback line than the setback distance hereinafter specified by the regulations for the district in which such building or structure is located.

(4) No other structures of any kind, except necessary highway and traffic signs, public utility lines, fences, rural mailboxes, and those signs permitted in a Residence or Agricultural District shall be hereafter erected, altered, or placed within such base setback area.

(5) In the vision setback area, no structure of any kind shall be permitted which exceeds a height of 3 feet above the elevation of the center of the intersection, except for necessary highway and traffic signs, public utility lines, and open fences through which there is clear vision, nor shall any plant material be permitted which obscures safe vision of the approaches to the intersection.

(6) Additions to and replacements of existing structures may be made, within the established setback areas, subject to approval of the Town Plan Commission and provided the owner will file, with Waukesha County, an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after 7/24/79 at his expense, when necessary for the improvement of the highway.

(7) In all cases where any of the highways for which setback lines are established by this ordinance are located on municipal boundaries, such establishment shall apply only with the unincorporated area.

(8) On corner lots of record, as of the date of adoption of this Ordinance, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than thirty (30) feet. Where such reduction would result in an area narrower than thirty (30) feet after applying the offset reduction, the Town Board shall have the authority to modify the setback or offset provision to the extent necessary to minimize the encroachment on both the offset and setback standard while maintaining the thirty (30) feet area required herein.

(b) **Offsets.**

(1) No principal building or its accessory buildings nor any other permanent structure shall be hereafter erected or altered so that any portion thereof is closer to any lot line than the offset distance hereinafter specified by the regulations for the district in which such building or structure is located with the following exceptions:

In the case of any lot of record which has a minimum average width less than that required by the district in which it is located, the offset from a side lot line may be reduced proportionately to the ratio between the actual minimum average width and the required minimum average width, provided however, that no offset shall in any case be less than 10 feet, except that offsets for detached accessory buildings on lots of 100 feet in width or less may be reduced to 5 feet, provided that no detached accessory building shall be located closer than 10 feet to any structure used for residential purposes.

(2) Where a lot abuts a district boundary line, the offset from such line in the district of less restricted use shall be not less than that required for the district of more restrictive use.

(3) In the case of multiple family or commercial use structures, the offsets may be modified as follows:

a. Two or more buildings on adjoining lots may be erected with common or directly adjoining walls, provided the requirements of the State Commercial Building and HVAC Code relative to such construction are complied with, and provided that at both ends of such "row" type buildings the applicable offset requirements shall be complied with.

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

(4) Every structure, unless excepted by another section of this Ordinance, shall be at least thirty (30) feet from the Conservancy District line and at least two (2) feet above the highest ground elevation at the Conservancy District line on the lot. Filling and/or grading activities within 30 foot offset area shall not be allowed.

(c) **Maintenance and Use Setback and Offset Areas.** Any such required setback or offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse and shall not be used for the storage or display of equipment, products, vehicles or any other material.

(d) **Accessory Building Size and Location.**

(1) No accessory building shall be erected, structurally altered or placed on a lot in any District so that any portion thereof is closer than 10 feet to the principal building or other accessory building or structure on said lot.

(2) No accessory building or structure in any District other than in the C-1 Conservancy and A-1 Agricultural District shall project closer to the base setback line than the principal building except for corner lots. Accessory buildings on corner lots must meet the setback on the secondary street yard. The Primary street to be determined by the driveway location and address assigned.

(3) The aggregate total floor area of any accessory building or buildings used for residential or agricultural purposes, may be constructed in accordance with the following table, and may not exceed the F.A.R. unless amended through a P.U.D.:

	COLUMN 1	COLUMN 2
LOT SIZE	ACCESSORY BUILDING MAXIMUM	DETACHED GARAGE *
Less than 22,000 s.f.	600 s.f.	900 s.f.
22,000 s.f. – 30,000 s.f.	800 s.f.	1000 s.f.
30,000 s.f. – 19.99 acres	1000 s.f. for the first one acre then 100 s.f. per acre or portion thereafter up to 19.99 acres	1200 s.f.
20 acres or more	Follow F.A.R. per District	1200 s.f.

*Any property improved with a single-family residence that does not have an attached garage, may construct a detached garage in accordance with Column 2 of the above table, and may also construct an accessory building in accordance with Column 1 of the above table, provided, however, that the detached garage shall be located within fifty (50) feet of the residential structure.

Residential Structure. In residential districts the maximum number of detached accessory buildings shall be limited to three (3) structures, providing the aggregate square footage does not exceed the maximum size allowed. In all other zoning districts, there shall be no limit for the number of accessory buildings, providing the aggregate square footage does not exceed the maximum size allowed.

An attached garage may be converted into residential living space, provided that the property owner simultaneously constructs an attached garage to the residential structure, which attached garage shall meet the minimum requirements set forth in this chapter.

Any proposed residential or agricultural accessory building exceeding the total aggregate floor area of six hundred (600) square feet shall be approved by the Town Plan Commission and Town Board prior to issuance of a building permit. The Town Plan Commission and/or Town Board may require a deed restriction to be recorded with the property limiting the use of the structure to residential and/or agricultural purposes for buildings six hundred (600) square feet or greater.

The Town Plan Commission and/or Town Board may impose other reasonable conditions, including a requirement that the exterior appearance of the building, such as building materials, colors, roof pitch, windows, etc., be compatible with the principal structure.

SEC. 13-2-11 HEIGHT REGULATIONS.

(a) **Maximum Height Restricted.** In any district, no building or structure shall hereafter be erected or structurally altered to a height in excess of that hereinafter specified by the regulations for that district.

(b) **Exceptions.** The following shall be excepted from the height regulations of a district; however, the height of any such structure shall not exceed two times the distance from the nearest lot line.
   (1) Chimney and flues.
   (2) Agricultural buildings used solely for agricultural purposes, but not to exceed 85 feet in height, and then, on farms of 20 acres or more in area only.
   (3) Cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, radio, television communication towers, masts, radio and television receiving antennas, windmill towers and necessary mechanical appurtenances.

(c) **Increase Permitted.** The maximum height of any building or structure may be increased by not more than 10 feet, providing all required offset and setbacks are increased by 2 feet for each one foot when such building exceeds the height limit of the district in which it is located. Any increase in height of any building or structure as provided in this section must be approved by the Town Plan Commission and Town Board. The Town can require screening/landscaping to break up the view of adjacent properties or from the street.

SEC. 13-2-12 AREA REGULATIONS.

(a) **Floor Area.**
   (1) Any building 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 is located. Such minimums are stated in terms of the minimum total floor area required for a building and that portion of the total which must be provided on the first floor level. Such minimum total shall be increased by 300 square feet for any building not having a basement of at least 300 square feet in area.
   (2) Floor area shall be measured at each living level from the outside edge of wall to outside edge of wall, but for the purpose of computing total minimum required living floor area, the following spaces shall not be included: basements, attached garages, open porches, or attics having an average height of less than 8 feet or other non-living storage areas, nor any accessory buildings. In a split-level building, the first floor level shall include all area which is not over another living area of the building. Basements shall not be included in determining the required minimum floor area, but approved living space at a lower level, not classified as basement space, may be so counted. All living spaces utilized in computing the total minimum required floor area, if on different levels, must be connected by a permanent, fixed staircase.
   (3) Floor area ratio computation, as contrasted to the computation of the minimum required floor area, is the sum of the areas of all floors of a building, including basement, garages attached or detached, and all roofed over portions of any building, as well as all floor areas of any accessory building or structure. The combined total floor area of all buildings on a lot is divided by the lot area to obtain the percentage, or F.A.R. The maximum total floor area of the buildings on a lot shall not exceed that permitted under the floor area ratio as hereinafter specified by the regulations for the district in which such building is located.

(b) **Lot Size.**

(1) No building shall be erected on a lot of less area or of minimum average width less than hereinafter specified by the regulations of the district in which such building is located.

(2) For the purpose of this ordinance, the lot area shall be measured from the base setback line and shall be exclusive of the base setback area, which is that space between street centerline and the base setback line or edge of the street right-of-way.

(3) The mean horizontal distance measured between side lot lines perpendicular to the mean lot depth at the building setback line. In no event shall the lot width at the base setback line be less than 30 ft. along a straight road section or 45 ft on a cul-de-sac turn-around, unless a relief for cause is approved by the Plan Commission and Town Board.

(4) No lot area shall be reduced by any means so as to create a lot of less than the required size or so that the existing offsets, setbacks, open space or lot area would be reduced below that required by the regulations for the district in which such lot is located.

(5) Where a lot has less land area or width than required for the district in which it is located and was of record at the time of the passage of this ordinance (7/24/79), such lot may be used for any purpose permitted in such district but not for residential purposes for more than one family; provided however, that in no case shall the setback and offset requirements be reduced to less than that required in Section 13-2-10 and the open space requirements be reduced to less than 10,000 square feet. Such substandard lot shall be in separate ownership from abutting lands. If abutting parcels or lands and the substandard lot are in the same ownership, the substandard lot shall not be sold or developed unless it has a minimum average width of 100 feet and a minimum lot area of 20,000 square feet. Subject to approval by the Town Plan Commission, where each of the abutting lots under the same ownership are improved, the owner may dispose of or sell the lots separately if each one has a principal building located thereon and if each building has at least double the market value of the lot on which it is located. The determination of market value shall be made by a certified appraiser approved by the Town and any expense incurred by the Town shall be paid for by the owner of the properties that are in question.

(c) **Open Space.**

(1) No building shall be erected, structurally altered or placed on a lot so as to reduce the usable open area of such a lot to less than that hereinafter specified by the regulations for that district.

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

(3) No part of the open space provided for any building shall be included as part of the open space required for another building except as hereinafter provided for in Planned Unit Developments.

SEC. 13-2-13 OFF-STREET PARKING.

(a) **Spaces Required.** Any building hereafter erected or structurally altered shall be provided with an off-street parking space not greater than 500 feet from the principal use. A parking space shall be 9 feet in width by not less than 20 feet in depth for 30°, 60°, or 90° (angled) parking and not less than 25 feet in depth for 0° (parallel) parking, and there shall be at least 24 feet of width between opposite facing parking stalls for ingress and egress. The following schedule shall be utilized to determine the number of parking spaces for various uses allowed by this ordinance:

(1) Two spaces per dwelling unit (such dimensions as enumerated above, however, are not required for single family detached housing).

(2) Auditoriums, churches, theaters, community centers and other places of public assembly: one space for every 2 seats.

(3) Retail business establishments, restaurants, etc.: 7 spaces for the first 1,000 square feet then 5.5 spaces per 1,000 square feet thereafter of primary floor area devoted to the principal use of the property. This requirement does not apply to the area of the building utilized for storage purposes. No additional space will be required for such storage space.

(4) Wholesale and other general business establishments: one space for each 2 employees during any 12-hour period and 1 space per 300 square feet of office floor area.

(5) Office buildings: one space for each 300 square feet of floor area.

(6) Medical and dental clinics: 5 spaces for each doctor and one space for each employee.

(7) Industrial buildings and warehouse buildings: one space for each employee during any 12-hour period and 1 space per 300 square feet of office space.

(8) Sanitariums, institutions, rest homes, nursing homes: one space for each 2 beds, plus one space for every 2 employees.

(9) Hospitals: one space for each 2 beds, plus one space for every 2 employees.

(10) Hotels and motels: one space for each guestroom, plus one space for every 2 employees.

(11) Colleges, vocational and night schools, secondary and elementary schools: one space for each employee, plus one space for every 2 students except that the requirement for parking at elementary schools may not include student parking. At secondary schools, the number of stalls for student parking shall be determined by the Plan Commission and appropriate provisions made consistent with the intent of this provision.

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

(c) **Parking of Trucks and Equipment.** No other vehicular equipment of a commercial or industrial nature, as excepted in (b) above, shall be parked or stored for more than 2 consecutive hours and 4 accumulative hours during any 24 hour period on any lot in any zoning district except in Business and Industrial Districts or as follows:

(1) Agricultural equipment (such as farm tractors, plows, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of his farm, etc.) used in a farm operation.

(2) Not more than one panel, van, or pick-up truck used in the conduct of a conforming business activity being carried on in a Residential or Agricultural District, or used to commute to a business elsewhere. In any case, there shall be no more than one such commercial type vehicle parked in an area zoned Residential or Agricultural except that the Board of Appeals may, if the need is evident, permit more than one such vehicle if the Town Board and Planning Commission indicate they have no objection to the increase in the number of such vehicles. No limitation shall be placed on vans or pick-up trucks if they are used for private non-business or non-commercial recreational purposes.

(3) A conditional use permit pursuant to Section 13-2-9(i)(8) may be granted to permit the parking of commercial or industrial type vehicles in certain districts. In Business and Industrial Districts where such vehicles are necessary to an otherwise permitted business or commercial use, a conditional use permit will not be required and there are no limitations as to the number of such vehicles that may be parked on the property except as may be hereinafter established under the provisions of the applicable zoning district.

(d) **Surfacing.** Any off-street parking area, other than that provided for a residence, having a capacity for more than 4 vehicles shall be surfaced and maintained in a dustless condition. Bituminous asphalt, concrete, or similar material may be used with Plan Commission approval.

(e) **Screening.** Any off-street parking area, other than that provided for a residence, which abuts or faces a Residence District, shall provide a planting screen, landscaped fence, or wall, at least 5 feet in height, along the side abutting or fronting on a Residence District.

(f) **Offset.** In any off-street parking area, other than that provided for a residence, no vehicle shall be allowed to park closer than 10 feet to the abutting lot line.

(g) **Setback.** No vehicle shall be parked closer than 10 feet to the base setback line.

(i) **Lighting.** Lights provided in any parking area shall be hooded or beamed so as not to create undesirable glare of illumination of adjacent property.

SEC. 13-2-14 OFF-STREET LOADING AND UNLOADING.

(a) **Required.** In any Local Business, General Business, Limited Industrial or General Industrial District, an off-street loading space shall be provided, in addition to the defined off-street parking area, for every 10,000 square feet or fraction thereof in excess of 3,000 square feet of building area, exclusive of storage areas used for commercial purposes.

(b) **Areas.** Each such loading space shall have an area at least 10 feet wide by 45 feet long and with a minimum of 14 feet height clearance.

SEC. 13-2-15 SIGNS.

All signs shall be constructed and maintained in accordance with and subject to the provisions of the existing ordinance of the Town regulating signs and any amendments thereto which may hereafter be adopted by the Town.

(a) **Purpose and Intent**

The intent of this Ordinance is to provide for and regulate the area, number, location, construction, maintenance, and overall design of signs in the Town in a manner which is compatible with surrounding land uses, and promotes public welfare and community aesthetics.

(b) **Compliance**

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without first complying with the provisions of this Ordinance.

(c) **Definitions**

(1) Advertising Sign. A sign which promotes a product, commodity, or service.
(2) Agricultural Sign. A sign which advertises sale of agricultural products.
(3) Building Frontage. The base line measure, in lineal feet, of a building façade.
(4) Bulletin Sign. A sign carrying advertising or information to the public.
(5) Copy. Sign legend or message.
(6) Double Faced. A sign which has two readable areas, placed back-to-back.
(7) Flashing Sign. A sign which has lights which operate in a pulsating or intermittent manner.
(8) Free Standing, Pole Sign. A sign supported by uprights or braces in, or upon, the ground surface and in no way affixed to a building structure.
(9) Gross Surface Area. The entire area within a single continuous perimeter enclosing the extreme limits of the sign, excluding structural elements. The dimensions of the structural elements shall be proportionate to the gross surface area of the sign. The gross surface area, including the structural elements, shall not exceed 1.5 times the gross surface area of the sign face.
(10) Illuminated Sign. A sign designed to give forth or reflect artificial light, from a light source incorporated in the sign or indirectly from another light source.
(11) Lot Frontage. The lineal distance that a parcel abuts a public right-of-way.
(12) Off Premises Sign. A sign not intended to be temporary (see Temporary Sign), and advertising a use not conducted on the parcel where the sign is located. Off premise signs are not permitted in any District.
(13) Permanent Sign. A sign not intended to be temporary (see Temporary Sign).
(14) Pole Sign. A freestanding sign with the bottom edge of its frame ten (10) feet or more above the surface of the ground.
(15) Portable Sign. A sign which is not permanently attached to the ground or building.
(16) Poster Sign. A temporary paper sign which is posted in a public place to advertise an event.
(17) Projecting Sign. A sign which is attached directly to the building wall and whose extreme point extends not more than eighteen (18) inches from the face of the wall. For the purposes of defining projecting signs, mansard roofs or overhangs are not considered as part of a wall. Except as provided in this chapter of the Municipal Code, projecting signs shall be on the building side facing a street unless a variance is granted.

(18) Rear Entrance Sign. A permanent sign which directs attention to a business at a rear or secondary entrance.

(19) Right–of-Way. Land covered by a public road or sidewalk, either owned or through easement.

(20) Roof Sign. A sign of a permanent or temporary nature which is constructed on the roof of a building.

(21) Setback. The shortest lineal distance measured from the public right-of-way to the structure.

(22) Shopping Center. A geographically-contiguous area consisting of a single building or group of buildings containing a variety of retail establishments and having a common identification and with privately-owned access and parking facilities which are held out to the public for use of their vehicles.

(23) Sign. Any name, structure or device designated to inform or attract attention for the purpose of advertising, identifying, or directing.

(24) Subdivision Identification Sign. A sign whose purpose is to indicate the presence of a subdivision or development.

(25) Substantially Altered. Any major alteration to a sign, but not including routine maintenance, painting or change of copy of an existing sign.

(26) Temporary Sign. Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric or cardboard, wallboard or other light materials, with or without frames, intended to be displayed for not more than thirty (30) days.

(27) Time and Temperature Signs. A sign giving the time and temperature.

(28) Wall Sign. A display or sign which is attached directly or painted on a building wall and whose extreme point extends not more than eighteen (18) inches from the face of the wall. The distance from the wall to the outermost edge of a mansard roof or overhang is considered in computing this eighteen (18) inch limitation. Except as provided in this chapter of the Municipal Code, wall signs shall be on the building side facing a street unless a variance is granted.

(29) Window Sign. A sign of a permanent nature which is hung in, or lettered upon, a window.

(d) **Signs Permitted in All Districts Without a Permit**

The following signs shall be permitted in all zoning districts subject to the following regulations:

(1) Real Estate Signs which advertise the sale, rental, or lease of the premises upon which the signs are temporarily located, are subject to the following restrictions:

a. Shall be set back a minimum of ten feet from all lot lines.

b. Shall not exceed eight square feet of sign display area in residential districts, nor 32 square feet in all other districts.

(2) Election Campaign Signs are subject to the following:

a. Shall not be located in a public right-of-way, nor within ten feet of any intersection of the placement of the sign if it interferes with vehicular and/or pedestrian traffic.

b. Shall not be erected on any parcel of land without the permission of the property owner, renter, or lessee.

c. Shall not be erected prior to the first day of the "election campaign period" as defined by Section 12.04, State Stats., and shall be removed within seven days following the election.

(3) Name and Warning Signs which identify a premises or describe a hazardous condition which may exist on a premises, are subject to the following:
   a. Unless otherwise approved by the Town Board, shall be set back a minimum of ten feet from all lot lines.
   b. Shall not exceed three square feet of sign display area.

(4) Home Occupation and Professional Home Office Signs are subject to the following:
   a. Shall be mounted flush against the dwelling, on a private light post, or on a mailbox support structure.
   b. Shall not exceed three square feet of sign display area.

(5) Rummage Sale and Garage Sale Signs are subject to the following:
   a. Shall not be located in a public right-of-way.
   b. Shall not exceed four square feet of sign display area.
   c. Shall not exceed a seven-day display period, and shall be removed within 24 hours following the sale.

(6) Bulletin Boards which are used for public, charitable, or religious institutions are subject to the following:
   a. Shall be located on the premises which the sign represents, and shall be set back a minimum of ten feet from all lot lines.
   b. Shall not exceed 12 square feet of sign display area.

(7) Employment and Help Wanted Signs are allowed in all districts except residential districts, and are subject to the following:
   a. Shall be located on the premises which the sign represents, and shall be set back a minimum of ten feet from all lot lines.
   b. Shall not exceed 12 square feet of sign display area.

(8) Official Signs which control traffic, parking restrictions, information, and notices.

(9) Flagpoles shall be regulated as signs not requiring a permit, and are subject to the following:
   a. Shall be set back a minimum of ten feet from all lot lines.
   b. Shall not exceed the height restriction for the district in which the flagpole is located.
   c. Shall not exceed three flagpoles on any parcel of land.

(10) Sidewalk/Sandwich Signs are allowed in Business and Industrial Districts and are subject to the following:
   a. Shall be located out of the right-of-way on private property
   b. Shall not exceed a maximum of 5 feet in height.
   c. Shall not exceed 12 square feet on one side/board, or 24 square feet all sides.
   d. Shall be used during hours of operation, signs shall not be set out before 8 a.m. or after 10 p.m.

(e) **Signs Permitted With Architectural Approval and Permit**

Each individual sign proposed in accordance with the provisions of this Ordinance must be applied for, and submitted to, the Building Inspector pursuant to Section 13-2-15(l) of this Ordinance. All applications for permits for such individual signs, except such applications as may be determined by the Town Board, shall be forwarded by the Building Inspector to the Town Board for review. The Town Board is hereby empowered to:

(1) Withhold the application pending the submittal of any additional information which the Town Board may require.

(2) Deny the application based upon non-conformance with the provisions of this Ordinance, or based upon the Town Board's determination that the proposed sign will violate the purpose and intent of this Ordinance.

(3) Approve the application as presented, or approve with additional conditions or restrictions which the Town Board may impose based on the purpose and intent of this Ordinance. This Ordinance expressly allows regulation of all signs in the Town to be based upon the finding of the Town Board that such signage will not violate the purpose and intent of this Ordinance. This Ordinance cannot prevent the Town Board from establishing more or less stringent requirements and conditions prior to approval of any sign application.

All sign applications will be returned to the Building Inspector with the action of the Town Board clearly stamped on said application. Applications which have been approved by the Town Board and reviewed for completeness and accuracy by the Building Inspector pursuant to Section 13-2-15(l) of this Ordinance, shall be issued. All sign permits, unless otherwise specified by the Town Board, shall be issued by the Building Inspector.

(f) **Signs Permitted in All Business, Industrial, Park Recreation and Public Districts With Architectural Approval and Permit**

The following signs are restricted in total display area as follows: The total sign display area of all signs on any one parcel of land is limited to the area requirements set forth in subparagraphs (1)-(5). If multiple signs are desired, the total sign display area must be apportioned between these signs based on building frontage.

(1) Free-Standing Signs / Pole Signs / Ground Signs which are self supporting, are not attached to, or reliant upon, any other structure for support, are subject to the following restrictions:

a. Shall not exceed a maximum height of twenty five (25) feet above the lot grade at the base of the sign, provided, however, that the setback shall be increased one foot for each one foot of height increased to a maximum of 30 feet above the lot grade at the base of the sign.

b. Shall be set back a minimum of ten (10) feet from all lot lines unless modified by the Town Board.

c. Shall not exceed 200 square feet of sign display area per side, nor 400 square feet of sign display area on all sides.

d. May be illuminated in accordance with Section 13-2-15(i).

(2) Wall-Supported Signs that are required to be secured to a building or structure for support are subject to the following restrictions:

a. Shall not extend above the parapet wall or the top of the roof of the building which supports it.

b. Shall not project more than 12 inches from the wall which supports it.

c. Shall not exceed 400 square feet of sign display area.

d. May be illuminated in accordance with Section 13-2-15(i).

(3) Window Signs which are painted, placed in, or affixed to, a window are subject to the following restrictions:

a. Shall be placed on the interior of the window surface.

b. Sign display area shall not exceed 50% of the window area in which the sign is displayed.

c. May be illuminated in accordance with Section 13-2-15(i), unless modified by the Town Board.

(4) Changeable and Movable Copy Signs which are designed to allow the display message to be changed, either manually or electronically, are subject to the following restrictions:

a. Shall, following a public hearing held pursuant to Wisconsin Statutes Chapter 985 for a Class 1 Notice, be approved by the Town Board, provided, however, that the Town Board may waive the public hearing requirement. In granting a request for permit, the Town Board may impose such conditions as the Board deems reasonable and necessary so as to carry out the purpose and intent of this ordinance.

b. May be illuminated in accordance with Section 13-2-15(i).

(5) Roof Signs.

a. Height - shall not project more than five feet above the roof line.

b. Area - shall not exceed 100 square feet on one side, nor 200 square feet of total sign display area.

c. May be illuminated in accordance with Section 13-2-15(i).

(g) **Signs Permitted in All Residential, Business, Industrial, Park Recreation and Public Districts With Architectural Approval and Permit.**

The following signs are regulated based on the character and nature of the proposed development, as well as the adjacent land uses and context with Town Board approval.

(1) Temporary Real Estate Development Signs which are used to designate a new subdivision, development or building are subject to the following restrictions:

a. Shall be set back a minimum of ten feet from all lot lines.

b. Shall be regulated in height, size, design and period of display time by the Town Board.

c. Shall not exceed three signs-32 square feet maximum each in sign display area.

d. May be illuminated in accordance with Section 13-2-15(i), if approved by the Town Board.

(2) Permanent Real Estate Development Signs which are placed at the entrance to a subdivision or development are subject to the following restrictions:

a. Shall display only the name of the subdivision or development.

b. Shall be set back a minimum of ten feet from all lot lines except that the minimum set back requirement may be modified by the Town Board.

c. Shall be regulated in height (8 ft. maximum), size (64 square feet maximum) and design by the Town Board.

d. May be illuminated in accordance with Section 13-2-15(i).

(h) **Temporary Signs Permitted in All Districts With a Permit**

The Building Inspector may permit the temporary use of signs, banners, flags, searchlights, balloons, tents, or any approved form of portable signage for the purpose of promotional sales, advertisement, or any short term event which is not defined under this Chapter as a special occupancy use, subject to the following restrictions:

(1) Shall be set back a minimum of ten feet from all lot lines except that the minimum set back requirement may be modified by the Town Board.

(2) Shall not pose a potential hazard to traffic or adjacent properties.

(3) Shall be permitted for no more than 30 days in any calendar year.

(4) Shall be regulated in location, design, and construction by the Building Inspector.

(5) May be illuminated during business hours of operation in accordance with Section 13-2-15(i).

(i) **Sign Illumination and Nuisance Prevention**

Illumination of all signs permitted in the Town must conform to the following restrictions:

(1) Signs which are internally illuminated shall not face adjacent lands which are zoned for, or used as, single family or duplex use.

(2) Signs shall not resemble, imitate, or approximate traffic or railroad signs, signals, or devices; shall not cause glare, mislead or confuse traffic, or impair driver visibility on public ways, private roadways, or adjoining properties; shall not be flashing, revolving, blinking, strobe, or animated, except for the display of the time and temperature as approved by the Town Board.

(3) No illuminating element of any kind may be visually exposed.

(4) The level of illumination as measured at one foot perpendicular to any face of an illuminated sign may not exceed 100 foot candles of daytime (6:00 a.m. to 7:00 p.m.) candle power, nor 45 foot candles of nighttime (9:00 p.m. to 6:00 a.m.) candle power.

(5) Signs shall conform to the requirements of the COMM 16 (National Electrical Code).

(6) Signs shall not be constructed, operated, or maintained so as to constitute a nuisance to adjoining properties, or materially affect or detract from the value of the adjoining properties.

(j) **Sign Construction and Maintenance Standards**

(1) Wind pressure and Dead Load Requirements. All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than 20 pounds per square foot of area.

(2) Protection of the Public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.

(3) Maintenance. The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legal, conforming sign to its original condition, and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass.

(4) Supporting Members or Braces of all signs shall be constructed of galvanized iron, properly-treated wood, steel, copper, brass, or other noncorrosive, fire resistant material. Every means or device used for attaching any sign shall make use of sound engineering practices.

(5) No Signs or any part thereof or sign anchors, braces, or guy rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any anchor, brace or guy rod shall be erected, constructed, or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department of the Town, as necessity may require.

(k) **Measuring Sign Display Area**

In calculating the sign display area to determine whether it meets the requirements of this Ordinance, the Building Inspector shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the sign display area calculation. Sign display area of irregular shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign. (See Illustration No. 1)

(l) **Sign Permit**

Application for a permit shall be made on forms provided by the Building Inspector and made available in the Town Clerk's office, and shall contain, or have attached thereto, the following information:

(1) Name, Address, and telephone number of the applicant. Location of the building, structure, or lot to which, or upon which, the sign is to be attached or erected.

(2) Name of Person, firm, corporation, or association erecting the sign.

(3) Written Consent of the land owner of lessee of the building, structure, or land to which, or upon which, the sign is to be erected.

(4) A Scale Drawing (and scale sectional drawing) of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.

(5) A Scale Site Survey indicating the location and position of such sign in relation to nearby buildings, structures, lot line, vehicular and pedestrian access ways, public and private right-of-way, and existing signs on the parcel or on adjacent parcels within 150 feet.

(6) Copies of any other permits required, and issued, for said sign, including the written approval by the Electrical Inspector in the case of illuminated signs, who shall examine the plans and specifications, inspecting all wiring and connections to determine if the same complies with the Town Electrical Code.

(7) Additional Information as may be required by the Building Inspector or the Town Board.

(8) Sign Permit Applications shall be filed with the Building Inspector who shall review the application for its accuracy and completeness. The Building Inspector shall submit all applications to the Town Board pursuant to Title 13-2-15(e) of this Ordinance. Applicants shall be notified of the Town Board's decision within 30 days after receipt of the application. A sign permit shall become null and void if work authorized under the permit has not been completed within six months of the date of issuance.

SEC. 13-2-16 AIRPORT SAFETY ZONE.

(a) **Maximum Height.** No building, structure or object of natural growth located within 3 miles of the boundaries of any airport, landing field, or landing and take-off strip and within a band of 500 feet on each side of the center line 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 said point.

(b) **Control of Use.** No building, structure or land located within 3 miles of the boundary of any airport, landing field, or landing and take-off strip shall be so used that by reason of the emission of smoke, gas or other emanation it shall produce a hazard to the operation of aircraft.

(c) **Exceptions.** The aforesaid regulations shall not apply to growing field crops which are harvested at least once a year, nor fences not over 5 feet high.

(d) All buildings, structures or objects of natural growth located within 3 miles of the boundaries of any airport, landing field, or landing and take-off strip shall require a letter of approval from the Waukesha County Airport manager.

SEC. 13-2-17 MOBILE HOMES.

(a) **Human Habitation Prohibited.** No mobile home shall be used for the purpose of human habitation in the Town. Human habitation being defined as entering the mobile home for any purpose other than maintenance, provided however, that the Town Board may grant an occupancy permit for one continuous 6 month period of habitation, provided that:

(1) The habitation is accessory to the current construction of a principal residential structure owned by the same person who is applicant for the permit.

(2) The construction of the principal residential structure is not on vacant land but is related to rebuilding a dwelling that was damaged by fire, wind or other catastrophe.

(3) The waste disposal facilities and water supply facilities are approved by the County Health Department. (Connection to electricity, gas as needed for lights and heat, full bath, kitchen with sink and sleeping area are needed.)

SEC. 13-2-18 LEGAL NONCONFORMITY.

(a) **Existing Use Permitted.** The existing lawful use of a building or premises at the time of the enactment of this ordinance (7/24/79) or any amendment thereto may be continued although such use does not conform with the provisions of this ordinance for the district in which it is located, subject to conditions hereinafter stated.

(b) **Classification and Regulation.** For the purposes of administration, legal non-conformity shall be classified and regulated as follows:

(1) Nonconforming structures.

a. No structure shall be expanded or enlarged except in conformity with the applicable district regulations. A non-conforming structure which was damaged or destroyed may be restored, repaired, or reconstructed to the size and location that existed or larger to meet the current regulations of this code.

b. All nonconforming structures lying within floodplains shall be floodproofed.

(2) Nonconforming use of structures and land.

a. The nonconforming use may not be expanded or enlarged. The structure which houses the nonconforming use may be restored, repaired or reconstructed.

b. If the nonconforming use is discontinued for a period of 12 months, any future use of the land, building, premise, structure, or fixture shall conform to the requirements of the Zoning Code.

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

(c) **Conditional Use Status.** Subject to the provisions of Section 13-2-9(i)(14) conditional use status may be granted to existing legal nonconforming uses by the Town Plan Commission and Town Board upon petition of the owner where such use is determined to be not adverse to the public health, safety, or welfare, would not conflict with the spirit or intent of this ordinance, or would not be otherwise detrimental to the community and particularly the surrounding neighborhood. Such conditional use status shall be granted only with the review of the Town Plan Commission and approval by the Town Board following a public hearing.

(d) **Termination.** Where a permitted conditional 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 causes it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the conditional use grant may be terminated by action of the Town Board following referral to the Plan Commission for recommendation, and public hearing thereon. Such use shall thereafter be classified as a legal nonconforming use, except that where the action is due to failure to comply with the conditions of the conditional grant, the Town Board shall enforce complete termination of such use.

SEC. 13-2-19 PRIOR PERMIT.

(a) **Construction Permitted.** Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of this ordinance (7/24/79), and the construction of which shall have been substantially started within 6 months from the date of such permit.

(b) **Subsequently Nonconforming.** Any such use that does not conform to the use regulations of the district in which it is located shall, however, subsequently be considered a legal nonconforming use.

SEC. 13-2-20 SWIMMING POOLS, PRIVATE.

(a) **Use Permitted.** Above and below ground swimming pools are permitted in any district other than the C-1 Conservancy District, subject to the following:
   (1) The pool must be intended to be used solely by the occupants of the principal use of the property on which the pool is intended to be located, and their guests.
   (2) Any pool, together with its surrounding walks, patios, diving platforms, bathhouses, and accessory structures, shall be so located that the parts of said complex are in conformity, with the setback and offset requirements of the applicable district. The pool shall be located in the side or rear yards only.
   (3) Walls or fences of at least 3.5 feet in height shall be provided to restrict access by children. Other safety measures to carry out the intent to restrict access by children may be substituted subject to prior approval by the Town Plan Commission.

(b) **Permit Required.** No swimming pool shall be constructed unless a building permit has been issued pursuant to Section 13-2-2 of this ordinance.

SEC. 13-2-21 BOARD OF APPEALS.

(a) **Establishment.** There shall be a Board of Appeals consisting of 5 members appointed by the Town Chairman, subject to confirmation by the Town Board, for terms of 3 years, except that of those first appointed, one shall serve for 1 year, two for 2 years, and two for 3 years. The members of the Board shall be removable by the Town Chairman for cause upon written charges and after public hearing. The Town Chairman shall designate one of the members as chairman. The Town Board may employ a secretary and other employees for the Board of Appeals. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Town Chairman may appoint, for a term of 3 years, an alternate member of such Board, in addition to the 5 members above provided for, who shall act, with full power, when a member of the Board refuses to vote because of a conflict of interest or is absent. The above provisions with regard to removal and the filling of vacancies shall apply to such alternate.

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

(c) **Appeals.**
   (1) How Filed. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of this Town affected by any decision of the administrative officer. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board. Such request shall be presented to the Town Clerk in writing and shall be accompanied by a map or description clearly identifying the property involved and by a fee as may be periodically determined by the Town Board, payable to the Town, to defray the costs of notification and holding of a public hearing, and for paying the members of the Board of

Appeals their fees as provided by the Town Board. The officer from whom the appeal is taken shall be sent a copy of the appeal by the Town Clerk and the Clerk shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

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

a. A plat of survey drawn to a scale of not less than 100 feet to the inch showing the land in question, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land and the principal use of all properties within 300 feet of such land.

b. The names and addresses of the owners of all properties within 300 feet of any part of the land included in the proposed change.

c. A detailed description of the intended development or use.

d. Any further information as required by the Town to facilitate the making of an evaluation of such request, such as a site plan depicting proposed buildings, parking, traffic impact, landscaping treatment, drainage, sanitary sewer, erosion control and other factors as would be pertinent including the impact on public facilities.

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

(4) Hearing. The Town Clerk, after consultation with the Chairman of the Board of Appeals, shall process the application for appeal and shall fix a reasonable time for a hearing on the appeal or other matter referred to it and give a Class 1 Notice, under Chapter 985 of the Wisconsin Statutes, of the time and place of the hearing and said notice shall be published once during each of the two consecutive weeks prior to the hearing. In addition, written notice shall be mailed to all property owners within 300 feet of the property in question by certified mail, return receipt requested. A decision on the appeal shall be made within a reasonable period of time but not to exceed 30 days from the date of the public hearing. At the hearing any party may appear in person or by agent or by attorney.

(d) **Powers.**

(1) Defined. The Board of Appeals shall have the following powers as defined by statute:

a. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance.

b. To hear and decide special exceptions to the terms of this ordinance upon which such Board is required to pass under this ordinance.

c. To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest, where owing to the special conditions, a literal enforcement of the provisions of this ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.

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

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

(4) Enforcement of Decision. In exercising the above-mentioned powers, such Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit provided that no such action shall have the effect of permitting in any district a use prohibited in that district or any building within the base setback area as established by Section 13-2-10(a).

(5) Required Vote. The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation therefrom. The grounds of every such determination shall be stated.

(e) **Further Appeal.** Any person or persons aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the municipality, may appeal from a decision of the Board of Appeals within 30 days after the filing of the decision in the office of the Board of Appeals in the manner provided in Section 62.23, subsection 7(e) of the Wisconsin Statutes.

(f) **Compensation.** Members of the Board of Appeals shall receive such compensation as is determined by the Town Board.

SEC. 13-2-22 CHANGES AND AMENDMENTS.

(a) **Authority.** Subject to the provisions of Section 60.74(7) of the Wisconsin Statutes, the Town Board may from time to time, after first submitting the proposal to the Town Plan Commission for report and after notice and public hearing, as hereinafter provided, amend, supplement, or change the boundaries of districts or the regulations as established herein or which may be subsequently established. Such proposal may be initiated by the Board on its own motion, by recommendations of the Town Plan Commission, or by petition of one or more property owners.

(b) **Procedure; Filing of Petitions.** All petitions for any change in the text or map of the zoning ordinance submitted by any person or agency other than the Town Board or the Town Plan Commission shall be prepared on printed forms provided by the Town. Such petition shall be filed with the Town Clerk and shall be accompanied by a fee as periodically determined by the Town Board, payable to the Town to defray the cost of advertising, investigation and possible changes in the text or map of this zoning ordinance.

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

(1) A plat of survey drawn to a scale of not less than 200 feet to the inch, showing the land in question, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land, and the principal use of all properties within 300 feet of such land. The number of copies shall be a minimum of 13 or as determined by the Town Board.

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

(3) When a petition for change of zoning of any lands in the Town of Waukesha is filed requesting a change of zoning to a classification other than residence, conservancy or agricultural, the applicant shall submit a detailed proposed development plan for the lands involved. Such development plans shall be filed in triplicate and shall show the architectural design of the buildings or building to be constructed, the type of materials to be used in such construction, size of each building or buildings proposed to be constructed, the location of each building or buildings with reference to each other and with reference to boundary lines of lands involved, the nature and type of business or industry to be conducted on said premises and within the building or buildings proposed to be constructed thereon, roadways and driveways to be constructed, parking areas to be provided, public highways or highways adjacent to the lands involved, drainage facilities to be provided, the location, size and type of all signs or advertising media to be constructed on the site, construction, schedules to be followed, and any further information which may be required by the Town Plan Commission to facilitate the making of a comprehensive report to the Town Board.

(d) **Procedure.**

(1) The Town Clerk shall schedule a public hearing to be held jointly by the Town Plan Commission and the Town Board. Publication and notice of the time and place of said hearing shall be provided as set forth in Section 13-2-23(b).

(2) The Town Clerk shall transmit without delay one copy of such notice and one copy of the development plan, where required, to the Town Plan Commission and Town Board, and one copy of such petition and one copy of the development plan to the Waukesha County Park and Planning Commission.

(3) Upon completion of the public hearing, the Plan Commission will consider the testimony taken at the public hearing, along with the detailed development plan submitted to them by the applicant along with any other pertinent information regarding the proposed amendment. It shall review all pertinent technical information and make a recommendation to the Town Board relative to whether or not the proposed amendment should be approved, modified and approved, or denied.

(4) Upon receipt of the Plan Commission' s recommendation relative to the proposed amendment, the Town Board shall consider such recommendation and shall either approve, approve and modify, or reject the amendment.

(5) In case of protest against such change duly signed and acknowledged by the owners of 20 percent or more either of the areas of land included in such proposed amendment, supplement or change, or by the owners of 20 percent or more of the area of the land directly opposite hereto extending 100 feet from the street frontage of such opposite land, or in the event that such change is contrary to the recommendation of the Town Plan Commission, such amendment, supplement or change shall require a 3/4 vote of the members of the Town Board.

(6) If approved, the Town Board shall cause to be drafted an ordinance amending; the zoning ordinance and shall submit 3 signed copies of the amending ordinance to the Waukesha County Park and Planning Commission and the County Clerk for review, report and approval by the County Board. A copy of the minutes of the public hearing held thereon shall accompany the amending ordinance sent to the County. Any such change or amendment shall become effective in the Town upon the approval of the County Board.

SEC. 13-2-23 PUBLIC HEARINGS.

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

(b) **Procedure.**

(1) Publishing and Notice.

a. Such notice of public hearing shall be given not less than 10 days prior to the date of such hearing. The notice shall be published as a Class 2 Notice under Chapter 985 of the Wisconsin Statutes, such notice shall be published once during each of the two weeks prior to such hearing, in the newspaper of general circulation within the Town.

b. When the hearing involves a proposed change in the zoning district classification of any property, or the granting of a conditional use, a copy of the notice of the public hearing shall be sent to all property owners within 300 feet of the property in question, and such notice shall be mailed by certified mail with return receipt requested. It shall be sent at least 10 days before such public hearing. Failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate any amending ordinance.

c. A copy of such notice, along with pertinent information relative to the specific nature of the matter to be considered, shall also be transmitted to the Waukesha County Park and Planning Commission prior to such hearing.

(2) Information. Such notices shall state the time and place of such public hearing and the purpose for which the hearing is held.

SEC. 13-2-24 SPECIAL EXCEPTIONS.

(a) **Approval Required.** Where certain developments or uses are of such special nature, or such a unique situation, or their effect is so dependent upon actual contemporary circumstances as to make impractical the absolute predetermination of permissibility or listing of specific standards which would be automatically applied in each case to determine permissibility, an application for a special exception may be made to the Board of Appeals. In such case, the development or use may be permitted if the Board of Appeals, after a public hearing, determines that there is or will be compliance with the standards or conditions set forth in this section. In order to approve a special exception, the Board of Appeals does not necessarily require the demonstration of an unnecessary hardship or practical difficulty.

(b) **Limited Jurisdiction.** The Board of Appeals shall have no authority to grant a special exception to any of the requirements of this zoning ordinance except as described herein. The Board of Appeals authority to grant special exceptions is limited to the following issues:

(2) In all districts, the Board of Appeals may by special exception reduce the otherwise applicable street setback requirement by not more than 25 percent.

(3) In all districts, the Board of Appeals may by special exception reduce the otherwise applicable side and rear yard offset requirement by not more than 25 percent.

(4) In all districts, the Board of Appeals may by special exception reduce the otherwise applicable open space requirement by not more than 25 percent.

(5) In all districts, the Board of Appeals may by special exception reduce the otherwise applicable F.A.R. requirement by not more than 25 percent.

(6) The Board of Appeals shall have such additional special exception authority as may be specifically granted to the Board of Appeals by this Zoning Code. No such authority shall be implied, but shall apply only if described in this Zoning Code by reference to the Board of Appeals by name and specifically authorizes a "special exception."

(c) **Procedures.** The following procedure shall be followed by the Board of Appeals when considering the granting of special exceptions to the zoning code:

(1) Petition Made. A petition for special exception shall be made to the Board of Appeals for consideration.

(2) Filing a Petition. Such petition shall be prepared and submitted on printed forms provided for this purpose and shall be filed with the Town Clerk, who shall present it to the Board of Appeals at its next meeting.

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

a. A plat of survey drawn to a scale of not less than 100 feet to the inch showing the land in question, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land and the principal use of all properties within 300 feet of such land.

b. The names and addresses of the owners of all properties within 300 feet of any part of the land included in the proposed change.

c. A detailed description of the intended development or use.

d. Any further information as required by the Town to facilitate the making of an evaluation of such request, such as a site plan depicting proposed buildings, parking, traffic impact, landscaping treatment, drainage, sanitary sewer, erosion control and other factors as would be pertinent including the impact on public facilities.

(4) Hearing. The Board of Appeals shall hold a public hearing upon receipt of such petition. Notice of the time and place of such hearing shall be given in the manner prescribed under Section 13-2-23 of this chapter.

(5) Fee. Any petition shall be accompanied by a fee as set from time to time by the 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 to the Town all costs incurred for legal, planning, engineering, and administrative work necessary to administer the application and oversee the development.

(d) **Basis of Approval.** An application for a special exception may be approved, denied, or approved with conditions. If approved, the Board of Appeals must determine that the approval, except as elsewhere herein expressly provided, shall not:

(1) Be inconsistent with or contradictory to the purpose, spirit or intent of the zoning ordinance;

(2) Violate the spirit or general intent of this chapter;

(3) Be contrary to the public health, safety, or welfare, but rather shall promote the public health, safety and welfare;

(4) Be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, traffic congestion, odor or other similar factors;

(5) For any other reason, cause substantial adverse effect on the property values and general desirability of the neighborhood; and

(6) Be a use which is incompatible to the surrounding land uses.

(e) **Determination.** The action of the Board of Appeals shall be stated in writing, and shall include findings of fact setting forth the basis upon which the special exception is granted, utilizing and referring to the criteria set forth above. A copy of the Board of Appeal's action shall be made a permanent part of the Town records. If a special exception is not approved, the reasons therefore will be included in such record. Approval of special exceptions shall be by the concurring vote of 4 members.

SEC. 13-2-25 ENFORCEMENT OFFICER.

(a) **Building Inspector Designated.** The Building Inspector is hereby designated as the enforcement officer for the provisions of this ordinance under the direction of the Town Board of Supervisors

(b) **Duties.** In the enforcement of the ordinance, the Building Inspector shall perform the following duties:

(l) Issue the necessary building and occupancy and use permits provided the provisions of this ordinance and the building code have been complied with.

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

(c) **Authority.** In the enforcement of this ordinance, the Building Inspector shall have the power and authority for the following:

(1) At any reasonable time, and for any proper purpose, to enter upon any public or private premise 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 orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this ordinance, such revocation to be in effect until reinstated by the Building Inspector or the Board of Appeals.

(3) In the name of the Town, commence any legal proceedings necessary to enforce the provisions of this ordinance or the building code including the collection of forfeitures provided for herein.

SEC. 13-2-26 VIOLATIONS.

(a) **Penalties.** Any person, property owner, tenant, 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 ordinance, shall be subject to a forfeiture of not less than $25 and not more than $500 for each offense per day, together with the costs of the action, and in default of the payment thereof, shall be imprisoned in the County Jail of Waukesha County for a period of not to exceed 6 months, or until such forfeiture and the subsequent costs have been paid. Property owners and tenants who violate this ordinance will both be held responsible and be subject to forfeitures as noted herein. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such.

(b) **Enforcement by Injunction.** Compliance with the provisions of this ordinance may also be enforced by injunctional order at the suit of the Town or one or more owners of real estate situated within the area affected by the regulations of this ordinance.

(c) **Nuisances.** Any building erected, structurally altered, or placed on a lot, or any use carried on in violation of the provisions of this ordinance 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.