

(MODEL ZONING ORDINANCE)

PROPOSED

ZONING REGULATIONS

TOWN OF WESTON, MARATHON COUNTY, WISCONSIN

Drafted February, 1991

by Russell Knetzger, AICP
Plan Consultant, Shorewood, Wisconsin
with
Max Anderson, AICP - Anderson Associates
Madison, Wisconsin
North Central Wisconsin Regional Planning Commission
Wausau, Wisconsin

Note: (May, 2003): Weston became a Village in 1996

Model Zoning Ordinance On Line

June, 2003

By Russell Knetzger, AICP
Milwaukee, WI

A model zoning ordinance has been placed on the WAPA web site for use by anyone (www.wisconsinplanners.org). Drafted in February, 1991 to implement the new master plan for Marathon County's Town of Weston (population 11,000 and made a Village in 1996), the 216 page ordinance was offered to WAPA readers in July, 1991. At a nominal cost, users had to purchase a paper copy, or buy a computer disk, from the North Central Wisconsin Regional Planning Commission (NCWRPC) in Wausau, Wisconsin. Now, with the convenience of e-mail and the Internet, access to the ordinance is free. It is a modifiable MicroSoft Word Windows 98 file so that adjustments can be made to suit your needs.

The ordinance is based upon s.62.23 Wis. Statutes (city planning), but can also be used by villages, or by towns that have adopted village powers. Counties and non-village power towns would need to make modifications to such sections as adoption and amendment, how to process conditional uses, and whether or not site plan approvals would go beyond the town level to the county level. Currently counties are not known to make such reviews in Wisconsin except as part of Conditional Uses.

The version on the web site has been adapted to two "Smart Growth" provisions. One is Wisconsin's January 1, 2001 mandatory inclusion of a "Traditional Neighborhood Development" section in the zoning ordinances of communities over 12,500 population (see s.66.034(3), Wis. Statutes, renumbered later to 66.1027(3)). The adaptation has been done by designating the Planned Unit Development section, and its corresponding OPD Overlay PD District, as intended to implement said s.66.1027(3) statute. Similarly with the Smart Growth encouragement in that same statute of "Conservation Subdivisions", said Planned Unit Development section is designated for that purpose.

This ordinance incorporates time-tested concepts from earlier model zoning ordinances, such as Waukesha County (1950s by William L. Nelson), and Kenosha County (1980s by Roland Tonn and George Melcher using the 1964 SEWRPC model). It also utilizes features of the prior Town of Weston ordinance that was based upon the model by Barton Aschman Associates, a consulting firm of the 1960s, adopted by many Wausau metropolitan area communities. Features are also taken from the ordinance of the Town of Mt. Pleasant in Racine County, drafted by Russell Knetzger in the late 1960s. Ideas were also borrowed from a 1990 NCWRPC model ordinance by then-director Arno W. Haering.

All sections and all definitions were re-examined and updated to 1991, and reviewed again in more cursory fashion for the June, 2003 insertion on the WAPA web site. Districts range from unsewered rural (but the agricultural preservation zone is a "holding district" where development may not be imminent, but is expected) to diversified urban development on sewers. It contains single family 1/4 acre to 1-acre lot sizes, mobile homes, duplexes and several multiple family residence districts. The commercial section ranges from neighborhood convenience (suitable for intermixture in "TND – Traditional Neighborhood Developments") to office-only districts, to a blended office/industrial district called Business Park.

The industrial district Permitted Uses are based principally upon compliance with the performance standards chapter, and commercial and industrial permitted uses are described primarily by class and characteristic, rather than only by exact use name.

All non-single family uses are only permitted subject to approval of building, site, and operational plans (BSOP) by the Planning Commission. BSOP Review guidelines are built into the ordinance.

Extensive use is made in the ordinance of overlay districts, relying upon strong foundational enabling language that delineates overlay districts from basic districts. Strong foundational language is also provided for conditional uses, the planned unit development district, and for the Board of Zoning Appeals, though the ordinance generally restricts the appeal process as much as possible.

This restrictive approach to all variances and appeals in 1991, ended up foreshadowing the current doctrine of the Wisconsin Supreme Court set forth in 1998. That doctrine is that deviations from the shoreland zoning regulations should not be made unless denial renders a property without any reasonable use (see *Wis. DNR v. Kenosha County Board of Adjustment*, 218 Wis. 2d 396, 577 NW 2d 813 (1998)). While such a harsh doctrine may be appropriate for shoreland situations, when the court (or the legislature) eventually relaxes on non-shoreland circumstances, this model ordinance should strike a better balance between maintaining the spirit of the ordinance, while granting relief where inherent conditions, not created by the petitioner, merit some relief.

Unusual districts include a well-head protection district based upon Joseph Pribanich's work for the Town of Rib Mountain. That approach excludes specific named land uses if they still employ processes common to their class of use, which processes can seriously pollute ground water resources. A woodland protection overlay district is included that functions over residential, commercial or industrial districts to preserve wood lots. A mineral extraction overlay zone is provided, and specific overlay districts are established for institutional and recreation uses, both public and private.

Another unusual inclusion is "provisional zoning" whereby re-zonings may be revoked if development has not proceeded as planned within a stated time, up to three years. This is especially useful in dealing with speculative re-zonings where there is doubt about the marketability of the use, and the community wants to prevent vesting of rights in the re-zoning. The authority for provisional zoning comes from the 1970's Wisconsin Supreme Court case by *Skelly Oil* against the City of Delafield in Waukesha County.

All numerical regulations (lot size, density, setbacks, side yards, etc.) are on a single 11x17 inch foldout table, which streamlines the remaining individual Use District regulations. The residential density regulations provide for the possibility of development initially occurring without public sewers, but stressing re-subdividability to pay for sewers when they arrive. The goal is to overcome the natural financial resistance to adding sewers in subdivided areas.

All Use Districts contain extensive Statements of Intent, meant to interpret the sample permitted uses and conditional uses, and to provide guidance in allowing for unclassified uses.

Off-street parking is in its own comprehensive section and deals with parking for all classes of uses, and with parking of non-residential vehicles in residential areas, as well as non-agricultural vehicles in farm areas.

Sign regulations are also in their own separate and comprehensive section, and commercial and industrial signs are based upon a ratio of sign size to building size. Existing billboards are allowed as non-conforming uses without required removal by amortization, but new off-premises signs are limited to those portraying non-commercial speech.

Throughout the ordinance, and especially in the general enabling sections, emphasis is placed upon keeping the zoning regulations and map closely tied to the goals of the community's comprehensive plan as interpreted by

the Planning Commission. Wisconsin's year 2010 Smart Growth legislation carries this interconnection to a rigid, unmanageable extreme. But the need for some relationship between zoning and planning is not arguable, and this ordinance offers practical steps. For example, where the governing body does not agree with the Planning Commission's advice on a zoning petition, the governing body is prevented from acting until it first allows the matter to return to the commission. This cooling off period gives the Commission the opportunity to better buttress its position, and for the governing body to reflect on the importance of following Commission advice as much as possible.

The Weston regulations were principally drafted by Russell Knetzger, AICP of Shorewood in Milwaukee county, as part of a joint venture with the North Central Wisconsin Regional Planning Commission (NCWRPC) in Wausau, and with Max Anderson, AICP, formerly a consultant in Monona, Wis. and now semi-retired in Delray Beach, Florida.

TOWN OF WESTON ZONING ORDINANCE
TABLE OF CONTENTS

<u>PAGE</u>	<u>SECTION</u>	<u>TITLE</u>
1	17.00	<u>INTRODUCTION</u>
1	17.00-1	AUTHORITY
1	17.00-2	TITLE
1	17.00-3	JURISDICTION
2	17.00-4	PURPOSE
2	17.00-5	INTENT
3	17.00-6	PURPOSES IN VIEW
3	17.00-7	ABROGATION AND GREATER RESTRICTIONS
4	17.00-8	LIBERAL CONSTRUCTION
4	17.00-9	SEVERABILITY AND NON-LIABILITY
4	17.00-10	REPEAL
4	17.00-11	EFFECTIVE DATE
6	17.01	<u>RULES AND DEFINITIONS</u>
6	17.01-1	COMPLIANCE
6	17.01-2	PREVIOUSLY ISSUED PERMITS
6	17.01-3	WORD USE AND MEASUREMENTS
7	17.01-4	DEFINITIONS (Also see APPENDIX)
7	17.02	<u>ADMINISTRATION AND ENFORCEMENT</u>
7	17.02-1	ORGANIZATION
8	17.02-2	TOWN PLANNING COMMISSION
8		Composition and Appointment
8		Compliance to Open Meeting Law
8		Duties
9		Powers
9	17.02-3	ZONING ADMINISTRATOR
10		Duties
10		Powers
11	17.02-4	ZONING PERMIT AND OCCUPANCY CERTIFICATE
11		Required
11		Procedure
13		Permit Issuance
13		Final Inspection
13		Expiration
13		Temporary Occupancy Certificate
14	17.02-5	ZONING COMPLIANCE STATEMENTS
14	17.02-6	FEEES
14	17.02-7	DOUBLE FEES
15		Schedule of Fees
16	17.02-8	ENFORCEMENT AND VIOLATIONS
16		Financial Sureties
16		Violators Injunctions Abatement & Removal
16		Proceedings
17		Penalties
18		Liens

19	17.03	<u>GENERAL PROVISIONS</u>
19	17.03-1	INTRODUCTION
19	17.03-2	USE REGULATIONS
19		Uses Restricted
19		Uses Classified
20		Unclassified Uses
20		Temporary Uses
20		Compliance of Uses with Performance Standards
20-		Storage and Discharge Prohibited
20	17.03-3	ENGINEERING REGULATIONS
20		Establishment of Grades
21		Surface Water Drainage and Erosion Control
22		Subsurface Water Drainage
22		Sanitation and Water Supply
22		Preservation of Topography
22	17.03-4	LOCATIONAL REGULATIONS
22		Location Restricted
23		Building on a Lot
19		One Residence Per Lot
23		Setbacks
24		Structures Permitted in Setback Areas
25		Vision Clearance Corners
26		Side and Rear Yards
27		How Measured
27		Courtyards
28		Height Regulations
28		Airport Runway Clearance Zone
29	17.03-5	LOT REGULATIONS
29		Street Access Required
29		Approved Private Street or Way
30		Lot Size
30		Minimum Required
30		Future Resubdividability Required
30		How Measured
31		Residential Density
32		Open Space
33	17.03-6	STRUCTURE REGULATIONS
33		Structures Other Than Buildings
34		Fences
35		Swimming Pools
37		Building Size and Floor Area Regulations
38	17.03-7	FARMING AND ANIMAL REGULATIONS
38		Statement of Intent
38		Household Pets & Kennels Separately Regulated
38		Agricultural Uses Prohibited
39		Crop and Tree Farming Permitted
39		Animal Husbandry Permitted

41	17.04	<u>PERFORMANCE STANDARDS</u>
41	17.04-1	INTENT
41	17.04-2	COMPLIANCE
41	17.04-3	PROCEDURE
41		Zoning Permit Application
42		Planning Commission Review
42		Determination of Violation
42		Termination of Violation
42		Imminent Danger Violations
43	17.04-4	POINT OF MEASUREMENT
44	17.04-5	PERFORMANCE STANDARDS TO BE ENFORCED
44		Air Pollution
44		Electromagnetic Emissions
44		Fire and Explosive Hazards
45		Glare and Heat
45		Noise
46		Odors
46		Vibrations
47		Soil Capability Regulations
47		Erodible Land Regulations
47		Farm Drainage Systems
47		Water Quality Protection
48		Animal Waste and Grazing Practices
49	17.05	<u>APPROVAL OF BUILDING, SITE AND OPERATIONAL PLANS</u>
49		Where Required
49		Use By Right Not Infringed
49		Criteria
50		Form of Submittal
50		Staged Approval
50		Expedited Review
52	17.06	<u>CONDITIONAL USES</u>
52		INTRODUCTION
52		APPROVAL REQUIRED
52		Basis for Approval
54		PROCEDURE
54		Petition
54		Filing of Petition
54		Petition Content
54		Hearing
55		Determination
55		Determination Not Appealable
55		Administrative Review
56		Guarantees and Sureties
56		Mapping and Recording
57		Termination of Grant

58		Application to Existing Uses
58		Expansion or Modification of Existing Grants
59	17.07	<u>PLANNED DEVELOPMENT PROJECTS</u>
59	17.07-1	INTRODUCTION AND PURPOSE
59		Uniform and Individual Lot Regulations
59		Diversified and Grouped Lot Regulations
59		Traditional Neighborhood Development
59		Conservation Subdivisions
59	17.07-2	DISTRICT ESTABLISHMENT
59		OPD Overlay Planned Development District
60		Minimum Area Required
60		Ownership Consent
60	17.07-3	USES PERMITTED
60		Underlying District Uses
60		Other Uses Permitted
60		Individual Uses and Structures
61		Conditional Use Processing
61	17.07-4	PROCEDURE
61		Pre-Petition Conference
61		Petition
63		Referral to Planning Commission
63		Public Hearing
63	17.07-5	BASIS FOR APPROVAL
63		Construction Schedule
63		Adequate Professional Assistance
63		Conformity to Town Plan
64		Achievement of Purposes and Benefits
64		Preservation and Care of Open Space
65		Proposed Residential Developments
67		Proposed Commercial Developments
67		Proposed Industrial Developments
68		Proposed Mixed Use Developments
68	17.07-6	DETERMINATION
68		Denial or Approval
68		Representations and Conditions Incorporated
68		General Approval
69		Detailed Approval
69		Subsequent Changes
69		Project Termination
71	17.08	<u>OFF-STREET PARKING & LOADING</u>
71	17.08-1	OFF-STREET FACILITIES REQUIRED
71		Application to Existing Uses
71		Application to Change of Use
71		Uses Not Enumerated
71		Off-Premises Facilities

Town of Weston
Zoning Ordinance Table of Contents

71		Combinations of Uses
72		Computation
72	17.08-2	PARKING SPACES REQUIRED
72		Size of Parking Spaces
72		Schedule of Required Parking Spaces by Use
74		Modification Procedure
75	17.08-3	LOADING SPACES REQUIRED
75		Uses Affected
75		Street Servicing Prohibited
75		Size of Loading Space
75		Determination of Need
76	17.08-4	DRIVEWAYS AND HIGHWAY ACCESS
76		Need to Regulate
76		Driveway Widths
76		Driveway Design and Location
77		High Traffic Volume Uses
77	17.08-5	PARKING LOT REQUIREMENTS
77		Location and Paving
78		Screening
78		Control of Lighting
79	17.08-6	PRIVATE RESIDENTIAL PARKING
79		Occupant and Guest Parking
79		Garages
80	17.08-7	PARKING OF TRUCKS, TRAILERS AND EQUIPMENT
80		Commercial and Recreational Parking Regulated
81	17.09	<u>SIGNS</u>
81	17.09-1	USE RESTRICTED
81	17.09-2	PERMIT REQUIRED AND SIGNS CLASSIFIED
81		Zoning Permit for Signs
81		Classifications
82	17.09-3	SIGNS PROHIBITED
82		Hazards or Nuisances
82		Non-Accessory Signs
82		Roof Signs
83		Abandoned Signs
83		Parking of Advertising Vehicles
83	17.09-4	NON-CONFORMING SIGNS TO BE REMOVED
83		Abandoned Non-Accessory Signs
83		Free Standing Signs
83		Change of Use
83	17.09-5	SIGNS EXEMPTED
84		Temporary Political Posters
84		Operational Signs
84		Real Estate Signs
84		Public Agency Signs
84		Residential Nameplates

Town of Weston
Zoning Ordinance Table of Contents

84		Agricultural Product Sale Signs
85		Interior and Inside Window Signs
85		Price or Temporary Item Signs
85		Signs for Non-Conforming Uses
85		Memorial Signs, Tablets
85		Construction Signs
85		Flags
85		Holiday Decorations
85	17.09-6	TEMPORARY SIGNS
85		New Development
86		Special Event
87	17.09-7	DIRECTIONAL SIGNS
87		All Districts
87		Number Restricted
87	17.09-8	QUASI-PUBLIC INFORMATIONAL SIGNS
87	17.09-9	SIGNS FOR CONDITIONAL OR OVERLAY DISTRICT USES
87	17.09-10	PROJECT SIGNS
87		Commercial or Industrial Center Signs
88		Residential Neighborhood Signs
88		Institutional Signs
88	17.09-11	LOCATIONAL REGULATIONS
88		Height and Area
89		Setbacks and Other Yards
89	17.09-12	AREA AND LOCATIONAL REQUIREMENTS BY DISTRICT
91	17.09-13	CONSTRUCTION AND MAINTENANCE
91		Wind Pressure and Dead Load Requirements
91		Construction Materials
91		Secure Attachment
91		Maintenance
92	17.10	<u>ZONING DISTRICTS AND ZONING MAP</u>
92	17.10-1	COMPLIANCE REQUIRED
92	17.10-2	REGULATIONS MADE APPLICABLE
92	17.09-3	DISTRICTS ESTABLISHED
92		Basic Holding Districts
92		Basic Development and Conservancy Districts
92		Overlay Districts
92	17.10-4	FORMAT OF DISTRICT REGULATIONS
93		Statement of Intent
93		Uses Permitted by Right
93		Permitted Accessory Uses
93		Uses Permitted by Conditional Grant
93		Special Regulations
93		Numerical Regulations Tabular Summary
93	17.10-5	ESTABLISHMENT OF OFFICIAL ZONING MAP
93		Districts Mapped
93		Map Changes

Town of Weston
Zoning Ordinance Table of Contents

93		Replacement of District Zoning Map
94		Determination of Boundaries
95		Identification of Official Ordinance and Map
96	17.10-6	DISTRICT SYMBOLS AND NAMES
96		Basic Holding Districts
96		Basic Development and Conservation Districts
96		Overlay Districts
97	17.10-7	<u>ZONING DISTRICT NUMERICAL REGULATIONS</u>
		**Fold-Out Sheet Insert
98	17.11	<u>DISTRICT USE REGULATIONS</u>
98	17.11-1	BASIC HOLDING DISTRICTS
98		S/R Agriculture/Residence
101		R-R Rural Residential
105	17.11-2	BASIC DEVELOPMENT AND CONSERVATION DISTRICTS
105		S/R Suburban/Residence
106		R-E Residential Estate
109		R-1 Residential Single Family
109		R-2 Residential Single Family
110	17.11-3	RTF Residential Two Family
111	17.11-4	R-3 Residential Multiple Family, Garden Apts.
113		R-4 Residential Multiple Family, Apartments
115	17.11-5	R-5 Residential Mobile Home Park
117	17.11-6	B-1 Neighborhood Convenience Retail & Service
120		B-2 Community Retail & Service
122		B-3 General Commercial
123		B-4 Office
124	17.11-7	B-P Business Park
125	17.11-8	M-1 Manufacturing & Warehousing
128	17.11-9	WPD Wetland Protection District
120	17.11-10	PUL Public or Utility Lands
132	17.11-11	OVERLAY DISTRICTS
132	17.11-11	OCR Commercial Recreation Overlay
133	17.11-11	OIP Institutional & Public Service Outlay
134	17.11-12	OPD Planned Development Project Overlay
135	17.11-13	OAH Airport Height Overlay
138	17.11.14	OWC Woodlands Conservation Overlay
140		OWP Wellhead Protection Overlay
144		OME Mineral Extraction Overlay
148		OFF Floodplain Overlay
152		OCS County Shoreland Jurisdiction
154	17.12	<u>NON-CONFORMING LOTS, BUILDINGS AND USES</u>
154	17.12-1	INTENT
154		Previously Lawful Conditions
154		Non-Precedent Status of Non-Conformities
154	17.12-2	CLASSIFICATION AND REGULATION

Town of Weston
Zoning Ordinance Table of Contents

154		Non-Conforming Lots
155		Non-Conforming Use of Land
156		Non-Conforming Buildings
157		Non-Conforming Use of Buildings
158		Non-Conforming Structures Other Than Buildings
159	17.12-3	REMOVAL OF HAZARDS
159	17.12-4	CONDITIONAL USE STATUS
160	17.13	<u>BOARD OF ZONING APPEALS</u>
160	17.13-1	ESTABLISHMENT AND PURPOSE
160	17.13-2	MEMBERSHIP
160		Size, Appointment and Removal
160		Terms of Office
160		Eligibility
160		President
160		Two Alternate Members
161		Zoning Administrator
161		Official Oaths
161		Vacancies
161	17.13-3	OPERATION
161		Rules
161		Meetings
161		Minutes
161		Voting
162	17.13-4	POWERS
162		Errors
162		Special Exceptions
162		Special Condition Variances
162		Substitutions of Non-Conforming Uses
162		Permits
162		Oaths and Testimony
162		Staff Assistance
162		Limitation of Powers
163	17.13-5	PROCEDURE
163		Appeals
164	17.13-5	Special Exception or Spec. Cond. Variance Requests
164		Stay of Proceedings
164	17.13-6	HEARING
164		Publication
164		Mailed Notice
164	17.13-7	STANDARDS AND FINDINGS
165		Physical Conditions v. Convenience
165		Unique v. General Conditions
165		Absence of Precedent
165		Absence of Detriment
165		Conditions Not Created by Appellant
165	17.13-8	DECISION

165		Time of Decision
165		Conditions
166		Expiration of Permits
166	17.13-9	REVIEW BY COURT OF RECORD
167	17.14	<u>CHANGES AND AMENDMENTS</u>
167	17.14-1	INTENT
167		Holding Districts
167		Additional State Imposed Regulations
167		Town Plan Amendments
167		County and Regional Plan Amendments
167		Property Owner Petitions
167	17.14-2	AUTHORITY
168	17.14-3	INITIATION
168	17.14-4	FILING OF PETITIONS
168		Petitions
168		Required Information for District Map Changes
168		Required Information for Text Amendments
169	17.14-5	REFERRAL AND RECOMMENDATIONS
169		Referral to Planning Commission
169		Planning Commission Review, Recommendations
170	17.14-6	OFFICIAL HEARING
170		Published Notice of Hearing
170		Mailed Notice of Hearing
170	17.14-7	ACTION
170		Town Board Action
170		Re-referral to Plan Commission
171		Provisional Zoning
172	17.14-8	PROTEST
172		Filing of Protest Petition and Verification
172		Extra Majority Required
153	17.14-9	EFFECTIVE DATE OF AMENDMENT
173	17.15	APPENDIX OF DEFINITIONS

TOWN OF WESTON
MARATHON COUNTY, WISCONSIN
ZONING ORDINANCE
CODE OF ORDINANCES, CHAPTER 17

17.00 INTRODUCTION

17.00-1 AUTHORITY

(1) This ordinance is adopted pursuant to the authority granted by the Wisconsin statutes including, but not limited to, Sections 60.62 [Town planning under village powers] and 62.23 (7) [city planning and zoning], 87.30 [flood control], and 91.51 [farmland preservation], and amendments thereto.

(2) This ordinance takes note of the dual authority of the County together with the Town granted by Wisconsin Statutes 59.971 and 144.26 relating to protection of natural resources in shoreland areas of the town.

17.00-2 TITLE

This Ordinance shall be known as, referred to, and cited as the ZONING ORDINANCE OF THE TOWN OF WESTON, MARATHON COUNTY, WISCONSIN and hereinafter is referred to as the "Zoning Ordinance" or "Ordinance."

17.00-3 JURISDICTION

(1) The provisions of this Ordinance shall apply to all structures, land, air space, and surface and subsurface waters, within the Town of Weston, Marathon County, Wisconsin.

(2) Lands within 1,000 feet of a lake or within 300 feet of a stream or to the landward side of a floodplain, whichever is greater, are also regulated by Marathon County relating to shorelands and floodlands. Wetlands falling within said shoreland jurisdiction of the County, as well as other wetlands, may also be regulated by the Wisconsin Department of Natural Resources or the U.S. Corps of Engineers, or by both agencies.

(3) The responsibility to finally determine whether such other agencies of (2) above are asserting jurisdiction of their regulations, in addition to those of this ordinance, to a particular parcel of land rest with the

land's owner or agent. To satisfy town administration, the town zoning administrator may require a written declaration from such agencies whether their jurisdiction applies or not. Where both the regulation of this ordinance and those of another such agency apply, in accordance with 17.00-8 the more restrictive individual regulation shall apply.

17.00-4 PURPOSE

This ordinance is adopted for the purpose of promoting health, safety, esthetics, prosperity, morals or the general welfare of the community through the comprehensive regulation of land, structures, air and water use within the Town.

17.00-5 INTENT

(1) It is the intent of this ordinance to carry out the statutory purposes enumerated in 60.61 and 62.23(7) including but not limited to:

- A. regulate areas in which various land uses may be conducted;
- B. regulate the location of community facilities;
- C. regulate the location and operation of economic development areas;
- D. regulate the location, bulk, height and similar features of structures, including the overall population density of the community;
- E. establish zoning districts to accomplish the above and other purposes;
- F. regulate land use along natural water courses to protect such courses;
- G. regulate development and natural growth near airport runways;
- H. regulate land use for the protection of groundwater resources;
- I. provide for the preservation of burial sites;

- J. regulate so as to preserve areas with historic or aesthetic value;
- K. provide for special planned development districts pursuant to ss.62.23(7) (b);

17.00-6 PURPOSES IN VIEW

(1) In accordance with ss.62.23(7) (c) the regulations of this Ordinance shall be made and administered in accordance with a comprehensive plan as authorized in 62.23 (3);

(2) also in accordance with 62.23(7) (c) and the related areas of the statutes cited in the Authority above, the regulations of this Ordinance are designed to:

- A. lessen congestion in the streets;
- B. secure safety from fire, panic and other dangers including flooding and soil erosion;
- C. provide adequate light and air including access to sunlight for solar collectors and to wind for wind energy systems;
- D. prevent the overcrowding of land and the destruction of natural resource areas such as wetlands and woodlots;
- E. facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- F. relate the regulations to the character of the neighborhood and its suitability for particular uses, with a view to:
- G. conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

17.00-7 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes

greater restrictions, the provisions of the Ordinance shall govern.

17.00-8 LIBERAL CONSTRUCTION

In the interpretation and application of this Ordinance, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town, and shall not be construed to be a limitation or repeal of any other power granted by the Wisconsin Statutes, as they may be amended from time to time, or now possessed by the Town.

17.00-9 SEVERABILITY AND NON-LIABILITY

(1) If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

(2) If any application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgement shall not be applicable to any other structure, land or water not specifically included in said judgement.

(3) The Town does not guarantee, warrant or represent that only those areas designated as floodlands or wetlands will be subject to periodic inundation, or that those soils listed as unsuitable for various uses are the only unsuitable soils, and hereby asserts that there is no liability on the part of the Town, its agencies or employees for any flood damage, sanitation problems, structural or other damages that may occur as a result of reliance upon and conformance with this Ordinance.

17.00-10 REPEAL

The existing Town Zoning Ordinance together with any amendments thereto are hereby repealed.

17.00-11 EFFECTIVE DATE

This Ordinance became effective _____ upon adoption by the Town Board after the public hearing

Town of Weston
Zoning Ordinances

and after the review and recommendation by the Town
Planning Commission required under Wis. Stat. 62.23(7).

17.01 RULES AND DEFINITIONS

17.01-1 COMPLIANCE

No structure, land or water shall be hereafter used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a Zoning Permit, except as specifically exempted herein, without full compliance with the provisions of the Ordinance.

17.01-2 PREVIOUSLY ISSUED PERMITS

Zoning Permits issued in compliance to law prior to the effective date of any amendments to this Ordinance, which affect the terms of said Permits remain valid provided substantial work authorized by the Permit has been commenced within 6 months of the date of permit issuance, and provided work is being diligently pursued so as to be eligible, in the opinion of the Zoning Administrator, for issuance of a Zoning Occupancy Permit within 18 months of the Zoning Permit issuance date.

17.01-3 WORD USE AND MEASUREMENTS

(1) In the construction of this Ordinance the following words, rules, and definitions contained in this article shall be observed and applied, except when the context clearly indicates otherwise:

- A. Words used in the present tense shall also include the future; and words used in the singular number shall also include the plural and the plural shall also include the singular;
- B. The word "shall" is mandatory and not discretionary;
- C. The word "may" is permissive;
- D. The word "lot" shall also include the words "piece", "parcel", and "plots";
- E. The word "building" includes all other structures of every kind regardless of their lack of similarity to buildings;

- F. The phrase "used for" shall include "arranged for", "designed for", "intended for", "maintained for" and "occupied for";
- G. The word "person" applies to persons, associations, proprietorships, corporations, and partnerships;
- H. All measured distances shall be to the nearest integral foot." If a fraction is one half foot or less, the next below shall be taken.

17.01-4 DEFINITIONS

(See Appendix of words arranged alphabetically)

17.02 ADMINISTRATION AND ENFORCEMENT

17.02-1 ORGANIZATION

The administration of this Ordinance is hereby vested in the following three offices of the Town of Weston government:

- (1) Town Planning Commission (see 17.02-2)
- (2) Town Zoning Administrator (see 17.02-3)
- (3) Board of Zoning Appeals (see 17.13)

17.02-2 TOWN PLANNING COMMISSION

(1) Composition and Appointment: The Commission referred to in this section and elsewhere in this Ordinance shall be composed and appointed as provided for in ss.62.23(1), Wis.Statutes (also see ss.60.62(1))and as further provided for in any Town ordinance implemen-ting said Statute.)

(2) Compliance to Open Meeting Law: All meetings and hearings of the Commission shall be conducted in accordance with sections 19.81 through 19.98 of the Wiscon-sin Statutes, the Open Meeting Law.

(3) Duties:

A. The primary duties of the Commission with respect to this Ordinance shall be:

1. to carry out ss.62.23(2) regarding the making and maintaining of a master plan for the physical development of the municipality; and
2. to also be cognizant of such plans as may be adopted by adjacent municipalities, the county, or the regional planning agency referred to in ss.66.945 Wis. Stats.; so as
3. to make its recommendations and conduct its administration of this Ordinance, pursuant to ss. 62.23 (3) Wis.Stats., in accordance with said Town plan and with such of the other plans as the Commission shall endorse.

B. Additional duties of the Commission shall be:

1. to hold informational or public hearings as assigned to the Commission by this Ordinance;

2. to supervise the office of the Zoning Administrator in the administration of this Ordinance.

(4) Powers:

- A. to enter upon any lands and make inspections thereof, in the performance of Commission duties, as provided for in ss.62.23(4) Wis. Statutes.
- B. to recommend to the Town Board amendments to this Ordinance, either as petitioned by owners of land or their agents, (with or without modifications or conditions as the Commission shall deem appropriate), or as petitioned by the Commission itself.
- C. to grant or deny without Town Board approval conditional use permits as set forth in 17.06 CONDITIONAL USES.
- D. to review, negotiate, and approve without Town Board approval applications for Zoning Permits where the District regulations require Commission action as set forth in 17.05 REVIEW OF BUILDING, SITE AND OPERATIONAL PLANS.
- E. to suspend or revoke any zoning or conditional use permit as approved by the Commission where the Commission finds non-compliance to the permit, or to delegate said authority to the Zoning Administrator.

17.02-3 ZONING ADMINISTRATOR

(1) There is hereby created the office of Zoning Administrator for the Town of Weston as the administrative and enforcement officer for the provisions of this Ordinance.

(2) Building Inspector Designated: The Building Inspector is hereby designated as the Zoning Administrator, and for such duties, may be provided with the assistance of such others as the Town Board may direct.

(3) Duties: it shall be the duty of the Zoning Administrator to administer, supervise and enforce the provisions of this Ordinance and to:

- A. Record all permits issued, inspections made, work approved and other official actions.
- B. Inspect all structures, lands, air, and waters within the Town as is necessary to assure compliance with this Ordinance.
- C. Investigate all complaints made relating to the location of structures and the use of structures, lands, air, and waters.
- D. Give Notice of all violations of this Ordinance to the owner, resident, agent or occupant of the premises.
- E. Report Uncorrected Violations to the Town Attorney and assist that officer in the prosecution of said Ordinance violations.
- F. Prepare agendas for the Town Planning Commission and Zoning Board of Appeals including processing of applications for action by those bodies.

(4) Powers: The Zoning Administrator shall have all the powers necessary to enforce the provisions of this Ordinance without limitation by reason of enumeration including the following:

- A. Issue Zoning Permits and Occupancy Certificates upon application for the erection or use of a structure, land, air or water where such erection or use complies with all of the Provisions of this Ordinance.
- B. Permit temporary events for periods not to exceed ten (10) days for specific purposes such as: temporary carnivals, sports activities over public ways, church bazaars, charity fund raisers, and revival meetings which are not detrimental to the public health, safety, morals, comfort, convenience, or general welfare; provided, however, that said use or operation and any incidental temporary structures or tents

are in conformance with all other ordinances and codes of the Town;

- C. Enter Premises, Public or Private, at any reasonable time for any proper purpose to make those inspections as deemed necessary to ensure compliance with this Ordinance. If, however, entry is refused after presentation of identification, in cases of emergency the administrator may procure a special inspection warrant in accordance with Sect. 963.10 of the Wisconsin Statutes.
- D. To Revoke any Zoning Permit or Occupancy Certificate upon reasonable cause or question as to proper compliance and to issue Cease and Desist Orders requiring the cessation of any activity which is in violation of this Ordinance, such revocation to be effective until reinstated by said Administrator or the Board of Appeals.
- E. Commence any Legal Proceedings in the name of the Town and with the authorization of the Town Board necessary to enforce the provisions of this Ordinance.
- F. Recommend to the Planning Commission any additional use regulations the Administrator shall deem necessary to make the operation of this Ordinance more effective.

17.02-4 ZONING PERMIT AND OCCUPANCY CERTIFICATE

(1) Required: No new building and no existing building which is to be remodelled or relocated shall be issued a Building Permit until a Zoning Permit is issued certifying that such construction or change would comply with the provisions of this Ordinance, based upon the information and plans supplied to the Zoning Administrator as required hereunder. Occupancy or use of land, air, water, or buildings and structures shall be prohibited until an Occupancy Certificate has been issued certifying that all appropriate provisions of this Ordinance have been met.

(2) Procedure: Applications for Zoning Permits and Occupancy Certificates shall be made to the Zoning Administrator on forms furnished by the Administrator

prior to or at the same time as an application for a Building Permit or prior to the commencement of any use not involving a Building Permit, and shall include the following where pertinent and necessary for proper review.

- A. A statement by the applicant as to the intended use of the premises and buildings thereon.
- B. An accurate map of the property drawn to a reasonable scale and properly dimensioned showing:
 1. The boundaries of the property involved, and address including subdivision lot and block number or metes and bounds description.
 2. The location of the center line of any abutting streets, existing highway access restrictions, proposed street access points and the locations of off street parking, loading areas and drive-ways.
 3. The location on the lot of any existing buildings, proposed additions, or proposed new buildings, including the measured distances between such buildings and from the nearest portion of such buildings to the lot lines and to the center line of any abutting street.
 4. The proposed floor elevation of any proposed buildings in relation to the existing and/or established grade of any abutting streets and the general direction of surface drainage on the lot including the location of any drainage way. Such elevations shall be referenced to Mean Sea Level datum.
 5. The high water line of any stream or lake which abuts the property or otherwise directly affects it by flooding.
 6. The boundaries of soil types shown as existing on the property on USDA Soil Conservation Service maps where these are required by the Zoning Administrator.

C. Water Supply and Sewage Disposal: Where the proposed use involves human occupancy, and connection is not to be made to municipal water or sewer service, satisfactory evidence of a safe and adequate supply of pure water shall be provided and the locations of any well for that purpose, as well as the method and location of approved sewage disposal shall also be mapped.

(3) Permit Issuance: Upon Determination of Compliance by the Zoning Administrator of the applicant's request with all applicable provisions of this Ordinance, including where necessary approval by the Plan Commission of Building Site and Operational Plans pursuant to Sect. 17.05 and upon payment of the proper fee (Sect. 11.5), a Zoning Permit shall be issued. The applicant shall post such permit in a conspicuous place at the site.

(4) Final Inspection: Within 10 days after the notification of the completion of the erection, alteration or relocation of the building or of intent to commence a use, the Building Inspector shall make an inspection of the premises and any building thereon and if the building and the intended use thereof and the proposed use of the premises comply with the requirements of this Ordinance, an Occupancy Certificate shall be issued.

(5) Expiration: If within 12 months of the date of application for a Zoning Permit, no Occupancy Certificate has been issued, any Zoning Permit related thereto shall lapse and the Zoning Administrator shall make immediate investigation to ascertain that no use or occupancy has in fact commenced without proper authority. Upon showing of valid cause, the Zoning Administrator may grant a one-time extension of such permit for a period not to exceed six (6) months.

(6) Temporary Occupancy Certificate: Pending the issuance of a regular permit, a temporary permit for a non-residential use may be issued for a period not exceeding six (6) months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately insure occupant safety. A temporary permit shall be voided if the building fails to conform to the provisions of this Ordinance to such a degree as to render it unsafe or unfit for the occupancy.

17.02-5 ZONING COMPLIANCE STATEMENTS

Owners of properties or their agents, for their convenience and without actually applying for a zoning permit, upon paying a separate fee therefore, may request the Zoning Administrator to issue a "zoning compliance statement" stating whether the existing or prospective use or construction on that property complies with, or is likely to comply with, the terms of this ordinance. The Zoning Administrator may refuse to issue such permits except on an "as time is available basis" based upon work flow in the zoning office, and may condition such statements as not covering aspects that are in the opinion of the administrator speculative, or indeterminate from the information at hand.

17.02-6 FEES

(1) Fees: for Zoning Permits, Occupancy Certificates, Conditional Uses, Zoning Changes and Amendments, Variances or other requests before the Board of Appeals, the applicant shall be required to defray the cost of administration, map preparation, inspections, public notices and record keeping. The Town Board shall, from time to time upon recommendation of the Planning Commission, establish a fee schedule by resolution, which shall update said schedule of (2) following. The fee schedule shall be published and made available through the Zoning Administrator.

(2) Schedule of Zoning Fees: (see following excerpt from Manual of Fees, Town of Weston, Marathon County, Wis.)

17.02-7 DOUBLE FEES

A double fee may be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

(2) SCHEDULE OF FEES, 1991 TOWN OF WESTON, MARATHON COUNTY, WI

ZONING PERMITS

Single and Two-Family	
-New	\$25
-Addition/Alteration/Conversion	\$20
Multi-Family	
-New	\$25 + \$6/unit
-Addition/Alteration/Conversion	\$20 + \$6/add unit
All Other Principal Structures	
-New	\$30 + \$10/1000 s.f.
-Addition/Alteration/Conversion	\$20 + \$10/1000 s.f.
Accessory Structures	
-New/Addition/Alteration/Conversion	\$15
Temporary Use	\$15
Occupancy Certificate	\$15 first use, \$10 each added use
Zoning Compliance Statements	One Half above rates + \$5 typing

SIGNS

New	\$30
Additions/Alterations	\$20

SITE PLAN REVIEWS

General (Section 17.05)	\$100
Mobile Home Development	\$200
Overlay Extractive/Landfill (OEL)	\$100 + \$2/acre
Overlay Planned Development (OPD)	\$100

ZONING PUBLIC HEARING

Rezoning/Amendment	\$200
Conditional Use	\$150

BOARD OF APPEALS

\$85

17.02-8 ENFORCEMENT AND VIOLATIONS

(1) Financial Sureties: The Planning Commission may require that a performance bond or letter of credit be obtained for the benefit of the Town and filed with the Town so as to insure compliance with the terms of this ordinance or a permit. In setting the amount of the bond or letter of credit, consideration should be given to: 1) the purpose of the bond or letter of credit, 2) the use to which any forfeited money is to be applied, and 3) the time when it may be applied and any cost increases due to time or inflation that may be incurred by the Town in the event of noncompliance with this ordinance or the terms of a permit, or that may be incurred for purposes of rehabilitation. The amount of the bond may be subject to further review. Failure to obtain or maintain such bond or letter of credit shall invalidate any permit.

(2) Violations, Injunctions, Abatement and Removal: It shall be unlawful to construct, develop or use any structure, or develop or use any land, water, or air in violation of any of the provisions of this ordinance or order of the Zoning Administrator or Board of Appeals. In case of any violation, the Town Board, the Town Attorney, the Zoning Administrator (see 17.02-3(4)E.), or any owner of real estate affected who would be specifically damaged by such violation, may institute appropriate legal action or proceedings to enjoin a violation of this ordinance, or seek abatement or removal. In addition, those actions commenced on behalf of the Town may seek a forfeiture or penalty provided herein.

(3) Proceedings:

- A. Civil Proceedings: Pursuant to the provisions of section 66.12 of the Wisconsin Statutes, an action for violation of a municipal ordinance is deemed a civil action. Accordingly, Chapters 801 to 847 of the Wis. Statutes shall apply where applicable to violations of this ordinance.
- B. Town Attorney: After Town Board consultation, the Town Attorney may commence legal actions or proceedings as outlined above and may proceed pursuant to the proceedings outlined in Wisconsin Statutes sections 66.119, 66.12 or 288.10 or

pursuant to the issuance of a summons and complaint.

- C. Citations: Citations may be issued by the Zoning Administrator, or authorized deputies.
- D. Special Inspection Warrants: The provisions of Wisconsin Statutes section 66.122 and 66.123 shall govern the issuance of all special inspection warrants.
- E. Statute of Limitations: Pursuant to Wisconsin Statutes section 893.93 (2)(6) any action to recover a forfeiture or penalty imposed by ordinance or regulation, when no other limitation is prescribed by law, shall be commenced within two years of said violation. In those situations in which there occurs a continuing violation in existence for more than two years prior to the issuance of the complaint, and wherein each day the violation exists continues to constitute a separate offense, no penalty may be imposed for each day of violation occurring more than two years prior to the commencement of the action; a penalty may be imposed, however, for each day of violation occurring within the two year period prior to the issuance of the complaint.

(4) Penalties:

- A. General Penalties: Any person, partnership, firm, or corporation who fails to comply with the provisions of this ordinance or any order of the Zoning Administrator issued in accordance with this ordinance shall, upon conviction thereof, forfeit not less than Ten Dollars (\$10) nor more than Five Hundred Dollars (\$500), and the cost of prosecution for each violation including court costs and reasonable attorney fees; and in default of payment of such forfeiture and costs shall be imprisoned until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.
- B. Schedule of Cash Deposits for Violations Charged Under A.: The cash deposit for the violation of

any section or subsection of this ordinance shall be One Hundred Dollars (\$100). In addition upon conviction, any person who has been found to have acted in violation of any of the above sections shall be liable for the costs of prosecution including court costs and reasonable attorney fees; and in default of payment of such forfeiture and costs, shall be imprisoned until payment thereof, but not exceeding thirty (30) days. For a second offense of a similar nature within a twelve month period, the cash deposit shall be Two Hundred and Fifty Dollars (\$250) and for a third offense of a similar nature within a twelve month period, the cash deposit shall be Five Hundred Dollars (\$500).

(5) Liens: In addition to all other remedies available at law, judgment on convictions of violations of the terms of this ordinance wherein a forfeiture or penalty is imposed shall be filed with the County Register of Deeds Office and shall constitute a lien on the property and running with the property wherein the violation occurred and shall be removed only upon payment of said penalty or forfeiture. Notice of the imposition of such a lien shall be given to the defendant and prior to the filing of the lien, the defendant shall be given ten days to appeal to the court of the county in imposing such a lien on the property wherein the violation occurred. Any judgment so filed with the Register of Deeds shall note thereon the imposition of such a lien and a legal description of the property so affected. Upon satisfaction or partial satisfaction of such judgment notice of such satisfaction or partial satisfaction shall be filed with the Register of Deeds.

17.03 GENERAL PROVISIONS

17.03-1 INTRODUCTION

The proper regulation of the use of certain structures, land, waters, and air only through the use of the zoning districts contained within this ordinance is neither feasible nor adequate. Therefore, the following regulations, which shall be applied in addition to the district regulations, are necessary to accomplish the intent of this ordinance.

17.03-2 USE REGULATIONS

(1) Uses Restricted: No structure or land shall be used and no structure shall be hereafter erected, structurally altered, or relocated, except for a use as permitted and in compliance with the regulations hereinafter established for the district in which it is located, and the regulations of this section as applicable.

(2) Uses Classified: For the purpose of this Ordinance, all uses shall be classified according to the following categories:

- A. Permitted Uses By Right: Principal uses, the permissibility of which is a predetermined right anywhere in the district in which located, subject only to the regulations established governing such use.
- B. Permitted Accessory Uses: Uses which are incidental, customary to, and commonly associated with a permitted principal use, and therefore permitted on the same basis as the principal use. Accessory uses shall not be permitted prior to principal uses.
- C. Uses Permitted By Conditional Grant: Uses, the nature, character or circumstances of which are so unique or so dependent upon the specific contemporary conditions that predetermination of permissibility by right or the detailing in the Ordinance of the specific standards, regulations or conditions necessary or appropriate at all possible sites to such permissibility, are not practical; but which may be permitted or denied

in the districts where listed subject to arriving at mutually agreed conditions and requirements between the petitioner and the town.

(3) Unclassified Uses: Any use not specifically listed as a permitted or conditional use shall be considered to be prohibited except as may be otherwise specifically provided in Districts where uses listed are examples, not an exhaustive listing. In case of question as to the classification of a use, the question shall be submitted to the Planning Commission for determination.

(4) Temporary Uses, such as real estate development field offices, or shelters for construction materials and equipment, may be permitted by the Zoning Administrator (Also see 17.02-3(4)B.) for periods not exceeding 18 months, renewable for a second 18 months.

(5) Performance Standards listed in Section 17.04 shall be complied with by all uses in all districts. Uses, even if listed as permitted, which cannot comply with a particular performance standard, become individually prohibited.

(6) Storage And Discharge Prohibited: No waste material such as garbage, rubbish, gasoline, fuel oil, flammables, soils, tars, chemicals, greases, industrial or agricultural waste, or any other materials of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm the waters shall be so located, stored, or discharged in a way that would be likely to run off, seep, or wash into surface or ground waters. Nor shall any such material be allowed to accumulate on any lands of waters so as to be unsightly, dangerous or so as to constitute a nuisance. No non-agricultural gasoline storage tanks shall be permitted in a residential district and no more than five cords of firewood may be stored on any parcel located in the R-E through R-5 Districts.

17.03-3 ENGINEERING REGULATIONS

(1) Establishment Of Grades: Every building hereafter erected, structurally altered or relocated, shall be at a grade approved by the Zoning Administrator or the Planning Commission, upon advice of the Town Engineer, as being in satisfactory relationship with the

established street and adjacent lot grades or with the existing street grade where none is established, with particular consideration for proper drainage and safe vehicular access such grade shall also comply with the Town Building Code.

(2) Surface Water Drainage And Erosion Control:

A. Adequate Drainage And Soil Erosion Control Plans

Required: No zoning permit involving building construction or site grading shall be issued unless there is first provided a plan for surface water drainage and soil erosion control, which plan was either approved as part of the land subdivision approval process, or as part of this or a previous zoning permit.

1. Where the plan was previously approved as part of the land division process or a previous zoning permit process, the zoning permit shall not be issued until the zoning administrator is satisfied that required on and off site facilities such as drainage courses, storm sewers, or detention areas will be functioning by the time of occupancy permit issuance, unless needed sooner, or that the zoning permit applicant has financially provided a fair share of costs therefore as provided for in the plan.

2. Where a plan was not previously approved, the zoning administrator shall not issue the zoning permit until a current approved plan is provided. Where the zoning permit is subject to Planning Commission review, the Commission, after first hearing the advice of the Town Engineer, shall be the approving authority. Where Commission review is not required, the Town Engineer shall be the approving authority.

B. Changing Of Drainage Prohibited: The damming, filling, relocating, or otherwise interfering with the natural flow of surface or subsurface water in the natural drainage course, or the intended course in an Approved Drainage And Erosion Control Plan as described above, shall not be permitted without filing and gaining approval of a new plan. Approval by the Town

does not signify nor guarantee approval by other agencies also having jurisdiction.

(3) Subsurface Water Drainage: Where soil maps provided by the US Soil Conservation Service, or experience of the Town engineering or public works departments, indicates subsurface ground water presence or movement, including seasonal-only flows, will be a hindrance to the construction or maintenance of private or public improvements, a zoning permit shall not be issued until a plan is provided by the permit applicant dealing with the expected conditions and the plan is approved as provided for in (2) Surface Water Drainage, above.

(4) Sanitation And Water Supply: Zoning of land for urban development and the subdividing thereof for human occupancy or use shall only be recommended by the Town Planning Commission and adopted by the Town Board after each is assured that the development will be served, by the time of development, with a safe individual or common water supply, and adequate means for disposal of wastewater under terms complying with appropriate State, County and Town sanitary regulations.

(5) Preservation Of Topography: In order to protect property owners from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than two horizontal to one vertical, within a distance of 20 feet from the property line, except where retaining walls are built pursuant to Section 17.05 or with the written consent of the abutting property owners and with the approval of the Planning 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.

17.03-4 LOCALITIONAL REGULATIONS

(1) Location Restricted: No building shall be hereafter erected, structurally altered or relocated, or moved onto a lot except in conformity with the following

locational regulations as hereinafter specified and for the district in which it is located.

- A. Building Must Be On A Lot: Every building hereafter erected, structurally altered or relocated shall be placed on a lot as defined in this Ordinance and regulated in this section.
- B. Only One Principal Residence Building On A Lot: Except as provided in the district regulations for attached single family dwellings, apartments, mobile home projects, or planned development projects, only one principal residence building shall be permitted on a lot.
- C. Accessory Building Location: No accessory building shall be erected, structurally altered, or relocated so that any roofed or enclosed portion thereof is closer than 10 feet to the principal building on the lot unless it is attached thereto with a wall or roof. Notwithstanding the regulations of section 17.10-7 zoning district numerical regulations, in residential use districts one accessory structure per lot, not to exceed 150 square feet in floor area, may be erected to within 3 feet of a side or rear lot line.

(2) Setbacks: The proximity of a building, structures, or uses to a public street or way is regulated by setback provisions as follows:

- A. Base Setback Lines are hereby established parallel to the centerline of all existing and proposed public streets and ways as follows:
 - 1. On all public streets as designated on the Highway Plan or official map adopted by the Town or upon a County Highway Width Map or Highway Plans duly adopted by the County or the State of Wisconsin and certified to the Town as adopted, the Base Setback Line shall be located at a distance from the centerline of the street equal to one half the width of the highway as designated.
 - 2. In the case of existing or proposed frontage streets along principal traffic arteries, the

Base Setback Line shall be located on the property line as will be established by the frontage street.

3. Where realignment of an existing street is shown on the Plan or a new street is proposed, the location of the Base Setback Line shall be established by the Town Planning Commission.

- B. No building shall hereafter be erected, structurally altered or relocated, so that it is closer to the Base Setback Line than the setback distance hereinafter specified by the regulations of the District in which it is located, except that in the case of a new residential building to be located adjacent to one or more existing residential buildings which are placed farther back than the required setback, the following increased setbacks shall apply:

1. Where only one adjacent residence with an increased setback is within 250 feet or 2 lots, whichever is less, of the proposed residence, the average between the required setback and that of the existing residence shall be applied.

2. Where the nearest existing residences on both sides of a proposed residence and within 250 feet or 2 lots thereof, whichever is less, have increased setbacks the average of the adjacent increased setbacks shall apply.

- C. The setback as required in "B" preceding shall be measured from the nearest enclosed or roofed portion of a building, provided, however, that the first two feet of an overhanging eave and gutter shall not be included, nor the first 6 feet of uncovered stairs, landings and fire escapes provided they do not extend closer than 3 feet to the lot line.
- D. The only structures permitted within the setback area shall be necessary highway and traffic signs, public utility lines and poles, telephone booths, walls and fences as regulated herein, rural mailboxes, signs as permitted under the district regulations, structures other than buildings as regulated herein, temporary

structures, outdoor lighting installations and unenclosed canopies for lighting and rain protection in conjunction with such uses as automobile fuel sales or "drive-in commercial facilities" provided that such canopy structures are approved by the Planning Commission.

1. Walks, drives, paved terraces and purely decorative garden accessories such as fountains, pools, statuary, flag poles, etc. where subject to permanent structure classification, shall be permitted in setback and side yard areas but not closer than 2 feet to an abutting property line, except walks, drives and paved terraces may abut the street or alley line.

2. Fences, walls, hedges, clothes poles, children's play apparatus and architectural screening devices where anchored to supports imbedded in the ground shall be considered permanent structures and shall be subject to the regulations of structures other than buildings, 17.03-6.

E. Vision Setback Lines at the intersections of public streets and of a street with a railroad or alley, where the grade is not separated, are hereby established as follows:

1. Across each sector between the intersection of a street with a railroad a Vision Setback line shall be established by a straight line connecting points on the Base Setback Line and the railroad right-of-way line, which points are located 20 feet on a spur and 120 feet on any other railroad line from the intersection of the Base Setback Line and the railroad right-of-way line.

2. Across each sector between intersecting streets, one or more of which has a designated width of 100 feet or greater, 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 from the intersection of said Base Setback Lines.

3. Across each sector between any other intersecting street, a Vision Setback Line shall be established by a straight line connecting two points on the intersecting Base Setback Lines, which points are located 20 feet from the intersection of said Base Setback Lines.

4. Across each sector between an alley and an intersecting street a Vision Setback Line shall be established by a straight line connecting two points on the intersecting Base Setback Lines, which points are located 10 feet from the intersection of said Base Setback Lines.

F. In the Vision Setback Area no structure and no landscaping of any kind shall be permitted which obscures vision between a height of 2 1/2 feet to 10 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.

G. On corner lots of record, as of the date of this Ordinance, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than 30 feet.

(3) Side Yards And Rear Yards: The proximity of any portion of a building to any other lot line other than a street line is regulated by side yard and rear yard provisions as follows:

A. No building shall hereafter be erected, structurally altered or relocated so that roofed or enclosed portion thereof is closer to any lot line than the side yard or rear yard distance hereinafter specified by the regulations for the district in which it is located except as follows:

1. Individual Districts may establish differing side and rear yard requirements for accessory structures than for principal structures, and for the driveway side of a lot than for the other sides. The building Inspector may require a driveway side yard where in the Inspector's judgement, a present or future owner is likely to install a driveway, and the Inspector may

deny permits for driveways into side yards less than the driveway side yard requirement.

2. In case of any lot of record which has a width less than that required by the district in which it is located, the side yard from a side lot line may be reduced proportionately to the ratio between the actual width and the required width provided, however, that no side yard shall in any case be less than 1/2 the required side yard except that the side and rear yards for detached garages may be reduced to 5 feet.

3. In the case of single family attached, multiple family, commercial, or industrial use structures, two or more buildings on adjoining lots may be erected with common or directly adjoining walls provided the requirements of the State Industrial Code relative to such construction are complied with and provided that at both ends of such "row" type buildings, the applicable side yard requirements shall be complied with.

- B. How Measured: The side yards and rear yards shall be measured from the roofed or enclosed portion of a building, including overhanging eaves, except that the first 2 feet of an overhanging eave and gutter shall not be included where the yard requirement exceeds 5 feet.
- C. Courtyards: In all districts which allow common wall construction or do not require a side yard or rear yard, all buildings which are hereafter erected, structurally altered or relocated having any rooms required by the Building Code to have light and ventilation by windows opening directly to the outer air, shall provide courts as follows:
1. Outer Courts: The width of any required court shall be not less than the height of any opposing wall forming said court. The depth of an outer court formed by walls on three sides shall be not greater than one and one-half times the width.

2. Inner Courts: The least dimension of an inner court shall be not less than the full height of the walls enclosing such court.

(4) Height Regulations

- A. Maximum Height Restricted: In any district, no building or structure shall be hereafter erected or structurally altered to a height in excess of that hereinafter specified by the regulations for that district.
- B. Exceptions: The following shall be excepted from the height regulations of all districts, subject to D. "Airport Runway Clearance Zone":
1. Chimneys, flues, electrical or telephone and telegraph transmission and distribution structures.
 2. Subject to approval of the Planning Commission, who shall be guided by the standards of 17.05 Approval of Building Site and Operational Plans: Cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts, aerials and dish antennae and necessary mechanical appurtenances.
- C. Increased Permitted: Subject to approval of the Planning Commission who shall be guided by the standards of 17.05 Approval of Building, Site and Operation Plans, the maximum height in commercial, industrial, and other non-residential districts as permitted under Section 17.10-7 may be increased provided the required setbacks and offsets affecting the portion of the structure having increased height shall be increased by one foot for each foot in excess of the height limit in the district, but in no case more than one story.
- D. Airport Runway Clearance Zone: Heights as permitted in this Ordinance may be further restricted as provided for in ss.66.23(6) (am) Wis.Stats., in "Airport Affected Areas" where structures, including those otherwise exempt

from height regulations by this Ordinance, may be subject to height limitations greater than those imposed herein in order to provide unobstructed airspace off the ends of airport runways.

17.03-5 LOT REGULATIONS

(1) Street Access Required: No lot shall hereafter be created nor any building placed on a lot which does not access onto a public street or approved private street or way as provided in (2) below. Where the access street is not open to traffic at the time of zoning permit application, or is dedicated to only a portion of the minimum width required for that street; issuance of the zoning permit may be denied or delayed until the zoning administrator is satisfied that:

- A. In the case of an unopened or partially opened street, the necessary utilities, drainage, or paving will be provided in time to facilitate the development or construction authorized by the permit, as assured by execution of a Developer's Agreement.
- B. In the case of a street not dedicated to its fully planned width, that the zoning permit applicant has dedicated all that is required from the applicant's ownerships, and that the resulting available width is sufficient to accommodate the necessary underground utilities and a street paving adequate to assure access by public emergency vehicles.

(2) Approved Private Street or Way: Subject to the approval of the Planning Commission, approved private streets or ways that lead to public streets may be substituted for direct public street access provided the Commission finds that:

- A. It is not in the public interest to require direct public street access at the time of zoning permit application;
- B. The proposed development will not preclude provision of public street access in the future;

- C. Permanent easements satisfactory to the Commission are recorded to ensure continued function of the approved private street or way, which easements show no liability of the Town to assume maintenance of the easement area.
- D. Any buildings erected or other improvements made do not interfere with future provision of public streets, and are located so as to be in conformance with such future streets. The Commission may require a Future Street Reservation be recorded to set forth the Commission's intent and ensure compliance to this section.

(3) Lot Size:

- A. Minimum Required: No lot shall be platted of less area or width than required by the District regulations in which the lot is placed.
- B. Future Resubdividability Required: Whenever a lot is proposed to be platted larger than the minimum lot size required by the district regulations, or in the case of certain districts which require initial large lot areas due to the unavailability of public sanitary sewer or water at the time of platting, but which districts permit re-division of such lots when such utilities become available, the Planning Commission shall require that the future possible divisions be taken into account in the initial lot layout so as to facilitate such future divisions, and at the Commission's discretion, or if required by the district regulations, the future lot lines be shown, or actually created, so that initial construction does not inadvertently preclude such future re-subdividability.
- C. Lot Area, How Measured: For the purposes of this Ordinance, the lot area shall be measured from the Base Setback Line and shall be exclusive of the area between said Line and the existing property line ultimately to be included in street right of way. Wetlands and floodplains may be included in minimum required lot area provided there remains sufficient area not in wetland or floodplain to accommodate the

proposed building, access drive and on-site sanitary system and water well where such services are not provided via off-site public utilities.

D. Lot Width, How Measured: Where a minimum lot width is specified by individual district regulations, measurements shall be applied as follows:

1. Interior, Rectangle Shaped Lots: The width shall be measured at the rear of the required setback area.

2. Corner Lots: The width shall be measured at the rear of the required setback area on the narrowest street side, and the district regulations may also provide that the lot width be up to 20% greater than for an interior lot in the same district.

3. Interior Irregular Shaped Lots such as pie-shaped or L-shaped: The width specified by the district regulations for rectangular interior lot shall constitute the required minimum average width of irregular interior lots, measured at the point of average depth. Such lots shall have a minimum frontage on a street or approved way of at least 33 feet, or greater if specified in the District regulations.

E. Lot Area Reduction: 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 setbacks, yards, open space, or lot area would be reduced below that required by the regulations for the district in which such lot is located.

(4) Residential Density: Density is the relationship between land and population, expressed in this Ordinance as square feet of land, or acres of land, per housing unit.

A. Purpose of Control: As set forth in ss.62.23 Wis.Stats. the distribution of population at various locations and intensities within the community is one of the essential purposes of

community planning and of zoning regulation for the health, wealth, safety, and enjoyment of the community population.

- B. Method of Control: The most basic form of control is division of the community into various zones in which population is permitted or prohibited from residing. Additionally, the residential zones are further divided into districts permitting various types and densities of residential use. In single family detached development, density is established by the minimum required lot size. In attached single family, mobile home, and multiple family development, density is established by a required ratio of land area per dwelling unit. These basic controls are potentially modified by the Open Space requirement described in (5) following.
- C. Shared Land Area: The land area provided for one housing unit shall not also be counted for another unit in order to meet the density requirement of the district in which the units are located, subject to the following:
1. In group projects with more than one building on the lot or a series of lots, all in single ownership, or in multiple ownership but bound together by land covenants running with the land so as to form a single project, developed and maintained in a coordinated way to share use of land area, open space, and possibly also street access or parking, the density requirement of land area per individual housing unit is met so long as the division of total land area by total dwelling units is met.
 2. Where it is desired to separate individual or groups of buildings from such a project relationship, any individual lots so separated and the residual lot or group of lots remaining shall comply with the land area requirement of the zoning district.

(5) Open Space

- A. Minimum Required: No building intended partially or entirely for residential use shall be erected, structurally altered, moved onto, or relocated on a lot unless there is provided usable open area as hereinafter specified by the regulations for that district.
- B. How Measured: To be considered usable, such open area shall be readily accessible at or near ground level and of a size and shape which can be reasonably considered to provide for the amenities and necessities of light, air, landscaping, play space, walkways, drying yard, garden, etc., but shall not include parking areas and drives.
- C. Shared Open Space: The open space provided for one housing unit shall not also be counted for another unit in order to meet the open space requirements of the district in which the units are located, subject to the same group project modifications set forth in B. preceding for land area.

17.03-6 STRUCTURE REGULATIONS

(1) Structures Other Than Buildings

- A. Structures less than 6 inches in height:
Structures not classified as buildings and less than 6 inches in height from the approved surface of the ground shall not be subject to the setback, side yard, or rear yard or building size or open space requirements of this Ordinance except as may be specifically otherwise provided, such as swimming pools, below.
- B. Structures 6 inches or more in height:
Structures not classified as buildings and 6 inches or more in height from the surface of the ground shall be subject to the setback, yard, height and open space requirements of this Ordinance except as may be specifically otherwise provided, such as in Section 17.03-4(2)D "Structures Permitted in Setback Areas" and "Fences", following. Ground or building mounted air conditioning condensers or satellite or other dish shaped antennae shall not be

located in required front or side yards unless specifically approved by the Planning Commission.

C. Fences

1. Permit Required: No fence, except those fences provided for in 2. following, shall hereinafter be located, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without being in conformity with all the structural requirements of local and State building codes. All fences, whether or not requiring a permit, shall present the non-structural face outward.

2. Fences Permitted Without a Zoning Permit: The following fences are permitted as specified without a zoning permit subject to the following restrictions and providing that said fence does not in any way interfere with traffic visibility:

(a) A snow fence shall be permitted in all districts when comprised of wooden pickets bound together by wire and not exceeding four feet in height and removed between May 1 and November 1 of each year. No privately owned snow fence shall extend beyond the highway right-of-way line.

(b) Fences to be installed around swimming pools shall be governed by the provisions of 17.03-6(1)D.5 zoning permits for pools, below.

(c) Agricultural fences in the AG, RR and S/R Districts shall be permitted provided that they do not extend into the highway or road right-of-way.

(d) Decorative fences not exceeding two feet in height shall be permitted in all districts.

3. Fences or Walls for which a Zoning Permit is Required:

(a) Residential fences or walls are permitted on the property lines in residential districts, but shall not be greater than six (6) feet in height in the side yard and rear yard or greater than four (4) feet in height in the street yard. Residential fences or walls may be six (6) feet in height in the rear street yard of a double frontage lot. Residential fences or walls shall be not closer than two (2) feet to any public right-of-way and no fence or wall greater than 2 1/2 feet above the street grade shall be placed within the vision triangle. (See 17.03-4(2)E) No fence or wall which incorporates barbed or similar security wire or sharpened top spikes shall be permitted in residential districts.

(b) Security fences or wall are permitted in all districts other than residential districts. Security fences or walls may be placed on side and rear property lines, but shall not be located closer than two (2) feet to a public right-of-way line. (See 17.03-4(2)E) Security fences or walls shall not exceed eight (8) feet in height.

(c) Reference in the above two provisions, and elsewhere in this ordinance, referring to "on the property line" shall mean adjacent to but not overlapping, including not obscuring vision lines to surveying pipes marking said property line.

D. Swimming Pools:

1. Compliance: A zoning permit shall first be required before any swimming pool, both residential and non-residential, is installed, enlarged, or altered.

2. Permit Application: All drawings and plans for the construction, installation, enlargement or alteration of any such swimming pool and the accessories thereto shall first be presented to Zoning Administrator for examination and approval as to proper location and construction. The plans shall be drawn to scale, and shall

indicate thereon all distances and dimensions so as to accurately show all lot lines, and all information pertaining to the location of the pool, walk, deck, fence construction, water supply system, drainage and water disposal systems, and all accessories pertaining to the swimming pool. Such plans shall also indicate the vertical elevations of the pool.

3. Location: No portion of a swimming pool outside a building, including a surrounding deck and fence, shall be located in a street setback yard nor in a required side or rear yard but in no case less than eight feet from any side or rear property line or building line. Such pool shall also comply with Wisconsin Administrative Code, Section H62.20 and with any local regulations with respect to the distances from an on-site sewage disposal absorption system. Pumps, filters and pool water disinfection equipment installations and all other accessories shall be located at a distance not less than eight feet from any side property line.

4. Maximum Pool Size: No pool, together with its deck area, shall occupy more than 40 percent of the usable area of the rear yard excluding all garages or other accessory structures located in such area.

5. Safety Features: No swimming pool shall be installed or maintained unless:

(a) There shall be erected and maintained a sound and secure fence not less than four feet in height completely surrounding the pool or surrounding the yard in which the pool is located. In lieu of a fence, the Zoning Administrator may, on a case-by-case basis, approve other measures designed to prevent unauthorized access to the pool.

(b) Every gate or other opening in the fence enclosing such pool, except an opening to the dwelling or other main building of the premises, shall be kept securely closed and locked at all times when the owner or

occupant of the premises is not present at such pool. All such gates shall be equipped with self-closing and self-latching devices placed at the top of the gate.

6. Control of Pool Lighting: No lighting may be installed in connection with the pool which shall throw any direct rays beyond the property lines.

7. Water Drainage: No water drained from a pool shall be discharged over or near any septic tank, septic field, or well, nor into neighboring property except to the approved drainage system for the area.

(2) Building Size and Floor Area Regulations:

- A. Minimum Required: Those portions of buildings intended for residential use shall provide a minimum floor area, as hereinafter specified by the district regulations in which such buildings are located, and either a minimum basement and utility area or attached garage, or in lieu thereof increased floor area if required by the district regulations, and said minimum residential floor area shall be based upon either the number of bedrooms, or upon total rooms exclusive of bathrooms, rooms being defined by the Building Code.
- B. Maximum Permitted (Floor Area Ratio): The maximum total floor area of the buildings on a lot shall not exceed that permitted under the floor area ratio (F.A.R.) as hereinafter specified by the regulations for the district in which such building is located.
- C. How Measured: Floor area shall be measured at each level from outside of wall to outside of wall, but for the purpose of determining minimum required floor area shall not include any area having an average height of less than 7 feet, basements, open porches, attics, public hallways or storage areas. For the purposes of minimum and maximum floor area regulations in the case of floor levels built into a hillside, the floor area subject to regulation shall be the area

extending back in depth one-half the length of the exposed wall at grade.

17.03-7 FARMING AND ANIMAL REGULATIONS

(1) Statement of Intent: The Town of Weston at the adoption of this Section, and for at least five decades into the future according to the Town master plan which this Ordinance seeks to implement, is and will continue to be a mixture of extensive urban and rural/agricultural areas. Consistent with that Town character, and with renewed interest in conserving undeveloped areas as long as possible before being needed for development, it is the intent of this regulation to permit farming and the keeping of farm livestock as much as possible throughout large portions of the Town. Promoting such farming can also serve to help sustain the connection between urban man and the productivity of the land, and to foster understanding of related elements such as soil conservation, animal husbandry, etc. In order to avoid undue offense to nearby urban development, especially residential areas, it is necessary to prohibit those intensive farm activities envisioned to occur in the County's less urban Towns in the Marathon County Agricultural Preservation Plan.

(2) Household Pets and Commercial Kennels Separately Regulated: This section does not intend to establish regulations for household pets, to be regulated by Town Code separate from this Ordinance, nor for boarding and breeding kennels for dogs, uses which are regulated in this Ordinance apart from this section.

(3) Agricultural Uses Prohibited: Those agricultural operations and associated activities generally understood in the County Farmland Preservation Plan as "agri-business" rather than common farming, and intended for non-urban Towns due to the heavy impact of such uses upon the land or upon potential nearby urban uses, are hereby prohibited, including, but not limited by virtue of explicit listing, to such operations as:

- A. Alcohol distillation for fuel or food
- B. Animal or plant fat rendering or processing
- C. Commercial feedlots (see Definition section)

- D. Commercial egg production exceeding 1000 laying hens.
- E. Dairy processing plants (cheese, milk, etc.)
- F. Drying and dehydrating fruits and vegetables;
- G. Grain elevators and grist mill operations
- H. Fertilizer production or sales
- I. Fur farming
- J. Livestock sale facilities
- K. Meat packing, slaughterhouse, or sausage plants

The above categories of excluded uses which also qualify as manufacturing may be permitted in the industrial district of this Ordinance if the Performance Standards of this Ordinance can be met.

(4) Crop and Tree Farming Permitted: The raising of field crops, tree plantations and plant nurseries and all related activities thereto shall be permitted in any district except as may be restricted in the WPD, OWC, OWP, OME, OFP or OCS districts, and except that a commercial greenhouse in excess of 1,000 square feet shall be permitted only in an agricultural or commercial district or on an existing operation of at least 10 acres and except that crops requiring application of inorganic chemicals or fungicides shall not be grown closer than 200 feet to a residence.

(5) Animal Husbandry Permitted: The keeping or raising of horses, poultry, beef and domestic livestock, and all related activities thereto, shall be permitted in any district not served with public sewer except as may be restricted in the WPD, OWC, OWP, OME, OFP and OCS districts subject to the following:

- A. No such use shall be permitted on a lot less than 3 acres in area exclusive of existing rights of way.
- B. Except on an existing farm operation of at least 20 acres, such use shall be limited to not more than 1 head of livestock per acre nor more than

20 fowl per acre, nor more than 10 rabbits per acre.

- C. The keeping of hogs, goats, roosters or fur bearing animals, other than rabbits, shall not be permitted except on an existing farm operation of at least 20 acres, provided however that up to 2 such animals or poultry, except hogs, may be kept as pets in any district.
- D. The keeping of horses for private use shall be permitted on the basis of one horse per acre. The operation of a commercial stable for boarding or training shall be permitted only as a Conditional Use.
- E. Any area where poultry, domestic livestock or horses are allowed to pasture or run shall be adequately fenced to keep them confined to such area.
- F. In any district other than on an existing farm of at least 20 acres, no building housing domestic livestock, poultry or horses shall be permitted closer than 50 feet to an adjoining lot line of a property zoned residential.
- G. Raising of Fish Permitted: The stocking of private ponds with fish shall be permitted in any district except that commercial fish hatcheries or the operation of commercial "fishing ponds" shall be permitted only as a Conditional Use.

[The remainder of this page is blank for possible future use.]

17.04 PERFORMANCE STANDARDS

17.04-1 INTENT

(1) Section 17.10 and 17.11 of this Ordinance, the various District use regulations, set forth (subject to the General Provisions and similar separate sections of this Ordinance) specific permitted uses, or general classes of uses, permitted by this Ordinance in each such District, based upon commonly accepted expectancies existent at the time of adoption of this Ordinance, of the impact those specific or classes of uses normally have upon their own land, on surrounding properties, and in some cases on the neighborhood or community at large.

(2) However, it is the intent of this section that no existing use be considered conforming, and no new use be granted a zoning permit, even if a listed permitted use, unless the use is also able to comply with all of the following performance standards, which are hereby imposed upon all land, water and air uses within the jurisdiction of this Ordinance.

17.04-2 COMPLIANCE

(1) The performance standards enumerated below are designed to limit, restrict, and prohibit the adverse effects of uses, in most cases outside their premises, or the district line if so regulated by certain zoning districts, but in matters related to soil erosion or potential pollution of surface or ground water, also the premises of the use.

(2) The use of all buildings, structures, lands, air and waters shall hereafter, in addition to complying with the use and area regulations of each district and of other regulations of this Ordinance, also comply with the following performance standards in this section.

17.04-3 PROCEDURE

(1) Zoning Permit Application: Any applicant for a zoning permit under this Ordinance shall be supplied with a copy of this section, and said applicant as part of the permit process shall certify by sworn statement contained within the application form that the use subject to the permit application will be operated in

accordance with the performance standards set forth hereinafter in this section.

(2) Planning Commission Review: Uses which are subject to Planning Commission review of their Building, Site and Operational Plans pursuant to Section 17.05 of this Ordinance, or uses subject to issuance of a Conditional Grant type of zoning permit pursuant to Section 17.06, if so requested by the Planning Commission shall supply specific additional information in the way of plans, specifications, data, or reports, such as by disinterested professionally qualified persons, addressing any specific standard about which the Commission has concern, to assure the Commission beyond the certification required in (1) preceding that the use will in fact be able to meet the certification.

(3) Determination of Violation: The Zoning Administrator shall investigate any observed or reported violation of the performance standards and shall reach a conclusion whether a violation is present or not at the time of inspection. If no violation is observable at inspection time due to the periodic nature of the operation, the Zoning Administrator may require the operator of the use to announce a reasonable opportunity when the Administrator may be present to observe or to conduct tests to ascertain compliance or violation of the standards. In case of suspected contamination of the underground waters, the Administrator may require the owner or operator to conduct a soil probe or similar test and to share the test report results with the Zoning Administrator.

(4) Termination of Violation: All violations as ascertained in (3) above shall be terminated within 30 days after notice. Violations not terminated within 30 days shall be deemed a separate violation for each day of existence and subject to fines as set forth in Section 17.02-8.

(5) Imminent Danger Violations: Notwithstanding the protection extended to uses existing before the adoption of this Ordinance by Section 17.12 Non-Conforming Uses, and the provisions of (4) preceding, uses which are found to be violating performance standards related to soil erosion, where the erosion is substantial and extends off the offending property, especially into public waterways or drainage facilities, or uses are

found to be violating standards related to surface or ground water pollution where the Zoning Administrator believes the danger is substantial to private or public personal health, safety and welfare, the Zoning Administrator is hereby empowered to treat such specific violations under the terms of (3) above subject to the following:

- A. Rapid Compliance: Where the Zoning Administrator finds that the violation is posing a progressively more dangerous threat to personal or public health, safety, or welfare the longer the violation continues, the Administrator may require immediate corrective action, including temporary stop-gap measures to lessen the rate of pollution, to be followed later by more permanent solutions.
- B. Mitigation Versus Compliance: Where an existing use that is Legal Non-Conforming under this Ordinance as set forth in Section 17.12 is found under this section to be committing an imminent danger violation, and full compliance is not possible given the non-conforming circumstances, the Zoning Administrator may call upon other regulatory agencies also having jurisdiction or may negotiate temporary corrective measures that, while not achieving full compliance, result in mitigating the violation out of the imminent danger category.

17.04-4 POINT OF MEASUREMENT

(1) No land or building in any district shall be operated in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; water pollution; electrical, radioactive or other disturbances; glare; or other substance, condition or element (referred to herein as "dangerous or objectionable elements") in such amount as to adversely affect the surrounding area or premises; provided that any use permitted by this ordinance may be undertaken and maintained if it conforms to the regulations of this subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.

(2) The determination of the existence of any dangerous and objectionable elements shall be made at:

- A. The point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, or for smoke and other forms of air pollution.
- B. The property lines of the use creating such elements for noise, vibration, glare and odors, except the District lines of the AG, RR, A/R and M-I District for noise and odor for permitted agricultural and industrial uses.

17.04-5 PERFORMANCE STANDARDS TO BE ENFORCED

(1) Air Pollution: No activity shall emit any fly ash, dust, fumes, vapors, smoke, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or other forms of property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas nor any color visible smoke equal to or darker than number two on the Ringleman Chart described in section NR154 of the Wisconsin Administrative Code and amendments thereto.

(2) Electromagnetic Emissions: No activity shall emit electrical, radioactive or other electromagnetic disturbances outside its premises that are dangerous to plant or animal life as determined by applicable federal or state regulation or which adversely affect the use of neighboring premises such as by interfering with the use or enjoyment of common household and business equipment such as radio, television, telephone, computer or facsimile operations.

(3) Fire and Explosive Hazards: All activities involving the manufacturing, utilization, processing or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion with adequate firefighting and fire suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and automatic fire extinguishing system. The above ground storage capacity

of materials that produce flammable or explosive vapors shall not exceed the following:

<u>Closed Cup Flash Point</u>	<u>Gallons</u>
Over 187 degrees F	40,000
105 to 187 degrees F	20,000
Below 105 degrees F	100,000

(4) Glare and Heat: No activity shall emit glare or heat that is visible or measurable at the boundaries of the lot on which the principal use is located. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so that the direct rays are not visible outside their premises.

(5) Noise: At the points of measurement specified in section 17.04-4, the maximum sound pressure level radiated in each standard octave band by any use or facility (other than transportation facilities or temporary construction work) shall not exceed the values for octave bands lying within the several frequency limits given in Table I after applying the corrections shown in Table II. The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards prescribed by the American Standards Association, Inc., New York, N.Y. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, 224.3-1944, American Standards Association, Inc., New York, N.Y., and American Standard Specification for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds, 224.10-1953, or latest approved revision thereof, American Standards Association, Inc., New York, N.Y. shall be used.)

Table I

Frequency Ranges Containing Standard Octave Bands in Cycles Per Second	Octave Band Sound Pressure Level in Decibels re 0.00002 dyne/cm
20 to 75	65
75 to 150	55
150 to 300	50
300 to 600	45
600 to 1200	40
1200 to 2400	40
Above 2400	35

If the noise is not smooth and continuous and is not radiated between the hours of 10 p.m. and 7 a.m. one or more of the corrections in Table II shall be applied to the octave band levels given in Table I.

Table II

<u>Type of Location of Operation or Character of Noise</u>	<u>Correction in Decibels*</u>
1. Daytime operation only	5
2. Noise source operates less than	
a. 20% of any one-hour period	5
b. 5% of any one-hour period	10
3. Impulsive (hammering, etc.)	(-)5
4. Noise of periodic character	(-)5
5. Property is located in any M-District and is not within 200 feet of any R-District	10

*Apply one of these corrections only

(6) Odors: Except for agricultural uses in the AG, RR, and S/R Districts, no activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside their premises. The guide for determining odor measurement and control shall be Chapter NR 154 of the Wisconsin Administrative Code and amendments thereto.

(7) Vibrations: No activity in any district except the M-1 and OME districts shall emit vibrations which are discernible without instruments outside its premises. No activity in the M-1 and OME districts shall emit vibrations which exceed the following displacement measured with a 3-component measuring system:

Frequency (Cycles Per Second)	Displacement (Inches)	
	Outside the Premises	Outside the District
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and over	.0002	.0001

(8) Soil Capability Regulations: In addition to any other applicable use, site, or sanitary regulation, the following restrictions or regulations shall apply to the following soils as shown on the Operational Soil Survey Maps prepared by the USDA Soil Conservation Service for Marathon County, Wisconsin and which are on file with the Zoning Administrator.

- A. Erodible Land Regulations: In addition to any other applicable use, site or sanitary regulation, the following soils listed below shall not be used for crop production and grazing unless such lands make use of conservation management practices as specified by said Soil Conservation Service Standards:
- B. Farm Drainage Systems: Such systems may be installed on the following soils, which soils are subject to a flooding hazard and which have generally unsuitable soil characteristics for an operative drainage systems, only if installed in accordance with sound conservation practices as set forth by the US Soil Conservation Service Standards:

Ad - Altdorf muck silt loam
CbA - Cable silt loam
Ch - Cathro muck
Da - Dancy sandy loam
Fh - Fordum silt loam
Gr - Greenwood peat
MfA - Marshfield silt loam
Mn - Minocqua sandy loam
Ne - Newson mucky loamy sand
Se - Seeleville muck
ShA - Sherry silt loam

(9) Water Quality Protection:

- A. Surface and Substandard Waters Protected: No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that would be likely to run off, seep, percolate or wash into surface or subsurface waters so as to contam-

inate, pollute or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color odor, taste, or unsightliness or be harmful to human, animal, plant or aquatic life.

- B. Minimum Standards: In addition to A. above, no activity shall discharge any liquid, gaseous or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in Chapter NR-102 of the Wisconsin Administrative Code and amendments thereto for all navigable waters in the Town.

- C. Animal Waste and Grazing Practices: Spreading of manure or fertilizer on frozen ground and establishment of concentrated outdoor animal confinements shall be prohibited where such activities would cause direct runoff into a drainageway or water course. In any case, grazing animals shall not be permitted within 50 feet of such waterways.

[The following space is left blank for possible future use.]

17.05 APPROVAL OF BUILDING, SITE AND OPERATIONAL PLANS

(1) Where Required: In the case of certain uses, the character of which could have substantial adverse impact on surrounding property enjoyment, values or upon public highway and other utility facilities by reason of the arrangement of structures and related uses on the land including the total appearance and function of said arrangement, or by the arrangement of access from public streets to off-street parking and loading facilities, such uses may be required as a qualifying condition to their permissibility to submit for approval by the Planning Commission their proposed Building, Site and Operational Plans.

(2) Use by Right Not Infringed: Such required approval shall be limited solely to reasonable compliance with design, locational and operational requirements and shall not, except in the case of Performance Standards as regulated in Section 17.04, involve the basic permissibility of the use where such use is permitted as a Use by Right.

(3) Criteria: In determining with the permit applicant the mutual acceptability of the building , site or operational plans, the Planning Commission shall take into consideration the following factors as well as any others they deem related:

A. Buildings: The general design and appearance of any structures in terms of generally accepted standards of good taste and particularly in terms of the functional relationship and grades to its own site and the effect upon adjacent and surrounding properties.

B. Site: The relationship of structures and uses to each other and to the site, with particular consideration of traffic flow, access, screening of parking and storage areas, site lighting, and general site appearance.

C. Operations: The character of the operation in terms of its impact upon traffic facilities, storm drainage, sewage disposal, potable water supply, hours of operations and environmental character with particular consideration of control of any possible noise, dust, odor or other undesirable operating characteristic,

including compliance with the Performance Standards of Section 17.04.

(4) Form of Submittal: Before issuing a Building or Zoning Permit, the Zoning Administrator shall submit the necessary building, site and operational plans to the Planning Commission for their consideration. Such plans shall be in reasonable detail to enable the Commission to properly evaluate them and shall specifically include the following:

- A. General building plans including either elevations, or perspective drawings, or photos, showing the planned exterior appearance.
- B. A site plan of the property accurately dimensioned showing the location of all existing and proposed structures and use areas, including existing and proposed grades as appropriate.
- C. A statement describing the basic operational characteristics of the proposed use. (Also see 17.04-3(2) for additional information the Commission may request.)

(5) Staged Approvals: With the concurrence of the permit applicant, the Planning Commission may grant its approval in stages so as to cause the least amount of delay to initial construction, such as by granting approval to the building location and grading plan in one stage and landscaping detail and lighting fixture brightness and glare control in a later stage, but in no case may the Commission and applicant agree to a delay for total approvals beyond the point where an Occupancy Permit is requested.

(6) Expedited Review: The Commission shall approach this duty and power in a manner intended to cause the least delay to the overall process of zoning permit issuance and development, while making its best effort to insure the public health, safety and welfare. Accordingly it shall:

- A. Publish its meeting schedule at least quarterly and the latest date it will accept materials for review at each meeting.

- B. Publish a checklist of the items to be reviewed under each of the major categories of Building, Site and Operations so that applicants may adequately prepare for Commission review.
- C. Delegate to Town Professional Staff the authority to conduct preliminary review of materials submitted to ascertain adequacy of submittal and likely conformance to Commission policies based upon previous actions of the Commission, so that both the applicant and the Commission are made aware of possible discrepancies.
- D. Delegate to Town Professional staff the power to accept on behalf of the Commission a corrected application that fulfills all conditions and agreements arrived at during the review meeting.

[The following space is left blank for possible future use.]

17.06 CONDITIONAL USES

17.06-1 INTRODUCTION

This Ordinance regulates most uses through zoning districts as authorized in ss.66.23(7)(b) Wis. Stats. wherein the regulations are uniform within each district for each class or kind of buildings and for the use of land throughout each district. However, as set forth in section 17.03-2(2)C. Uses Classified of this Ordinance, it is recognized that there are certain uses, therein called Conditional Uses and regulated in this Section, in most districts which cannot be properly classified as uses by right everywhere in that district, but which have to be given individual consideration in each case whether the use would be suitable at a specific location given the Town Plan, the specific site, and the neighboring land, and given the public need for the particular location.

17.06-2 APPROVAL REQUIRED

(1) Uses listed as permitted by conditional grant, or uses determined by the Planning Commission to be so similar to listed uses that the unlisted uses may within the spirit and intent of this Ordinance be classified by the Commission under Section 17.03-2 (3) Unclassified Uses as permissible by conditional grant in specific districts, may be permitted in the district in which listed or classified, upon petition to and approval by the Town Planning Commission, as authorized by ss.62.23 (7)(e)1., Wis.Stats., which power is hereby delegated to said Commission by the Town Board.

(2) Basis for Approval:

- A. Building, Site and Operational Plan Approval Supplanted: Processing of a Conditional Use Grant application under this section shall require applicant submittal and Commission evaluation of at least the same information as required by review and approval under Section 17.05 approval of Building Site and Operational Plans, and therefore separate processing under 17.05 shall not be required unless certain issues not critical to the permissibility of the Grant are treated for Staged Approval under 17.05 as permitted by section 17.05(5), in which

case the Grant shall be contingent upon satisfying fully said section 17.05.

- B. Compliance With Performance Standards: Processing of a Conditional Use Grant application shall particularly require applicant submittal and Commission evaluation of compliance with the Performance Standards set forth in section 17.04-5.
- C. District Regulations Modifiable: Processing of a Conditional Use grant application shall ordinarily be in accordance with the applicable numerical regulations (lot size, open space, setbacks, side and rear yards, height, etc.) of the district in which the use is being contemplated, however, the Commission in complying with this provision may vary such individual numerical requirements up or down as the spirit of this Ordinance requires. For example, the Commission may impose greater yard requirements for a large use going into a district with smaller buildings, or the Commission may waive the minimum building floor area for a utility substation structure.
- D. Standards: The principal criteria guiding the Planning Commission in reaching its decision in each case upon petition for conditional use grants shall be whether, in the Commission's opinion, implementation of the Town Plan will be advanced, and whether the spirit of this Ordinance will be upheld including those factors given in Section 17.06-1(1) INTRODUCTION above. More specifically, the Commission shall not approve an application and set conditions unless it shall first find:
 - 1. that the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
 - 2. that the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor noticeably diminish and

impair property values or esthetics within the neighborhood;

3. that the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

4. that adequate utilities, access roads, street access that does not impede public traffic flow, drainage, and other necessary facilities have been or are being provided.

17.06-3 PROCEDURE

(1) Petition: A request for Conditional Use Grant shall begin with a petition by an applicant capable of agreeing to and abiding by the conditions the Commission shall impose upon the use. If said applicant is other than the owner of the site upon which the grant is proposed, the applicant shall demonstrate that they have an interest in the land, such as a prospective lease or purchase agreement which is specifically enforceable should the applicant's petition be granted.

(2) Filing of Petition: The petition shall be filed with the Zoning Administrator who shall place it upon a Plan Commission agenda after first being assured by Town Professional Staff review that the application is complete and that it addresses concerns which the staff, on the basis of this Ordinance, finds the Commission will or should raise.

(3) Petition Content: The petition shall be accompanied with sufficient information to enable the Commission to fully accomplish the review and decision required of it by 17.06-2 (2) Basis of Approval, above. Accordingly the Commission shall require, as appropriate, the information normally required under Sections 17.05 Approval of Building, Site, and Operational Plans, as well as Section 17.04-5 Performance Standards. The Commission may establish administrative forms and applications to aid in the processing of such petitions, and may require therein any other pertinent information as it deems necessary to fulfill this Section.

(4) Hearing: Before concluding its findings and decision on each application, the Commission shall hold a public

hearing on the petition, following the same notice provisions contained in this Ordinance for petition to rezone a property.

- A. The Commission may have the draft conditions completed by the time of the hearing in order to gain public input thereto, or the Commission may hold the hearing before the formulation of draft conditions for purpose of gaining public suggestions thereon.
- B. Where the Commission holds a hearing prior to the drafting of conditions, or where the Commission in its judgment makes substantial revisions to the conditions as drafted and presented to public hearing, the Commission may, at its sole discretion, hold a second public hearing for the purpose of learning public opinion thereon.

(5) Determination: Following necessary staff and Commission review, investigation, public hearing, and discussion with the petitioner, the Commission as soon as practical shall render its decision in writing, and a copy made a permanent part of its records. Such decision shall include an accurate and complete description of the use as permitted, including all the conditions applicable thereto, or if disapproved, the principal reasons for disapproval.

(6) Determination Not Appealable: As provided for in ss.62.23(7)(e) Wis.Stats where the power to approve or deny conditional use grant applications as special exception uses may be assigned by Ordinance to the Planning Commission as set forth in 17.06-2 preceding, applications denied, or conditions approved under this Section, because of the close relationship intended by this Ordinance between the specificity of those conditions and the permissibility or impermissibility of the petitioned use under this section, shall not be appealable to the Zoning Board of Appeals as otherwise provided in Section 17.13 of this Ordinance.

(7) Administrative Review: Nothing in (6) preceding shall preclude the petitioner or an aggrieved party from seeking a review by the Planning Commission of the Commission's decision, where it is claimed an error in facts or in application of this Ordinance was made.

- A. Period for Review: Such review must be requested within 30 days from the date of the meeting where action on the petition was taken. If requested by an aggrieved party, mailed notice to the petitioner's address as found on the petition must be made by the party simultaneously with the review request to allow the petitioner the opportunity of avoiding expenses that might otherwise be incurred during the period until the review is completed. The petitioner may introduce at the rehearing evidence of unavoidable expenses incurred during the period between original action on the petition and the rehearing.
- B. Reaffirmed Decisions: Where the Commission reaffirms its original decision on the petition, no notices or public hearings are necessary.
- C. Reversed or Modified Decisions: Where the Commission is inclined to reverse or modify the original action taken on the petition, it shall first give notice to the same parties and in the same manner as the first public hearing to give opportunity for interested parties to be heard, with the fee for notice and hearing paid from the Commission's budget. Where the reversal or modification is to an approved grant, the Commission shall take into consideration whether its action would have an unfairly high financial impact upon original grant petitioners.

(8) Guarantees and Sureties: Among the conditions the Commission may set in approving an application for conditional use grant may include performance bonds, letters of credit, cash deposits, or similar financial sureties related to ensuring that certain conditions will be met, or that material or workmanship improvements covered by the conditions are guaranteed, as further authorized in Section 17.08(1) of this Ordinance.

(9) Mapping and Recording: When a conditional grant is approved, the Zoning Use and Occupancy Permits shall be appropriately noted and such grant shall be applicable solely to the structures, use and property as described. Indication of such a grant shall also be made on the Zoning Map by appropriate code number or symbol. An

official record of such grant shall be prepared by the Zoning Administrator on a form prescribed therefore, which shall include the description of the use for which the grant is given and all conditions thereto as well as a copy of the resolution approving the grant. A land covenant form provided by the Town shall be recorded at the County Register of Deeds as a covenant on the title of the premises involved, referring to the existence of the grant.

(10) Termination of Grants:

- A. Grants for Specific Time Periods: Where the applicant agrees, the Commission may set as one of the conditions that the use will only exist for a stated period of time or until described circumstances are fulfilled.
- B. Failure to Comply with Conditions: Where the use upon inspection by the Zoning Administrator and review by the Planning Commission is found to be in nonconformance with one or more of the significant conditions of the Grant, the provisions of 17.02-8 ENFORCEMENT AND VIOLATIONS shall be applied in order to gain compliance. Where nonconformance to conditions continues to occur, and the Commission determines that one or more of the noncompliance conditions are of an essential nature to the granting of the original application, the Commission may petition the Town Board for termination of the entire Grant or a portion thereof as the Commission shall nominate.
 1. Hearing: The Town Board shall hold a hearing on the commission's Petition for Termination as set forth in 17.06-3(4) above, giving the holder of the Grant ample opportunity to explain the circumstances related to the alleged non-compliance.
 2. Modification or Revocation: Where the Town Board agrees in whole or part with the Commission's petition, the Board may modify or revoke the original Grant of Conditional Use in whole or part, causing the recordation of the grant on the title of the property to be accordingly amended.

(11) Application to Existing Uses:

- A. A use which existed lawfully on a lot at the time said lot was placed in a district where such use would be permitted only as a conditional grant, may be granted conditional use status under the procedures herein.
- B. The grant of conditional use in such case shall be based upon the existing conditions at that time; however, the Planning Commission may require improvements in general building appearance, in proper storage of outside materials, in the provision of more satisfactory off-street parking, in the use of planting and fencing screens where necessary, and in operational matters relating to the control of noise, dust, odor, smoke and excessive glare or illumination of lighting, provided that such measures be within the reasonable economic capacities of such a use. Any expansion or change in use shall require changing of the conditional use grant.

(12) Expansion or Modification of Existing Conditional Use Grants: Petitions may be made at any time for expansion or other change of the conditional use grant and such petition shall not prejudice the existing grant as herein authorized.

[The following space is blank for possible future use.]

17.07 PLANNED DEVELOPMENT PROJECTS

17.07-1 INTRODUCTION AND PURPOSE

(1) Uniform and Individual Lot Regulations: This Ordinance is predicated upon regulating the land development and use maintenance process primarily on an individual lot or tract basis, with all lots in the same district being subject to regulations which are uniform throughout that district, as prescribed by ss.62.23(7)(b) Wis. Stats., in order to achieve the Purposes In View set forth in ss.62.23(7)(c) and in section 17.00-6 of this Ordinance.

(2) Diversified and Grouped Lot Regulations: However, as also provided for in said ss.62.23(7)(b), and for Traditional Neighborhood Developments and Conservation Subdivisions in ss.66.1027(3) with the consent of the land owners, there may be, and hereby is established, a special district in which the regulations need not be uniform throughout the district, so that there may be permitted development regulations which have the same Purposes In View as ss.62.23(7)(c) and section 17.00-6 of this Ordinance, but which seek to allow regulation on a project basis, possibly involving many lots or tracts or multiple structures, including possibly allowing more than one principal structure per lot, which regulations as set forth in said ss.62.23(7)(b) Wis. Stats., will tend to promote over time the maximum benefits of:

- A. coordinated area site planning
- B. diversified location of structures
- C. mixed compatible uses
- D. safe and efficient pedestrian and vehicle traffic system
- E. attractive recreation and landscaped open spaces and preservation of natural areas
- F. economic design and location of public and private utilities, and community facilities, insuring adequate standards for planning and construction.

17.07-2 DISTRICT ESTABLISHMENT

(1) OPD Overlay Planned Development District: The regulations of this Section shall operate in conjunction with the application to specific tracts of land of the

OPD Overlay Planned Development District as established in Sections 17.10 and 17.11 of this Ordinance.

(2) Minimum Area Required: In order to be regulated under this section, proposed project plans must be no less than the following minimum size:

<u>Proposed Principal Uses</u>	<u>Minimum Project Size</u>
Residential & Open Space Uses	100,000 square feet
Mixed Compatible Uses	200,000 square feet
Commercial or Industrial Uses	200,000 square feet

(3) Ownership Consent: As required by ss.62.23(7) (b) Wis. Stats. a proposed development at the time of application of the OPD Overlay Planned Development District shall require the consent of the owners to the regulations as shall apply to their individual tracts through the approved OPD district project plan.

17.07-3 USES PERMITTED

(1) Underlying District Uses: All uses as permitted by the underlying district or districts within the boundaries of the overlay OPD district may be permitted in the project plan approved as part of the OPD regulations as stated therein, subject to (4) below. Said plan may also provide for excluding uses that are otherwise permitted by the underlying districts, or for follow-up approval of Building Site and Operational Plans as provided for in Section 17.05 of this Ordinance.

(2) Other Uses Permitted: In addition to (1) preceding, any other use permitted by this Ordinance may be permitted as part of the project plan approved as part of the OPD regulations, consistent with the approval criteria set forth in 17.07-5 hereunder.

(3) Individual Uses and Structures need not necessarily comply with the specific building location, height, building size, floor area ratio, lot size or open space requirements of the underlying district, provided that benefits as set forth in ss.66.23(7) (b) Wis. Stats. and 17.07-1(2) of this section justify deviation from said requirements.

(4) Conditional Use Processing: Uses permitted in an underlying district or elsewhere in the Ordinance by Conditional Use Grant, if not permitted by right in one of the underlying districts, shall only be permitted through the OPD regulations as a Conditional Use. The petition, application materials, and hearing for said Conditional Uses may be part of the OPD process to avoid dual processing, unless the OPD plan specifically determines that the Conditional Uses are to be separately evaluated and processed.

17.07-4 PROCEDURE

(1) Pre-Petition Conference: Prior to official submittal of a petition, the petitioner shall meet with the Planning Commission for a preliminary discussion as to the scope and proposed nature of the contemplated development, especially as relates to the petitioner's intentions to submit a General or Detailed application.

(2) Petition: Following the pre-petition conference, petition may be made to the Zoning Administrator by the owners or agents of properties proposed for such development, to amend the zoning map by the overlaying of an OPD District in order to permit the application of the provisions of this section to such development. Such petition shall be accompanied by a fee as required in Section 17.02-6, and the following information provided in appropriate detail as to the type of approval, (General or Detailed), desired. (See Determination in Section 17.07-6).

A. A Statement describing the general character of the intended development and the desirability of applying the requirements of this section and the OPD district rather than those ordinarily applicable through basic underlying zoning. This statement should at least include:

1. Statistical data on total size of the project area, area of open space, residential density computation and proposed number of dwelling units, population analysis, market analysis, economic analysis, impact upon municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.

2. A Financial Factors general summary including the value of structures, estimated improvement costs, amount proposed for landscaping and special features, estimated sale or rental prices, and total anticipated development cost of the project.
 3. Organizational and Service Structure general outline related to intended property owner's association, deed restrictions, and provision of private services.
- B. A General Development Plan and related maps and plans including descriptive statements of objectives, principles and standards used on its formulation of the project showing at least the following information as may be required by the Planning Commission and Town Board to apply the criteria for approval as hereinafter set forth:
1. An accurate map of the project area including its relationship to surrounding properties.
 2. The pattern of public and private roads, driveways, and parking facilities and intended design standards.
 3. The size, arrangement and location of lots or of proposed building groups.
 4. The location of recreational and natural open space areas and areas reserved or dedicated for public uses such as school, park, nature preserve, etc.
 5. The type, size and location of structures.
 6. General landscape treatment.
 7. Architectural drawings and sketches or photos of similar developments illustrating the design and character of proposed structures.
 8. The location of present and proposed sanitary sewer and other utility facilities if necessary to an evaluation of the project plan.

9. Existing topography and storm drainage pattern and proposed storm drainage system showing basic topography changes, if deemed necessary for project evaluation.

(3) Referral to Planning Commission: Such petition shall be referred to the Planning Commission and processed as a zoning change. Upon completion of necessary study and investigation, the Planning Commission shall make its recommendation to the Town Board as to the appropriateness and desirability of the application of the OPD District as relates to the suitability of the building, site and development plans and any additional conditions which the Commission may feel necessary or appropriate.

(4) Public Hearing: The Planning Commission, before taking affirmative action to approve such petition, shall hold a public hearing pursuant to statutory provisions for zoning amendments. Notice for such hearing shall include reference to the consideration of the proposed project development plans coincident with the requested zoning change to OPD.

17.07-5 BASIS FOR APPROVAL

The Planning Commission, in making its recommendations, and the Town Board, in making its determination, shall give consideration and satisfy themselves as to the following:

(1) Construction Schedule: That the proponents of the proposed development have demonstrated that they intend to start construction within a reasonable period following the approval of the project and requested overlay of the OPD District, and that the development will be carried out according to a reasonable construction schedule satisfactory to the Town.

(2) Adequate Professional Assistance: That the project plan has been prepared with adequate professional assistance, especially as relates to justifying deviation from standards as set forth in the underlying basic zoning districts or from other development standards such as for streets and utilities, and to achieving (3) and (4) below.

(3) Conformity to Town Plan: That the project plan serves to implement the spirit and intent of the Town

Plan, especially as relates to preservation of conservation areas and creation of common open spaces, and to creation of a more diversified and interesting use pattern than might otherwise result from application of underlying zoning patterns.

(4) Achievement of Purposes and Benefits: That the project plan achieves the Purposes In View for zoning as set forth in ss.62.23(7)(c) Wis. Stats. and Section 17.00-6 of this Ordinance, as well as the Benefits of Planned Development projects as set forth in ss.62.23(7)(b) Wis. Stats and Section 17.07-1(2) of this Ordinance.

(5) Preservation and Care of Open Space:

- A. That the resultant common open space is suitable for its use as relates to location, access, size and shape, proposed degree of improvement for recreational use, or proposed degree of protection from damage if a natural area;
- B. That adequate guarantee for retention of proposed private open spaces in their proposed uses and against building or other development (except as consistent with the open space objective) shall be accomplished by conveying to the municipality as part of the conditions of approval, a land covenant to be approved by the Planning Commission and recorded at the County Register of Deeds office restricting the area as herein required;
- C. That in the case of a private open space proposal, the care and maintenance of such open space shall be insured either by establishment of an appropriate management organization or property owner's association for the project, or by agreement with the municipality for establishment of a special service district for the project area on the basis of which the municipality shall provide the necessary maintenance service and levy the cost thereof as a special assessment on the tax bills of properties within the project area. In any case, the Town shall have the right to carry out and levy an assessment for the cost of any maintenance that it

feels necessary if it is not otherwise taken care of to the satisfaction of the Town.

- D. That ownership and tax liability of private open space areas shall be established in a manner acceptable to the municipality, and made a part of the conditions of the plan approval.
- E. That adequate financial guarantee that such common open space will be developed or protected as proposed is made by the owners or developers in the form of bonds, sureties, or letters of credit acceptable to the Town pursuant to the procedures used in the building and platting of public streets.

(6) Proposed Residential Developments:

- A. That such development will create an attractive residential environment of sustained desirability and economic stability, including placement of structures in relation to terrain and soils, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the neighborhood.
- B. That the total average allowable residential density of the project has been computed according to the following:
 - 1. Measurable Area: That portion of the underlying basic zoning which is a residential or commercial district, excluding existing street rights of way or open space easements.
 - 2. Average of Varying Districts: Where the underlying zoning consists of more than one density of residential use, each separate density district shall be measured according to the schedule in 4. below, and the total of such measurements shall constitute the total allowable residential dwelling units, with the average per acre of that total constituting the allowable average density for computations where less than the total is proposed.

3. Wetlands and Floodplains: Where the project ownership contains wetland zoning, the total allowable density may be increased by the percentage which such zoning is of the total measurable project area, up to a maximum of 40%. Where floodplain zoning is present, there shall be available sufficient land outside of the flood zone that 60% of the project area is not subject to flooding.

4. Density Schedule:

<u>Underlying Basic District</u>	<u>Density Percentage Factor</u>	<u>Sq.Ft of Land Per Dwelling</u>
AG	100%	870,000
RR	95%***	120,000***
S/R	90%	40,000***
R-E	85%	20,000*
R-1	80%	15,000*
R-2	80%	12,000*
R-1D	80%	7,500*
R-3 (sewered)	100%	3,600*
R-4 "	100%	3,000**
B-1 "	100%	2,700**
B-2 "	100%	2,700**
B-3 "	100%	2,700**
B-4 "	100%	2,700**
B/P "	100%	2,700**

*Double if community sewer not available.

**May be reduced to 2,000 if underground parking provided.

***Use R-E schedule if sewer available.

5. Density Increase Permitted: That an increase in the allowable maximum density not to exceed 10%, may be permitted upon recommendation of the Planning Commission, that the increased density is justified in terms of the relationship to open areas, service demand and the total quality and character of the project.

C. That the population composition of the development will not result in adverse effect from that anticipated in the Town Plan upon the community's capacity to provide needed school or other municipal service facilities.

- D. That adequate guarantee is provided for permanent retention as "open area" of open land area resulting from the application of these regulations either by dedication to the public or by private reservation as regulated by Section 17.07-5(5) preceding.

(7) Proposed Commercial Developments:

- A. That the economic practicality of the proposed development can be justified on the basis of purchasing potential, competitive relationship, and demonstrated tenant interest.
- B. That the proposed development will be adequately served by off-street parking and truck service facilities.
- C. That the locations for entrances and exits have been designed to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect on the general traffic pattern of the area.
- D. That the architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the aesthetics, enjoyment or property values of the surrounding neighborhood.

(8) Proposed Industrial Developments:

- A. That the operational character, physical plant arrangement and architectural design of buildings will be compatible with the latest in performance standards and industrial development design and will not result in adverse effect upon the property values of the surrounding neighborhood.
- B. That the proposed development will have adequate provision for off-street parking and truck service areas and will be adequately served by rail or highway facilities.

- C. That proposed development is properly related to the total transportation system of the community and will not result in adverse effect on the safety and efficiency of the public streets.

(9) Proposed Mixed Use Developments:

- A. That the proposed mixture of uses produces a unified composite which is compatible within itself and which, as a total development entity, is compatible with the surrounding neighborhood and consistent with the general objectives of the Town Plan.
- B. That the various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use character.
- C. That allowable maximum residential density shall be computed in the same manner as provided for in (6) Proposed Residential Development, above.

17.07-6 DETERMINATION

(1) Denial or Approval: The Town Board after due consideration, upon recommendation of the Planning Commission, may deny or approve the petition as submitted or approve the petition subject to changes or additional conditions. Petitions that are approved become final only after application of the OPD District as provided for in Section 17.14, Changes and Amendments.

(2) Representations and Conditions Incorporated: The General or Detailed Approval of a petition and consequent amending of the Zoning Map by overlay of the OPD district shall be based upon, and thereby incorporate, all the representations contained in the petition and its accompanying written and other exhibits offered by the petitioner, as modified by the Town as part of the review and approval process.

- A. General Approval: Plans submitted for such an approval need not necessarily be completely detailed at the time of Overlay zoning, provided they are of sufficient detail to satisfy the Planning Commission and Town Board as to the general character, scope and appearance of the proposed development. Such preliminary plan

shall at least designate the pattern of proposed streets, and size and arrangement of lots as in the preliminary platting process which may also be involved, the basic pattern of land use, with an illustration of a "typical" example of the development proposed. The approval of approval of such preliminary plan shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as the development progresses, so that all detailed approvals are complete before an Occupancy Certificate is required.

- B. Detailed Approval: Plans submitted for detailed approval shall be sufficiently complete that the factors normally associated with issuance of a Zoning Permit under this Ordinance, such as a developer's agreement or approval of a property division under the Subdivision Ordinance, are presented. Without prejudice because of enumeration, this can include information related to section 17.05 Approval of Building, Site, and Operational Plans; to section 17.06 Conditional Uses; to section 17.04 Performance Standards; and to preliminary or final plats under the Subdivision Ordinance.

(3) Subsequent Changes: Proposed changes to approved project plans, judged insubstantial by the Planning Commission, may be approved by the Commission and added to the project file. Proposed changes which the Commission judges to be substantial shall require approval by the Town Board, after review and recommendation by the Commission and after Public Hearing as set forth in 17.07-4(4) preceding.

(4) Project Terminations: Approved Planned Development Projects including those which have begun development under the terms of the approved project plan, may be modified so as to terminate all or some of the special conditions approved under the plan, in order to return to basic underlying zoning regulations for all or some of the developed or undeveloped portions of the project area.

- A. Petition: Where the original project petitioner or their successors are able to initiate a petition, they may file a petition seeking

project plan termination, suggesting how areas already developed under the project plan may be made conforming to underlying zoning regulations, or how those areas might remain under a reduced area project plan. Where said original petitioners are no longer able to file such a petition, the Planning Commission may act as a petition filer.

- B. Hearing and Recommendations: When a petition is filed to terminate a project plan in whole or part, the Commission shall hold an informational hearing, notifying all affected parties, so that the Commission may learn what form of project plan termination would best serve the interests of all affected parties. The Commission shall then recommend to the Town Board such project plan modifications or termination as it deems appropriate. The Town Board shall treat said recommendation as a zoning petition, and hold the necessary hearing before acting.

- C. Determination: In the manner set forth in 17.01-6 preceding the Town Board shall act upon the petition. The project file and Zoning Map shall be appropriately modified with the changes adopted by the Board, and as necessary, any land covenants, plats or other recorded documents amended as required to conform with the revised regulations, with the costs apportioned as directed by the Board.

[The following space is left blank for future use.]

17.08 OFF-STREET PARKING AND LOADING

17.08-1 OFF-STREET FACILITIES REQUIRED

In all districts and in connection with every use as hereinafter specified or otherwise required, there shall be provided space for motor vehicle parking and loading in amounts specified herein, which space shall normally be on the same premises as the use being served and be reasonably close thereto, be intended to serve the residents, patrons, employees or operations of said use, and be demonstrably accessible and usable for such purposes.

(1) Application to Existing Uses: Uses existing at the time of adoption of this Ordinance which do not have the required amount of parking or loading facilities, shall not further reduce said facility space, and no expansion of the use which generates additional parking or loading demand shall be permitted unless space proportional to such additional demand is provided as part of the expansion.

(2) Application to Change of Use: Whenever the existing use of a premises shall hereafter be changed to a use having greater parking or loading needs, no Zoning Permit shall be issued unless the applicant is providing space to meet the increased demand, or for existing uses that are non-conforming to this Section, is providing a portion of that increased demand as required in (1) above.

(3) Uses Not Enumerated: In the case of uses not specifically listed herein, the provisions for uses which are similar, as determined by the Planning Commission, shall apply.

(4) Off-Premises Parking: In cases where the Planning Commission permits off-premises parking or loading facilities, the land on which the facilities are provided shall be in the same possession as the use being served, which possession may either be by deed, or by long-term lease for the duration of the use.

(5) Combinations of Uses: Parking and Loading Facilities shall normally be determined separately for each use occupying a single premises and then totaled to arrive at the facilities required, but upon application, where the Planning Commission finds that peaks of use do

not coincide, shared loading and parking facilities may be approved which are less than said total, as long as the Commission is satisfied that adequate service will be rendered and that public facilities such as nearby streets will not be impacted.

(6) Computation: Requirements based upon ratios which produce fractional results shall be rounded down if less than 1/2 space and rounded up if more than 1/2 space, to the nearest whole space. Requirements computed upon employee count shall be based upon the maximum number present at any one time.

17.08-2 PARKING SPACES REQUIRED

(1) Size of Parking Spaces: The following schedule of required parking spaces refers to passenger car automobiles. (For trucks, see 17.08-3 following). Motorcycle, moped and bicycle spaces may be substituted with permission of the Planning Commission. To qualify as meeting the schedule, spaces provided for passenger cars must be at least 9 feet wide and 19 feet long exclusive of access aisles, with no less than 7 feet of floor to ceiling clearance when enclosed in a structure. Access aisles shall be no less than 12 feet wide for parallel parking spaces, 15 feet wide for one way 45 degree angled parking spaces, 18 feet wide for one way 60 degree angled spaces, and 24 feet wide for two way 90 degree angled spaces.

(2) **Schedule of Required Car Parking By Use:**

SPECIFIC USES OR CLASS OF USES	OFF-STREET PARKING REQUIREMENT
Single Family Detached Residence including Mobile Home	2 spaces per dwelling unit
Elderly Housing	1 space per 2 dwellings plus 1 guest space every 4 units
All Other Residential Uses (Two Family, Town House, Multiple Family)	2 spaces per dwelling unit plus 1 guest space each 4 units

(2) Schedule of Required Car Parking By Use: (continued)

SPECIFIC USE OR CLASS OF USE	OFF-STREET PARKING REQUIREMENT
Public Assembly Facilities Providing for Seated Audiences (Churches, Theaters, Auditoriums, etc.)	1 space per 5 seats
Funeral Homes	1 space per 4 seats
Hotels, Motels, Tourist Homes	1 space per rental unit plus 1 space per 3 employees
Rooming Houses, Boarding Houses, Dormitories, Clubs with Sleeping Rooms	1 space per 4 beds
Elementary and Secondary Schools	2 spaces per classroom or auditorium requirement, whichever is greater
Colleges, Universities Vocational or Other Adult Schools	1 space per 3 students of maximum peak hr. capacity
Hospitals	1 space per 3 beds plus 1 space per 2 employees
Nursing, Convalescent, rest and Old Age Homes	1 space per 5 beds plus 1 space per 2 employees
Clinics, Medical & Dental	Medical: 5 per doctor Dental: 3 per doctor
Industrial Uses	2 spaces per 3 employees
Office Buildings and Office Portions of Other Uses	1 space per 250 sq. ft. Primary Floor Area (PFA)
Retail Stores, Shopping Centers	1 space per 150 sf. (PFA)

(2) Schedule of Required Car Parking By Use: (continued)

SPECIFIC USE OR CLASS OF USE	OFF-STREET PARKING REQUIREMENT
Customer Service Establishments (Financial Institutions, Barber-Beauty Shops, Appliance Repair, etc.)	1 space per 200 sf. of Primary Floor Area (PFA)
Restaurants, Taverns, Supper Clubs and Bars	Greater of 1 space per 100 sf. of (PFA) or 1 space per 3 seats
Commercial Recreation: Indoor (Other than Theaters)	1 space per 150 sf. (PFA)
Theatres (motion picture, live performance)	2 spaces per 5 seats
Outdoor Recreation: (Golf Courses) (Driving Ranges, Campgrounds, etc.)	50 spaces per 9 holes See Section 17.08-1(3)
(Outdoor Movie Theaters)	Reservoir Lane 10% of Viewing Spaces
Drive-Thru Facilities (Restaurants, Financial Institutions, Car Washes)	Add Reservoir capacity of 4 vehicles per service lane, teller window, etc. (Except single door car washes add 10 per lane)

(3) Modification Procedure: The preceding schedule of minimum number of off-street parking spaces required is based upon contemporary experience observed within or near the jurisdiction of this Ordinance or upon professional studies such as those published by property management, community planning, or traffic engineering societies. In applications for a Zoning Permit where it is alleged by the applicant or an affected party that the preceding standards, or a classification by the Planning Commission under 17.08-1(3) above, are sub-

stantially in error, requiring either too little or too much space, a request may be filed with the Commission seeking application of a differing standard. The Commission in granting or denying the differing standard shall give great weight to any professionally prepared data that is submitted for consideration.

17.08-3 LOADING SPACES REQUIRED

(1) Uses Affected: In any commercial or industrial district, and where required by the Planning Commission of institutional uses, off-street truck loading and unloading space shall be provided in addition to the passenger car spaces required in 17.08-2 preceding.

(2) Street Servicing Prohibited: For the above uses, the arrangement of the loading space shall not require parking upon the public street, nor backing of the trucks onto or off of the public street.

(3) Size of Loading Space: For trucks considered of "in-city" size such as panel trucks and vans, the space provided shall be not less than 10 feet wide and 25 feet long, and may be marked within a parking lot aisle if no other parking spaces are blocked thereby. For trucks considered suitable for "inter-city" transport, the space provided shall be no less than 10 feet wide and 55 feet long, with an overhead clearance of not less than 15 feet. For uses containing more than 3,000 sq. ft. of floor area the space marked shall normally be separate from any parking lot aisle or parking spaces unless delivery or pickup activities are scheduled for hours when the lot is not in use.

(4) Determination of Need: The exact need and suitability of the space provided shall be determined by the Planning Commission in connection with their review of Building, Site and Operational Plans as set forth in Section 17.05 of this Ordinance, however, as a general guideline, the applicant and the Commission shall consider the following:

- A. Commercial Uses: One 10x25 feet space for each 3,000 sq.ft. of floor space or fraction thereof.
- B. Commercial, Industrial and Wholesale, one 10x50 feet space for each 10,000 sq.ft. of floor space or fraction thereof.

- C. Queuing Space: For uses such as schools, stadiums, public assembly halls, bus or truck terminals, where school or other buses or trucks may be expected to wait for the opportunity to load or unload, the site plan approved by the Commission shall take into account necessary queuing space.

17.08-4 DRIVEWAYS AND HIGHWAY ACCESS

(1) Need to Regulate: It is hereby determined that the number, placement and design of motor vehicle driveways connecting private property to public highways can so greatly affect the safety and capacity of arterial public streets and their intersections, that it is necessary to regulate driveway connections to all public streets, including points of lateral access near the public street on private driveways or lanes that are connected to the street.

(2) Driveway Widths: Access drives to and from off-street parking shall not be less than 10 feet wide for single and two family residences nor less than 24 feet wide for all other uses, measured at the curb, or if none, at the street property line. Drives shall not exceed 35 feet at the curb line and 30 feet at the property line except in special circumstances such as boulevard accesses if approved by the Planning Commission, and with permission of the street right of way authority if other than the Town.

(3) Driveway Design and Location: In administering this section the Zoning Administrator in issuing Zoning Permits and the Planning Commission in conducting reviews and approvals of Building, Site and Operational Plans under Section 17.05 of this Ordinance shall be guided by these principles:

- A. Generally separate driveways from each other as much as possible.
- B. Minimize the number of driveways (such as by C. following).
- C. Adjacent commercial uses to share driveways and otherwise interconnect their parking and service lots to allow customer or delivery truck flow with less street use.

- D. Driveways to be kept away from intersections, but lined up with median openings in divided highways.
- E. Driveways to be well defined by curbing, landscaping, lighting, and signage.
- F. Lateral access (turning movements) to the drive or lanes on private property near the street to be designed or restricted to prevent improper traffic flow, such as the formation of queues of traffic onto the street.
- G. Reservoirs for queues of traffic on private property to be located to prevent interference with traffic entering or leaving the use.
- H. Separation of passenger car traffic from truck traffic.

(4) High Traffic Volume Uses: Driveways to certain high peak volume uses such as (without prejudice for lack of enumeration) motion picture theatres, financial institutions, car washes, drive-thru restaurants, motor fuel stations, sports facility parking lots, public assembly halls, shopping centers, and industries at shift change time, shall be given special scrutiny by the Planning Commission that the principles of (3) preceding have been fully applied.

17.08-5 PARKING LOT REQUIREMENTS

(1) Location and Paving:

- A. Single and two family residence parking shall be on the driveway, garage apron, or similar all-weather paved surface directly adjacent to the driveway, and not on the lawn or other landscaped open space not designed for parking, except that if otherwise permitted, one boat or recreational vehicle may be parked in a side or rear yard space.
- B. All other use parking shall be on all-weather paved parking lots, which lots are set back from property lines, except where they are interconnected across property lines, to allow space for

landscaped areas and screening made up of fences, landscaping, or combinations thereof.

- C. Paving shall normally consist of concrete, asphalt, or paver brick, which surfaces shall be maintained to keep them from deterioration which affects drainage flow or generates dust. The paving of new lots may be delayed for up to two winter seasons to allow for settlement of underlying soil and aggregate materials, if approved by the Planning Commission.
- D. Landscaped Areas around parking lots and along residential drives measured to the property line shall be no less in width than the smallest side or rear yard space required by the zoning district for accessory structures, but in no case less than 5 feet. For the purposes of this regulation, perimeter driveways, and queuing or service lanes shall be considered parking lots and subject to providing a landscaped area, and screening as set forth in (2) following.

(2) Screening: Within the landscape area defined by D. preceding for all uses other than single and two family residence drives, but including such residences in the yard where a boat or recreational vehicle is legally parked, there shall be provided continuous screening to a height of no less than 3 feet (unless restricted to 2-1/2 feet in vision corners by Section 17.03-4(2)(F.) which screening shall consist primarily of landscaping such as hedges, shrubs, mounded flower beds, and trees, but may also include fences in combination with landscaping.

A. Outdoor Product Display: Uses which utilize outdoor display of products sold on the premises such as auto sales, shall not be exempt from this requirement, but the Planning Commission may along the street property line permit groupings of the screening to allow for corridors of less obstructed view of the product.

(3) Control of Lighting: Lighting established for the purpose of illuminating off-street parking and loading lots and areas shall utilize lighting fixtures whose hood, lens or combination thereof allow no direct beams of light from the fixture to be seen from off the property.

17.08-6 PRIVATE RESIDENTIAL PARKING

(1) Occupant and Guest Parking: Open parking of cars accessory to a residence use shall be limited to those actually used by the residents, or for temporary parking of guests, except as provided in B. below. Inoperable or unlicensed motor vehicles may not be kept on a residential lot unless parked in a garage.

(2) Garages accessory to a residence in a non-agricultural district shall conform to the following:

- A. No more than one private detached garage structure shall be permitted on a lot in addition to one attached garage.
- B. Vehicular storage space for not more than one vehicle may be rented to persons not resident on the lot, such space being defined as not more than 300 square feet, except that a maximum of two rental spaces may be permitted where they are the only spaces provided on said lot.
- C. No private garage in a residence district shall be used for the carrying on of any general warehousing, metal working, woodworking, masonry carpentry, contracting or repair business except as a permitted accessory use for a home occupation or approved residential business.
- D. No detached private garage shall have a floor greater than 60% of the floor area of the principal building on the lot.
- E. No detached private garage shall be erected, structurally altered, or relocated so that any roofed portion thereof is closer than 10 feet to the principal building on the lot.
- F. No private attached garage, in a residence district, shall have a floor area providing for more than three parking spaces, except that the Planning Commission, upon review of building and site plans, may permit a larger garage where the garage would not appear to dominate the residence or otherwise detract from the basic residential character.

17.08-7 PARKING OF TRUCKS, TRAILERS AND EQUIPMENT

(1) Commercial and Recreational Parking Regulated: No truck, semi-tractor truck or trailer, house trailer, camp trailer, or vehicular equipment including boats of a commercial or recreational nature, shall be parked outdoors or regularly on a lot in any district except where permitted as a use in commercial, industrial or agricultural districts unless:

A. The vehicle or equipment is less than 30 feet in length, is not a semi-tractor truck, and is owned or used by occupants on the premises, except for habitation on the premises as prohibited in this ordinance.

B. The vehicle or equipment in residential districts is parked only in the side yard or rear yard and if parked in the required side or rear yard shall be screened under 17.08-5(2) above.

[The following space is left blank for future use.]

17.09 SIGNS

17.09-1 USE RESTRICTED

In any district, no signs shall be permitted except as specified in that district, or as otherwise regulated in this Section. All signs shall also meet all the structural requirements of local and state building codes.

17.09-2 PERMIT REQUIRED AND SIGNS CLASSIFIED

(1) Zoning Permit for Signs: No sign shall hereafter be located, erected, moved, reconstructed, relettered, enlarged, extended, converted or structurally altered without a Zoning Permit for Signs except those signs specifically exempted in Section 17.09-5.

(2) Classifications:

- A. Flat Wall Signs are signs painted on buildings and all other signs, the back of which are attached to the facade of a building and where no part of the structure of the sign extends more than 12 inches out from the facade as measured near the points of sign attachment to the building.
- B. Projecting Signs which are attached to a building, portions of which extend out beyond 12 inches from the point of attachment, typically having 2 or more viewable sides, but for purposes of this ordinance, only 1 side need be counted as a side for measuring its allowable area and the sign count; Signs printed on or affixed to awnings and canopies shall also be considered projecting signs.
- C. Free Standing (Pylon Type) Signs which have their own base of support from the ground, extending more than 6 feet in height from the ground, and are not attached to a building.
- D. Ground Signs are free-standing signs not extending more than 6 feet in height.
- E. Murals or other artwork judged by the Planning Commission, on referral by the Zoning Adminis-

trator, not to be signs, shall be exempt from this Section.

17.09-3 SIGNS PROHIBITED

(1) Hazards or Nuisances: No sign which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining property in the following ways shall be permitted in any district:

- A. No sign shall be placed so as to obstruct or interfere with traffic visibility nor in such a way as to cause glare or impair driver visibility upon public ways. (See also 17.03-4(2)E.)
- B. Signs shall not rotate nor have, or be illuminated by, moving or flashing lights, (except electronic controlled intermittent lamps that form the message for time, temperature and for similar information are permitted subject to approval by the Planning Commission under section 17.05). Signs shall not resemble, imitate nor approximate the shape, size, form or color of railroad or traffic signs, signals, or devices, nor obstruct or interfere with the effectiveness of said devices.
- C. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape.

(2) Non-Accessory Signs: No sign not directly related to the use of the premises on which it is located, except directional or political signs as herein provided, shall be permitted in any district. Signs showing time, temperature and similar information not related to the premises are permitted, but must be counted as part of the allowable sign area.

(3) Roof Signs: Which are defined as signs whose lowest point is visually separate from and above the highest point of the roof, shall be prohibited. Signs on the face of mansard or gable roofs shall be considered wall signs.

(4) Abandoned Signs: Such business signs that advertise an activity, business product, or service no longer conducted or available on the premises on which the sign is located, shall be prohibited.

(5) Parking of Advertising Vehicles Prohibited: No person shall park any vehicle or trailer on a public right-of-way or public property or on private property so as to be visible from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or other premises. This Section is not intended to prohibit any form of vehicular signage attached or lettered upon a motor vehicle to identify the ownership or function of that vehicle.

17.09-4 NON-CONFORMING SIGNS TO BE REMOVED

(1) The existing lawful use of a sign at the time of the enactment of this ordinance or any amendment thereto may be continued as a legal non-conforming use under the terms of Section 17.12 except as follows:

- A. Abandoned Non-Accessory Signs: Upon failure of the sign or property owners to remove said signs, the Zoning Administrator shall, following 60 days written notice to either owner, cause the sign to be removed and the expense therefor billed to the owner of the sign.
- B. Free-Standing Signs, Non-Conforming as to location, after a 5 year period from the date of adoption of this ordinance, shall be either moved to conform to the locational requirements of the district in which located, or be removed by the owner or by the Zoning Administrator, as prescribed in (A) preceding.
- C. Change of Use: When a business or other use changes, requiring a new sign message, the sign shall be brought into conformity with the terms of this Ordinance, including the issuance of a sign zoning permit therefore.

17.09-5 SIGNS EXEMPTED

The following signs may be erected and maintained without a Zoning Permit for signs, providing they do not constitute a hazard or nuisance:

(1) Temporary Political Posters and Signs: provided they are not placed on public property and are not displayed before six months of the date for election to a national or state legislative or judicial office nor before the date of circulating nomination papers for a school, municipal or other local elected office, nor more than 3 months before a referendum, and are removed within 21 days after the election. Such signs shall be erected only on private property.

(2) Operational Signs: Signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to functional operation of the building or premises including "no trespassing signs" etc., shall be permitted without limitation other than reasonable size and necessity, as determined by the Planning Commission upon complaint.

(3) Real Estate Signs advertising the sale or lease of the premises on which the sign is located, provided in residential districts, they are limited to 9 square feet and one sign per street frontage, and in all other districts are limited to 32 square feet. Permanent rental signs such as for apartments, shall be limited to 12 square feet.

(4) Public Agency Signs: Erected by national, state, county or municipal governmental agencies, including traffic and informational signs.

(5) Residential Nameplates identifying owners or occupants, provided not more than 1 is erected per dwelling unit, each being less than 2 square feet in area and without illumination. Home occupation signs shall be counted in this numerical and size limitation.

(6) Agricultural Product Sale Signs when limited to one sign per highway frontage, not exceeding 20 square feet in area, and related to the agricultural premises on which it is installed.

(7) Interior and Inside Window Signs: Signs installed inside a building whether intended for viewing from inside or outside the building are permitted without limitation as to size or number.

(8) Price or Temporary Item Signs which advertise the price of products or services offered on the premises or of special temporary goods or services being sold or offered, are permitted up to 12 square feet in area for each sign, provided the signs are not illuminated and no more than 4 signs are erected on a property, and are no closer than 5 feet to the property lines.

(9) Signs for Non-Conforming Uses provided said signs are located over the show windows or doors and announce without display or elaboration only the name of the business and the type of business, and do not exceed 20 square feet in area.

(10) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface, or when constructed of metal and affixed flat against the building.

(11) Construction Signs: One construction sign per construction project not exceeding 32 square feet in sign area, provided that such signs shall be erected no more than five days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed 5 days after completion of construction and prior to occupancy.

(12) Flags: The flags, emblems or insignia of any nation or subdivision or corporate flag. Pennants, banners or streamers not qualifying as such flags are prohibited except as permitted holiday decorations.

(13) Holiday Decorations: Signs of a primarily decorative nature, clearly incidental and customary and commonly associated with any national, local or religious holiday; provided that such signs shall be displayed for a period of not more than 60 consecutive days.

17.09-6 TEMPORARY SIGNS

(1) New Development: A sign for the purpose of designating a new building or development, or for promotion of

a subdivision, may be permitted for a limited period of time in any district with the approval of the Planning Commission and subject to the following:

A. Drawings showing the specific design, appearance and location of the sign shall be submitted to the Planning Commission for approval.

B. The permitted size of any such sign shall be at the discretion of the Planning Commission based upon the character of the area, type and purpose of the sign and the length of time permitted, provided the setback and side yard requirements shall be as specified for the district.

C. Such sign may be permitted for a period up to one year, and an extension may be permitted for up to one more year.

(2) Special Event: A sign for the purpose of announcing a special event, or for a similar special informational purpose, may be permitted for a maximum of 30 days at a time and not more frequently than 3 times per year nor more than once every 90 days for any one applicant, in any district with the approval of the Planning Commission and subject to the following:

A. Drawings and specifications showing the specific design, physical and electrical installation plan, appearance and location of the sign shall be submitted to the Planning Commission for approval.

B. The permitted size of any such sign shall be discretionary with the Planning Commission based upon the character of the area, type and purpose of the sign and length of time permitted, providing setback and side yard requirements shall be as specified for the district and vision corners are preserved pursuant to 17.03-4(4)2E. of this Ordinance.

C. Where the sign is to contain electrical service, it shall contain a recognized testing laboratory label such as the Underwriters Laboratory, Inc. (UL), a ground fault interrupter device (GFI), and meet applicable provisions of the Town electrical code, including the issuance of an electrical permit therefore. Installations

exposed to wind damage shall be made secure up to wind speeds as enumerated in the building code for such similar structures as aerial masts.

17.09-7 DIRECTIONAL SIGNS

(1) All Districts: A sign not to exceed 6 square feet in area indicating direction to a church, hospital, school or other public service building may be permitted in any district.

(2) Number Restricted: Not more than 4 such signs may be erected within the Town for any single organization.

17.09-8 QUASI-PUBLIC INFORMATIONAL SIGNS

Non-commercial signs of a general information nature such as community welcome, safety warning, or a similar nature not to exceed 12 square feet in area may be erected by service clubs or other non-profit organizations upon approval of the Planning Commission of the location, size and appearance of such sign. Such signs not to exceed 48 square feet in area may be permitted where several clubs or organizations are represented on the same sign.

17.09-9 SIGNS FOR CONDITIONAL OR OVERLAY DISTRICT USES

Subject to the regulations set forth in Section 17.06, signs appropriate to permitted conditional uses, or uses permitted in those overlay districts without sign regulations contained therein, may be permitted as determined by the Planning Commission notwithstanding the limitations in the basic underlying district to the contrary. In establishing the size and locational requirements, the Planning Commission shall be guided by the requirements imposed for similar uses in any of the other basic districts.

17.09-10 PROJECT SIGNS

The following signs not relating to a specific use but to a grouping of uses may be permitted by the Planning Commission as follows:

(1) Commercial or Industrial Center Sign: A sign identifying a grouping of commercial or industrial uses may be permitted with the approval of the Planning Commis-

sion, in lieu of all or some of the individual use free-standing signs, and the Commission may, in such cases, modify the regulations applicable to the height, size and location of such sign consistent with the spirit and intent of these regulations.

(2) Residential Neighborhood Signs: Signs limited to identifying the name of a neighborhood area such as a subdivision or housing development and limited to 32 square feet in area may be permitted at each entrance to the area, provided the approval of the Planning Commission is first obtained that each such sign will not create a traffic hazard, is aesthetically in keeping with the character of the neighborhood, and in the judgement of the Commission will not detract from the character of the adjoining area. Such signs that are designed either as an integral part of the architecture of a building or as part of a landscape architectural feature such as a wall, shall be permitted without limitation as to size if the Commission determines that the foregoing standards would be met.

(3) Institutional Signs: A sign not exceeding 32 square feet in area giving the name and nature of occupancy and information as to the conditions of use or admission may be permitted at each entrance to the grounds or buildings of a private institution, provided the approval of the Planning Commission is first obtained that each such sign will not create a traffic hazard, and is aesthetically in keeping with the character of the neighborhood. Such signs that are designed either as an integral part of the building or of the landscape features such as a wall shall be permitted without limitation as to size if the Commission determines that the foregoing standards would be met.

17.09-11 LOCATIONAL REGULATIONS

(1) Height and Area: No free-standing sign shall exceed the height from the ground as specified under 17.09-12. Sign size limitations shall be applied separately to each sign face, including in the measurements the overall sign and frame area except that in signs consisting of individual letters and symbols affixed to a building as an architectural element, only the individual items shall be measured. Uprights and supports shall be measured only where they become a part of the sign's message or image projecting function due to the shape,

color, or illumination of said uprights or supports. Signs shall not have more than 4 faces and area limitations shall be applied separately to each sign face.

(2) Setbacks and Other Yards: No portion of any sign other than those permitted as accessory uses to residences shall be permitted closer than 5 feet to the street right of way line, and no closer to any other property line, than the required minimum offsets of the district regulations. Ground signs may be permitted as close as 5 feet to the street line, subject to Vision Corners 17.03-4(2)).

17.09-12 AREA AND LOCATIONAL REQUIREMENTS OF SIGNS BY DISTRICT

SIGN REQUIREMENTS AREA AND LOCATIONAL FOR NON-RESIDENTIAL* DISTRICTS							
ZONING** DISTRICT	<u>FLAT WALL SIGNS (1)</u> Signable Area Factors (sq.ft.)		<u>PROJECTING SIGNS (2) (3)</u> Maximum Sign Size (sq.ft.)	<u>GROUND SIGNS (4) & FREE STANDING SIGNS (5)</u> Sign Size Area Factors (7) (sq.ft.)			<u>FREE STANDING SIGNS (6)</u> <u>ONLY</u> Maximum Sign Height (feet)
	Front Street	Side Street		Maximum Sign Size (sq.ft.)	Front	Side	
B-1	0.5	0.3	12	0.5	0.3	20 to 20	20 to 20
B-2	1.0	0.5	20	0.7	0.5	60 to 100	20 to 35
B-3	1.0	0.5	30	1.2	1.0	100 to 200	20 to 35
B-4	1.0	0.5	20	0.7	0.5	60 to 100	20 to 35
B-P	1.0	0.7	30	1.0	0.7	75 to 150	30 to 50
M-1	1.5	1.0	50	1.2	1.0	150 to 400	30 to 50
OCR	0.5	0.3	12	0.5	0.3	20 to 20	20 to 20
OIP	1.0	0.5	20	0.5	0.3	30 to 70	20 to 35
OME	1.0	0.5	20	0.5	0.3	60 to 100	20 to 35

*FOR RESIDENTIAL AND AGRICULTURAL SIGNS see 17.09-5 Signs Exempted
 **FOR SIGN SETBACKS see 17.09-11(2)
 FOR OTHER OVERLAY DISTRICT SIGNS see 17.09-9

Footnotes: (to above table)

(1) Square feet of allowable sign area (no limit on number of signs totaling such area) applicable only to ground floor uses per lineal feet of building facade per business use, per each street frontage of the business building, projected at right angles to the street (no transferring of unused sign potential from one street facade to another). A retail or service business facade facing its customer parking area shall qualify as a "front street." In signs composed of individual letters affixed to a building, only a rectangle around each letter shall be measured to compute sign area, but where the sign background is made a different color from the building such as by painting, the entire area of contrasting color shall be measured.

(2) One sign allowed for the first 50 feet or fraction thereof of building facade street frontage per ground floor business use, plus one sign for each 50 feet or fraction thereof over 50 feet. No such signs permitted for 2nd floor or above uses except in lieu of allowable first floor projecting signs.

(3) Sign may not extend more than 6 feet from the building facade, nor lower over a private walkway than 8 feet, and in no case may it extend into a public right-of-way without a license from the Town Board.

(4) Ground signs shall not be placed so as to block visibility at street and drive intersections (See Vision Corners 17.03-4(4))

(5) One such sign allowable for each 100 feet or fraction thereof of building facade per street frontage.

(6) As measured from ground grade at the sign setback. In cases of substantial variance between ground grade and the average centerline grade of the viewing pavement within 200 feet of the sign, said viewing centerline grade may be accepted in lieu of ground grade. Sign height may be increased up to the second figure shown as specified per district, one foot for each foot of additional setback.

(7) Square feet of allowable sign area per lineal feet of building facade, projected at right angles to the street, per each street frontage up to the lower maximum size shown in each district under (8). Allowable sign size shall be applied separately to each sign face up to a maximum of 4 faces per sign. As an alternative, allowable sign size may also be computed by applying one-half the factor shown to the lot frontage and the applicant may use whichever method yields the largest allowable size.

(8) Maximum allowable sign area in square feet may be increased to second figure shown, at the rate of one foot for each additional foot of sign setback beyond required setback, except for uses that serve the travelling public such as motels, restaurants, automobile service stations, and which are located within 300 feet of a freeway. Signs for such uses may be doubled in size over the maximum shown at the required setback provided they meet state regulations.

17.09-13 CONSTRUCTION AND MAINTENANCE OF SIGNS

(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 40 pounds per square foot of area.

(2) Construction Materials: All signs shall be constructed of galvanized iron, properly treated steel, copper, brass, or other noncorrosive incombustible material or properly treated and structurally sound wood. Electrical components shall comply with the Town Electrical Code.

(3) Secure Attachment: All flat or projecting wall signs shall be attached by such noncorrosive metal bolts, anchors, cable, or other metal attachments as shall ensure permanent and safe construction, and shall be maintained free from rust or other defects. Every means or device used for attaching any sign shall extend through the walls or roof of the building should the Zoning Administrator determine that the safe and permanent support of such sign so requires, and shall be securely anchored by wall plates and nuts to the inside of the walls or to bearings on the underside of roof or ceiling joists in accordance with instructions given by the Zoning Administrator. Small flat signs containing less than 10 square feet of area may be attached to a building by the use of lag bolts or other means to the satisfaction of the Zoning Administrator.

(4) Maintenance: The owner of any sign shall keep a sign in good maintenance and repair which includes restoring, repainting, or replacing a worn or damaged structural component to its original strength.

17.10 ZONING DISTRICTS AND ZONING MAP

17.10-1 COMPLIANCE REQUIRED

Within the Town of Weston, the use of any land, air or water; the size, shape, and placement of lots including the provision of open spaces within lots; and the use, size, height, location and type of structure thereon shall be in compliance with the regulations established in this Ordinance and made applicable to the district or districts in which such land or structure is located.

17.10-2 REGULATIONS MADE APPLICABLE TO EACH DISTRICT

For the purpose of implementing this Ordinance the following types of zoning districts are hereby created and established:

(1) Basic Holding Districts: These districts are established for the purpose of permitting certain existing uses of land to continue, principally agriculture, with limited new development permitted until major development or redevelopment is ready to occur, at which time, based upon the completion of additional detailed planning by the Town, rezoning to other basic districts or to overlay districts would take place.

(2) Basic Development and Conservation Districts: These districts are established for the purpose of regulating land use consistent with the Town Plan and with those county, regional and other plans adopted by the Town Planning Commission as a guide for the Town's development or conservation.

(3) Overlay Districts: Overlay districts are established which provide for the possibility of superimposing upon basic districts, certain additional permissive uses or regulatory restraints, which may or may not also modify the underlying basic district regulations.

17.10-4 FORMAT OF INDIVIDUAL DISTRICT REGULATIONS AND SUMMARY

For convenience and readability the description of uses as permitted in each district and the supplementary regulations thereto are presented in a form consisting of the following:

- (1) Statement of Intent: which sets forth the basic purposes of the District, interpreting the principles underlying the uses permitted and in some cases the intended geographic application of the district.
- (2) Uses Permitted by Right. (See also 17.03-2(2) Uses Classified)
- (3) Permitted Accessory Uses. (See also 17.03-2(2) Uses Classified)
- (4) Uses Permitted by Conditional Grant. (See also 17.03-2(2) Uses Classified and 17.06 Conditional Uses)
- (5) Special Regulations which apply to that district.
- (6) Numerical Regulations Tabulary Summary: A separate presentation of the specific numerical requirements of the provisions of sections 17.03-4 through 17.03-6 made applicable to each district, shown in one table for convenience as Section 17.11.

17.10-5 ESTABLISHMENT OF OFFICIAL ZONING MAP

- (1) Districts Mapped: The Town of Weston is hereby divided into Zoning Districts as shown upon an individual map designated as "Zoning District Map, Town of Weston, Marathon County, Wisconsin" a scale of 1 inch equals 1000 feet, and as necessary on supplementary maps at a scale of 1 inch equals 200 feet or 1 inch equals 400 feet and made part of this Ordinance, and all the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said maps were all fully described herein.
- (2) Map Changes: The official zoning maps shall be kept current at all times. The official zoning maps shall be corrected at the direction of the Zoning Administrator within 30 days of passage of any amendatory ordinances.
- (3) Replacement of District Zoning Map: In the event that one or more of the official zoning district maps becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Board may, by resolution, adopt a

new such map, which shall supersede the prior map. The new official zoning district map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof.

(4) Determination of Boundaries: District boundaries shall be determined by measurement from and as shown on the official zoning district maps, and in case of any question as to the interpretation of such boundary lines, the Planning Commission shall interpret the map according to the reasonable intent of this Ordinance.

- A. Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section, or sixteenth section lines; corporate boundaries; soil mapping unit lines; edges of wetlands or floodplains or woodlots, or the center lines of streets, highways, railways or alleys, or such lines extended. Lines that appear to be parallel to any of the aforementioned boundaries at a specified distance shall normally be construed to be parallel as noted. Where the above rules cannot be readily applied, the location of district boundary lines shall be determined by use of the scales shown on the official zoning maps.
- B. WPD Wetland Protection District boundaries as drawn are intended to represent the edges of ponds, lakes, streams, rivers, swamp, marsh or other lands defined as wetlands, and shall be finally determined by the actual field conditions where specific questions arise. With approval of the Planning Commission, adjustment of the boundaries of this district due to relocation of wetlands under state or federally approved "mitigation" rules may be accomplished by Commission resolution
- C. OFP Overlay Floodplain District boundaries are intended to represent areas subject to flooding as determine through the use of flood insurance profiles published by the Federal Emergency Management Agency (FEMA) in its "Flood Issuance Study-Marathon County, Wisconsin (Unincorporated

Areas)" dated August 3, 1981 as well as other such flood plain studies as may from time to time be produced by FEMA, the Town, the County, or other planning and engineering agencies such as the regional planning commission or the Wisconsin Department of Natural Resources (DNR). By resolution the Planning Commission may adjust the the Zoning Map to reflect Floodplain Adjustments authorized by FEMA, the Wisconsin DNR, or the Town if there are no other authorities.

- D. Overlay Woodlands Conservancy District boundaries are drawn to the canopy line of trees as represented on aerial photographs and planimetric topographic maps, in order that the root structure associated with the canopy area is recognized. The exact boundaries of the district shall be finally determined by field conditions.

(5) Identification of Official Ordinance and Map: The text of the official zoning regulations and the corresponding official zoning district maps shall be kept on file in the office of the Town and any other copies thereof shall be purely informational and shall not have the status of law. Said text and map shall be in the care of the Zoning Administrator, and if there be none, the Town Clerk.

[The following space is left blank for future use.]

17.10-6 DISTRICT SYMBOLS AND NAMES

For the purpose of relating the Zoning District Map symbols to the districts they represent, the following summary of the district names and their abbreviations are listed:

District

Symbol **District Name**

(1) **Basic Holding Districts:**

AG Agriculture
RR Rural Residential

(2) **Basic Development and Conservation Districts:**

S/R Suburban/Residence
R-E Residential Estate
R-1 Residential Single Family
R-2 Residential Single Family

RTF Residential Two Family

R-3 Residential Multiple Family, Garden Apts.
R-4 Residential Multiple Family, Apartments

R-5 Residential Mobile Home Park

B-1 Neighborhood Convenience Retail & Service
B-2 Community Retail & Service
B-3 General Commercial
B-4 Office

B-P Business Park

M-1 Manufacturing & Warehousing

WPD Wetland Protection District
PUL Public or Utility Lands

(3) **Overlay Districts:**

OCR Commercial Recreation Overlay
OIP Institutional & Public Service Overlay
OPD Planned Development Project Overlay
OAH Airport Height Overlay
OWC Woodlands Conservation Overlay
OWP Wellhead Protection Overlay
OME Mineral Extraction Overlay
OFP Floodplain Overlay
OCS County Shoreland Jurisdiction

The following 7 pages are portions of a total table to be reduced for ease of use and assembled into a single 11x17 inch fold-out page, entitled:
"DISTRICT NUMERICAL REGULATIONS, Town of Weston, Marathon County, Wisconsin"

SECTION 17.10-7 ZONING DISTRICT NUMERICAL REGULATIONS,		
SECTION	MAP SYMBOL	DISTRICT NAME
17.11-1 BASIC HOLDING DISTRICTS		
17.11-1(1)	AG	Agriculture
17.11-1(2)	RR	Rural Residential
17.11-2 BASIC DEVELOPMENT AND CONSERVATION DISTRICTS		
17.11-2(1)	S/R	Suburban/Residence
17.11-2(2)	R-E	Residential Estate
17.11-2(3)	R-1	Residential Single Family
17.11-2(4)	R-2	Residential Single Family
17.11-3(1)	RTF	Residential Two Family
17.11-4(1)	R-3	Residential Multiple Family, Garden Apts.
17.11-4(2)	R-4	Residential Multiple Family, Apartments
17.11-5(1)	R-5	Residential Mobile Home Park
17.11-6(1)	B-1	Neighborhood Convenience Retail & Service
17.11-6(2)	B-2	Community Retail & Service
17.11-6(3)	B-3	General Commercial
17.11-6(4)	B-4	Office
17.11-7(1)	B-P	Business Park
17.11-8(1)	M-1	Manufacturing & Warehousing
17.11-9(1)	WPD	Wetland Protection District
17.11-10(1)	PUL	Public or Utility Lands
OVERLAY DISTRICTS		

17.11-11(1)	OCR	Commercial Recreation Overlay
17.11-11(2)	OIP	Institutional & Public Service Overlay
17.11-12(1)	OPD	Planned Development Project Overlay
17.11-13(1)	OAH	Airport Height Overlay
17.11-14(1)	OWC	Woodlands Conservation Overlay
17.11-14(2)	OWP	Wellhead Protection Overlay
17.11-14(3)	OME	Mineral Extraction Overlay
17.11-14(4)	OFP	Floodplain Overlay
17.11-14(5)	OCS	County Shoreland Jurisdiction

For Further Information Consult Section:

FOOTNOTES: (*) Multiplier until sewers available: Depth to width ratio should fall within 1.25 to 3.0.
 (**) See 17.11-1(1)B.2.
 (#) 40,000/150:Existing platted lots; new lots 40,000/240 reducible to 20,000/120 when sewers available.

TOWN OF WESTON ZONING ORDINANCE, MARATHON COUNTY, WISCONSIN

	LOT SIZE		DENSITY Minimum Land Area Per Dwelling in Sq.Ft. Or by Bedrooms			OPEN SPACE Non-Bldg/Paving Minimum Area Per Dwelling Sq.Ft. Or by Bedrooms		
	Minimum Total Lot Area Sq.Ft.	Minimum Width Feet	1BR	2BR	3BR&+	1BR	2BR	3BR&+
AG	870,000	600				700,000		
RR	20,000	120x2				14,000x6.5*		
S/R	40,000x.5#	150/120x2*				14,000x2.3*		

Town of Weston
Zoning Ordinances

R-E	20,000	120x2*	20,000x2*	14,000x2.3*
R-1	15,000	100x2*	15,000x2*	10,000x2*
R-2	10,000	80x2*	10,000x2*	5,000x2*
RTF	15,000	100x2*	7,500x4*	4,000x4*
R-3	15,000x3*	100x2*	(3200 3600 4000)x3*	(1500 1750 2000)x3*
R-4	20,000x2*	120x2*	^(2500 3000 3300)x3*	^(1000 1250 1250)x3*
	^if 1:1 undg.parking:		(2000 2500 2700)x3*	(750 750 750) 3*
R-5	6,000	50	6,000	3,500
B-1	a	a	3,000	1,000
B-2	a	a	3,000	1,000
B-3	a	a	3,000	1,000
B-4	a	a	3,000	1,000
B-P	a	a	3,000	1,000
M-1	a	a	3,000	1,000
WPD	---	---	---	---
PUL	a	a	a	1,000
OCR	b	b	b	b
OIP	c	b	b	b
OPD	See Section 17.07-5 for most requirements.			
OAH	b	b	b	b
OWC	b	b	c	c
OWP	b	b	b	b
OME	See District for all regulations.			
OFFP	a&c	a&c	a&c	b
OCS	a&b	a&b	a&b	a&b
	17.03-5(3)A.to D.		17.03-5(4)	17.03-5(5)

(a) As necessary to Meet Other Requirements. (b) Same as Underlying District. (c) Use Underlying District as Guide. (d) If Common Wall Construction Approved, see 17.05.

	SETBACK (f) & (g)		BUILDING LOCATION SIDE YARD (g)			REAR YARD (g)	
	Minimum Street Yard, Ft. Old-New	Minimum Corner Yard, Ft. Old-New	Minimum Principal Drive Side	Minimum Other Side	Parking & Acces- sory(h) Building	Minimum Principal Building	Minimum Acces- sory Building
AG	50	50	20	20	15	40	20
RR	50	50	20	20	15	40	20
S/R	26-50	16-50	20	15	8	40	8
R-E	50	40-50	20	15	10	40	20
R-1	26-30	16-30	12	8	8	25	8
R-2	26-30	16-26	12	8	8	25	8
RTF	30	30	12	8/0-d	8	25	8
R-3	26-30	16-30	25^	15/0-d^	8^	40	8
R-4	26-30	16-30	25^	15/0-d^	8^	40	8
R-5	25	25	^1 or 2 Fam.use RTF			20	8
B-1	30	30	25/0-d	10/0-d	10	40/0-d	10
B-2	30	30	30/0-d	15/0-d	10	40/0-d	10
B-3	40	40	40/0-d	25/0-d	15	40/0-d	10
B-4	30	30	30/0-d	15/0-d	30	40/0-d	10
B-P	50	50	40/0-d	25/0-d	30	50/0-d	30
M-1	75	75	50/0-d	25/0-d	15	50/0-d	20
WPD	--	--	--	--	--	--	--
PUL	30-f	30-f	40	25	30	50	20

Town of Weston
Zoning Ordinances

OCR	c	c	c	c	c	c	c
OIP	c	c	c	c	c	c	c
OPD							
OAH	b	b	b	b	b	b	b
OWC	c	c	c	c	c	c	c
OWP	b	b	b	b	b	b	b
OME							
OFP	b	b	b	b	b	a&c	a&c
OCS	a&b	a&b	a&b	a&b	a&b	a&c	a&c
	17.03-4(2)		17.03-4(3)			17.03-4(3)	

- (e) Farm Bldg.Yrds.Must At Least Equal Bldg.Ht.& 17.03-7(5).
(f) Greater Setback Req'd.in Some Cases. see 17.03-4(2)B & E.
(g) First 2 ft.of Eve Overhang Exempted, 17.03-4(2)C. & (3)B.

Marathon County, WI - Town of Weston Model Zoning Ordinance

	HEIGHT		F.A.R. (FLOOR AREA TO LAND AREA RATIO) Maximum Permitted	FLOOR AREA Minimum Required Floor Area in Sq.Ft. Per Dwelling(j) By Bedrooms(k)		
	Principal Building	Accessory Structure		1BR	2BR	3BR&+
AG	30	15;Farm-85	5%	650	700	900
RR	30	15:Farm-85	10%	1200	1400	1600
A/R	30	15;Farm-50	20%	1200	1400	1600
R-E	30	15	25%	1200	1400	1600

Town of Weston
Zoning Ordinances

R-1	30	15	25%	1100	1200	1400
R-2	30	15	25%	1100	1150	1200
RTF	30	15	25%	700	800	950
R-3	30	15	40%	650	700	900
R-4	30	15	60%	500	700	850
R-5	15	15	20%	540	650	850
B-1	30	15	35%	500	700	850
B-2	40	15	40%	500	700	850
B-3	40	15-a	40%	500	700	850
B-4	30	15	35%	500	700	850
B-P	40	15	35%	500	700	850
M-1	60	60	50%	500	700	850
WPD	--	15	--	---	---	---
PUL	a	15	35%	500	700	850
OCR	b	b	a&c	b	b	b
OIP	a	b	a&c	b	b	b
OPD	c	c	c	c	c	c
OAH	(See District Regulations)		c	b	b	b
OWC	b	b	a&c	b	b	b
OWP	b	b	b	b	b	b
OME	(See District Regulations)		b	b	b	b
OFP	b	b	a&c	c	c	c
OCS	b	b	a&c	c	c	c
	17.03(4)		17.03-6(2)B	17.036-(2)		

(h) Min. Parking Lot Landscaping Area, see 17.08-5(1)D.

(j) If No Basement of at Least 200 s.f./unit add 100 s.f./DU

(k) May substitute for 400 sq.ft., an attached garage of at least 400 sq.ft., if 1100 sq.ft. or more required.

17.11-1 **BASIC HOLDING DISTRICTS**

17.11-1 (1) **AG Agriculture District**

A. Statement of Intent: This district provides either a holding function, which is somewhat of a temporary use function but extending to decades rather than months or years; or a development or conservation district function, which means a fairly permanent end-use, depending upon the direction given by the Town Plan.

1. As a holding district this district permits continued agricultural uses as well as new residential development at a low density, which low density is intended to be compatible with farming uses while also providing a reasonable non-farm-income economic use of the land, until more intensive urban development takes place, if such development is anticipated in the Town Plan. The low density also precludes an overly high level of interim economic investment that could otherwise discourage permanent urban uses anticipated in the Town Plan.

2. As a development/conservation district this district functions to preserve the agriculture, hobby farming, and rural residential parts of the Town, for which there is no realistic urban development potential as anticipated in the Town Plan.

3. Consistent with these alternative possibilities, permitted uses range from broadly diverse agriculture activities (prohibiting only those farm uses which, under Section 17.03-7 Farming and Animal Regulations of this Ordinance, are found to be incompatible with a partly urban Town), to rural residential properties where the emphasis is on being able to keep some farm animals and enjoy small scale or hobby farming, rather than on attaining a strongly residential atmosphere.

B. Permitted Uses By Right:

1. Agriculture, including as illustrative but not limited to: crop raising, dairying, horti-

culture including commercial greenhouses, livestock and poultry raising, tree farming; excepting those and similar uses as prohibited in Section 17.03-7 of this Ordinance.

2. Single Family Residences, including the right to also conduct agriculture and animal husbandry as regulated in said 17.03-7. Notwithstanding the Lot Size requirements for this district set be section 17.07-7, for each contiguous 870,000 s.f. owned at the adoption of this provision or subsequently acquired, one dwelling lot no less than 40,000 sq.ft. and no greater than 135,000 sq.ft. in area (unless the whole 870,000 sq.ft. is being conveyed) exclusive of existing and proposed street right of way, may be created provided the remaining portion of the 870,000 sq.ft. is not being counted as the density for another dwelling, and provided this relationship is recorded on the title of both the lot created and on the 870,000 sq.ft. out of which the density of the smaller lot is being claimed.

3. Existing Cemeteries, churches/temples/synagogues, and religious retreat facilities, but expansions shall only be by Conditional Use per section 17.06 of this Ordinance, or by application of the appropriate overlay districts as suggested in section D. herein.

4. Existing public or private parks or recreational fields including grass aviation landing strips, golf courses, unlighted golf driving ranges and athletic fields and similar uses requiring only nominal accessory structures, but expansions, principal buildings, or night use lighting shall only be by Conditional Use per section 17.06, or by application of appropriate overlay districts as set forth in section D. herein.

5. Public utility transmission and distribution lines, poles, or pipes, and related accessories, provided that when a Utility proposes a main inter-city transmission facility, it shall give notice to the Town Planning Commission of such intention and of the date of hearing before the

Public Service Commission regulating such use, and before beginning construction of a specific route shall file with the Town Planning Commission the mapped description of the route.

C. Permitted Accessory Uses:

1. Uses, buildings and structures normally accessory and incident to the permitted Uses.
2. Quarters for year around household or farm employees.
3. Home occupations and residential businesses, as regulated in the 17.01-4 Appendix.
4. Agricultural signs as regulated in 17.09.
5. Residential signs as regulated in 17.09.
6. One roadside produce sale stand per farm, for the sale principally of products produced by that farm and subject to the following:
 - a. Off-street parking for a minimum of four vehicles shall be provided.
 - b. Stand setback of 30 feet to the existing road right of way line and 20 feet from any other lot line shall be provided.
 - c. Located where the stand would not require vehicles to back onto the highway and not be creating any other traffic hazard, and where the permitted driveways shall be so designed and located as to minimize interference with normal highway traffic flow.
7. The spreading of treated municipal sewage sludge, or the composting of municipal yard wastes, provided the Planning Commission first approves such spreading or composting area and plan of operations under section 17.05 hereof, attaching such conditions as the Commission shall deem appropriate.

D. Uses Permitted By Conditional Grant:

1. Expansions of existing cemeteries, religious facilities, or recreation fields, including addition of night lighting, as listed under B.3 and 4 preceding. (See also OIP and OCR Districts for alternate regulation).
2. New religious or recreation fields listed in B.3 and 4 preceding. Recreation uses involving principal buildings shall be processed under the OIP or OCR overlay districts.
3. Educational facilities, whether public or private, boarding or non-boarding, including day care, pre-school, elementary, secondary, and post-secondary. (See also OIP Overlay District).
4. Seasonal farm labor housing, provided county or state sanitary regulations can be met.
5. Conversion of existing farm houses to two family residences.
6. Boarding and riding stables for horses; commercial dog kennels; or veterinary clinics.
7. Public fire stations or utility transmission substations. (See also PUL or OIP districts).
8. Parking of non-agricultural trucks and construction equipment.
9. Communications broadcasting and relay towers.
10. Motor vehicle salvage yards.

17.11-1 (2) **RR Rural Residential District**

- A. Statement of Intent: This district, as with the AG Agriculture district, provides either a holding or a development-conservation function, depending upon the Town Plan and upon the wishes of the owner.

1. As a holding district this district permits residential development at a low, rural density, thereby also making possible the enjoyment of

hobby farming and the keeping of some farm live-stock, as regulated in section 17.03-7, until public sewers arrive and re-subdivision takes place, if the owner so wishes, to more urban sized residential lots. Accordingly, the district numerical regulations in section 17.10-7 provide for both the interim low density dimensions as well as ultimate sewered lot dimensions. The ultimate smaller sizes may be platted immediately, and held in common ownership to meet the larger rural non-sewered dimensions, or the larger lots may be platted, but sized if so required by the Planning Commission, to allow later re-division as provided for in section 17.03-5(3) B. of this Ordinance.

2. As a development/conservation district this district can also provide for permanent rural residential living at the low density, larger lot size provided for in 17.10-7, where sewers are not available for the foreseeable future, or where owners wish to maintain the large lot after installation of public sewers.

B. Permitted Uses By Right:

1. Single Family Residences, including the right to also conduct agriculture and animal husbandry as regulated in section 17.03-7.

2. Existing
Cemeteries, churches/temples/synagogues and religious retreat facilities, but expansions shall only be by Conditional Use per section 17.06 of this Ordinance, or by application of appropriate overlay districts as suggested in section D. herein.

3. Existing public or private parks or recreational fields including grass aviation landing strips, golf courses, unlighted golf driving ranges and athletic fields and similar uses requiring only nominal accessory structures, but expansions, principal buildings, or night use lighting shall only be by Conditional Use per section 17.06 or by application of appropriate overlay districts as set forth in section D. herein.

4. Public utility transmission and distribution lines, poles, or pipes, and related accessories, provided that when a Utility proposes a main inter-city transmission facility, it shall give notice to the Town Planning Commission of such intention and of the date of hearing. Before beginning construction of a specific route the Utility shall file with the Town Planning Commission the mapped description of the route.

C. Permitted Accessory Uses:

1. Uses, buildings and structures normally accessory and incident to the Permitted Uses.

2. Quarters for year around household or farm employees.

3. Home occupations and residential businesses, as regulated in the 17.01-4 Appendix.

4. Agricultural signs as regulated in 17.09.

5. Residential signs as regulated in 17.09.

6. One roadside produce sale stand per farm, for the sale principally of products produced by that farm and subject to the following:

a. Off-street parking for a minimum of four vehicles shall be provided.

b. Stand setback of 30 feet to the existing road right of way line and 20 feet from any other lot line shall be provided.

c. Located where the stand would not require vehicles to back onto the highway and not be creating any other traffic hazard, and where the permitted driveways shall be so designed and located as to minimize interference with normal highway traffic flow.

D. Uses Permitted By Conditional Grant:

1. Expansions of existing cemeteries, religious facilities, or recreation fields, including addition of night lighting, as listed under B.2

and 3 preceding. (See also OIP and OCR Districts for alternate regulation).

2. New religious or recreation fields listed in B.2 and B.3 preceding. Recreation uses involving principal buildings shall be processed under the OIP or OCR overlay districts.

3. Educational facilities, whether public or private, boarding or non-boarding, including day care, pre-school, elementary, secondary and post-secondary. (See also OIP Overlay District).

4. Boarding and riding stables for horses; commercial dog kennels; or veterinary clinics.

5. Public fire stations or utility transmission substations. (See also PUL or OIP districts).

6. Communications broadcasting and relay towers.

[The remainder of this page is blank for possible future use.]

17.11-2 **BASIC DEVELOPMENT AND CONSERVATION DISTRICTS**

17.11-2 (1) **S/R Suburban/Residence District** (Formerly the A/R
Agriculture/Residence District)

A. Statement of Intent: This district is intended to be applied over existing subdivisions developed without public sewer according to the previous regulations of this district, that called for a lot width wide enough for on-site soil absorption sewage treatment but too narrow to be re-subdivided to accommodate the cost of public sewer installation through sale of a vacant lot for development. For these existing situations and very limited new adjacent or intervening situations not capable of meeting the regulations for new subdivisions of this district set forth in section 17.10-7, the previous lot width and area regulations are continued under section 17.10-7.

For existing situations which still can be adapted, and for new situations nearby, the regulations of section 17.10-7 provide for the same unsewered lot area, but for a wider lot width capable of being re-divided to R-E Residential Estate District lot area and lot width standards, to provide the option of a buildable lot when public sewers arrive as regulated in section 17.03-5(3)B. of this Ordinance. This S/R district ordinarily is not intended to be used if said R-E District can be applied without creating an illogical, spot, or other discontinuous zoning intermixture of S/R and R-E zoning.

B. Permitted Uses By Right: All uses as permitted by right in the R-E Residential Estate District.

C. Permitted Accessory Uses: All accessory uses as permitted in the R-E Residential Estate District.

D. Uses Permitted by Conditional Grant: All conditional uses permitted in R-E Residential Estate District.

17.11-2 (2) **R-E Residential Estate District**

- A. Statement of Intent: This district is intended to provide spacious home sites for residential development of a suburban character, limited to single family homes on individual lots. In keeping with a peaceful single family environment, other uses that provide service to residential areas such as schools, churches, high activity parks, and certain institutional uses, but which can also stress a peaceful atmosphere, are permitted only on a Conditional Use basis.

Since portions of the district are served with public sewers and portions are not, but all of the district is likely under the Town Plan to eventually receive sewers, section 17.10-7 provides coordinated regulations wherein the larger required land area dimensions for unsewered soil absorption sewage treatment conditions are modularly related to the smaller ultimate land area to be permitted when public sewers are installed. Accordingly, land may be platted at the ultimate sewer size dimensions and groups of lots held in common ownership to meet the larger unsewered dimensions until sewers arrive, or the land may be platted into the larger unsewered dimensions, but sized, if so required by the Planning Commission, to allow later re-subdivision into the ultimate dimensions when sewers arrive, as provided for in section 17.03-5(3)B. of this Ordinance.

1. Single family detached residences.
2. Public or private parks and recreation areas, but not including facilities for organized athletics except as permitted as a Conditional Use.
3. Public utility transmission and distribution lines, poles, or pipes, and related accessories, provided that when a Utility proposes a main intercity transmission facility, it shall give notice to the Town Planning Commission of such intention and of the date of hearing before the Public Service Commission regulating such use, and before beginning construction of a specific

route shall file with the Town Planning Commission the mapped description of the route.

C. Permitted Accessory Uses:

1. Private garages, carports, and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation, residential business, or Conditional Use, provided that no such garage shall be erected prior to the erection of the principal building to which it is accessory. (See also 17.08-6).

2. Quarters for household employees, provided that such quarters shall be occupied only by individuals employed full time on the premises and their families.

3. Home occupations and Residential Businesses as regulated in Section 17.01-4.

4. Signs as regulated in Section 17.09 except that Residential Business signs may be as permitted in Section 17.01-4.

5. Home gardening and horticulture not involving greenhouses in excess of 500 square feet in area.

6. Service buildings and facilities normally incident to the use of public park or recreation area.

7. Husbandry: The keeping or raising of domestic livestock for show, breeding, or other use incidental to the principal use of the premises subject to the following:

a. The keeping or raising of hogs, or fur bearing animals, shall not be permitted.

b. Not more than one head of livestock and 20 fowl shall be permitted per 40,000 sq. feet of lot area nor shall any such livestock or fowl be permitted on a lot less than 120,000 sq. feet in area exclusive of street right-of-way.

c. Stables, barns, poultry houses, or similar structures not in excess of 1000 sq. feet, are permitted, provided that no building housing domestic livestock or poultry shall be closer than 50 feet to any lot line.

D. Uses Permitted By Conditional Grant:

1. Recreational and Social facilities, such as athletic fields involving organized teams and leagues, golf courses (but not including separate golf driving ranges or miniature golf grounds), courts and fields for non-commercial recreation clubs and lodges; non-commercial recreation and community centers and swimming pools. (See alternate of OCR and OIP overlay districts).

2. Schools, public and private. (see also OIP district).

3. Religious facilities such as churches/temples/synagogues; convents, rectories and parsonages, retreat houses; cemeteries. (See also OIP district).

4. Care centers such as nursing and convalescent homes; day care centers; hospices but not hospitals or clinics; community living arrangements as regulated in ss.62.23(7) (i) Wis.Stats. (See also OIP overlay district).

5. Public utility offices and installations and substations, municipal and community water towers, pump stations. (See also OIP and PUL districts).

6. Two family residences where the second unit does not exceed 60% of the floor area of the principal unit, its occupancy is intended for a family member related by blood, adoption or marriage to the occupants of the principal unit, at least one entrance to the second unit is through the principal unit, and where the overall appearance of the structure resembles that of a single family residence.

17.11-2 (3) **R-1 Residential Single Family District**

- A. Statement of Intent: This district is intended to provide for the same peaceful single family environment as the R-E Residential Estate District, at somewhat higher density, which translates to smaller required minimum lots and home sizes. However, as with the R-E district, this district encompasses both sewered and unsewered areas, requiring separate dimensions for sewered and unsewered lots in the section 17.10-7 regulations, but coordinated as in the R-E district so that the ultimate density of the Town Plan can be achieved once the entire district is sewered, pursuant to the options set forth in the R-E district Statement of Intent and as regulated in section 17.03-5(3) B. of this Ordinance.
- B. Permitted Uses By Right: All uses as permitted by right in the R-E Residential Estate District.
- C. Permitted Accessory Uses: All accessory uses as permitted in the R-E Residential Estate District.
- C. Permitted Accessory Uses: All accessory uses as permitted in the R-E Residential Estate District.
- D. Uses Permitted By Conditional Grant: All conditional uses permitted in the R-E Residential Estate District.

17.11-2 (4) **R-2 Residential Single Family District**

- A. Statement of Intent: This district is intended to provide for the same peaceful single family environment as the R-E Residential Estate District but at a higher density than the R-E and R-1 Residence Single Family Districts, in order to permit such development at urban densities. However, as with the R-E and R-1 districts, this district encompasses both sewered and unsewered areas, requiring separate dimensions for sewered and unsewered lots in the section 17.10-7 regulations, but coordinated as in the R-E and R-1 districts so that the ultimate density of the

Town Plan can be achieved once the entire district is sewerred, pursuant to the options set forth in the R-E district Statement of Intent and as regulated in section 17.03-5(3) B. of this Ordinance.

- B. Permitted Uses By Right: All uses as permitted by right in the R-E Estate District.
- C. Permitted Accessory Uses: All accessory uses as permitted in the R-E Residential Estate District.
- D. Uses Permitted By Conditional Grant: All conditional uses permitted in the R-E Residential Estate District.

17.11-3 (1) **RTF Residential Two Family District**

- A. Statement of Intent: This district is intended to provide for two family dwellings on spacious lots compatible in size with the R-1 through R-E Districts, since this district is shown in the Town Plan to be used in transitional situations between said single family districts and other development. As with the other residential districts, development in this district is anticipated to occur both before and after installation of public sewers. Accordingly, dimensional regulations for this district under section 17.10-7 provide for both sewerred and unsewerred lots, with platting before or after sewer installation to be coordinated as set forth in the R-E District Statement of Intent and as regulated in section 17.03-5(3)B. of this Ordinance.
- B. Permitted Uses By Right:
 - 1. Two family residences (also called duplex residences, attached residences, semi-detached dwellings and townhouses or townhomes).
 - 2. All uses as permitted by right in the R-E Residential Estate District.
- C. Permitted Accessory Uses: All accessory uses as permitted in the R-E Residential Estate District, excepting Husbandry.

D. Uses Permitted By Conditional Grant: All Conditional Uses permitted in the R-E Residential Estate District.

17.11-4 (1) **R-3 Residential Multiple Family District, Garden Apartments**

A. Statement of Intent: This district is intended to provide for multiple family dwellings constructed at the lowest end of the urban multiple family density range, where the emphasis on unit design is toward fewer units per building, and few units per entrance. The emphasis on lower mass of the structure requires limiting the dwellings per building, and this limitation of the total bulk of the structure makes the units more compatible with single and two family residences, which are often going to be in close proximity to this district under the Town Plan.

1. Garden Apartments & Townhouses: The low density of this district is intended to produce sufficient open space to allow room for patio and gardening areas, hence the term "garden apartments" to signify the intended close kinship of this district to single family residential living. The attached or row form of dwellings, called "townhouses or townhomes" is especially characteristic of this district.

2. Condominium: While the majority of the units constructed will likely be for rental housing, this district is also intended to be used for more spacious higher quality units to be sold as condominiums, to be located in areas of very high residential appeal, and intended to provide service to those residing in nearby detached dwellings who, especially in the retirement years, may seek housing not requiring personal responsibility for maintenance.

3. Sewered and non-sewered: As with the preceding residential districts, development in this district is anticipated to occur both before and after installation of public sewers. Accordingly, dimensional regulations for this district under section 17.10-7 provide for both sewered and unsewered conditions, with platting and den-

sity computation before or after sewer installation to be coordinated as generally set forth in the R-E district Statement of Intent, and as regulated in section 17.03-5(3)B. of this Ordinance.

B. Permitted Uses By Right:

1. Multiple family dwellings of not less than 2 nor more than 8 dwellings per structure, subject to approval by the Planning Commission of building, site, and operational plans: (Per Section 17.05).

2. Public parks and recreation areas, but not including facilities for organized athletics except as a permitted conditional use.

3. Public utility transmission and distribution lines, poles, and other accessories, provided that when a utility proposes a main intercity transmission facility, they shall give notice to the Planning Commission of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Planning Commission mapped description of the route of such transmission line.

4. Existing single family dwellings. Any lot to be created for such dwellings within this district shall be approved by the Planning Commission as to the setbacks and offsets that will result, but shall, in any case, at least meet the R-2 standards.

C. Permitted Accessory Uses:

1. Garages, carports and paved parking areas, when located on the same lot and not involving the conduct of a business, (except as a permitted home occupation, residential business, or conditional use), serving exclusively the occupants of the premises, their guests and service employees.

2. Home occupations and residential businesses, as regulated in the 17.01-4 Appendix of definitions.

3. Signs as regulated in Section 17.09.

4. Recreational and service building incident to the permitted uses.

D. Permitted Uses By Conditional Grant: All uses as permitted by conditional grant in the RTF District.

E. Special Regulations:

1. The Planning Commission shall not approve building plans which do not treat all exterior walls of all structures permitted herein with acceptable materials that present an equally finished facade to all sides.

2. Buildings not to exceed 12 units per structure may be approved by the Planning Commission provided the specific architectural design and site treatment is not at variance with the statement of intent of this district.

17.11-4 (2) **R-4 Residential Multiple Family District, Apartments**

A. Statement of Intent: This district is intended to provide for multiple family dwellings constructed at the lower to moderate end of the urban multiple family density range, with the lower density imposed to preserve adequate open space if surface parking is utilized, and the higher density permitted where underground parking is involved in the basement of the structures.

1. Occupancy and Bulk: This district will typically serve individuals and childless couples who do not require single family or two family space. This lower space need translates to a smaller minimum required floor area, and less land per dwelling unit. Since this district according to Town Plan guidelines will typically occur near principal traffic arteries, shopping facilities, and work opportunities, the permis-

sible bulk of the structures can be larger in relation to the mass of such commercial and industrial structures than the permissible bulk in the R-3 District, where single family compatibility is important. Nevertheless, given the transitional role that this district will provide between single family residential and non-residential areas, some restriction on the bulk of this district is still necessary to relate to single family dwellings, which will frequently be nearby.

B. Permitted Uses By Right:

1. Multiple family dwellings of not less than 2 nor more than 12 dwellings per structure, subject to approval by the Planning Commission of building, site and operational plans. (Per Section 17.05).

2. Public parks and recreation areas, but not including facilities for organized athletics except as a permitted conditional use.

3. Public utility transmission and distribution lines, poles, and other accessories provided that when a utility proposes a main intercity transmission facility, they shall give notice to the Planning Commission of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Planning Commission mapped description of the route of such transmission line.

4. Existing single family dwellings. Any lot to be created for such dwellings within this district shall be approved by the Planning Commission as to the setbacks and offsets that will result, but shall, in any case, at least meet the R-2 standards.

C. Permitted Accessory Uses:

1. Garages, carports and paved parking areas, when located on the same lot and not involving the conduct of a business, (except as a permitted home occupation, residential business, or

Conditional Use), serving exclusively the occupants of the premises, their guests and service employees.

2. Home occupations and residential businesses, as regulated in the 17.01-4 Appendix of definitions.

3. Signs as regulated in Section 17.09.

4. Recreational and service building incident to the permitted uses.

D. Permitted Uses By Conditional Grant: All uses as permitted by conditional grant in the RTF District.

E. Special Regulations:

1. The Planning Commission shall not approve building plans which do not treat all exterior walls of all structures permitted herein with acceptable materials that present an equally finished facade to all sides.

2. Buildings not to exceed 24 units per structure may be approved by the Planning Commission provided the specific architectural design and site treatment is not at variance with the statement of intent of this district.

17.11-5 (1) **R-5 Residential Mobile Home Park District**

A. Statement of Intent: This district is intended to provide for single family detached housing that is totally assembled off the site and then transported to its place of occupancy, (the "mobile" or "manufactured" home) for utility hook-up, producing the similar livable floor area as an apartment unit in the R-3 or R-4 districts, but at a density midway between said districts and the RTF Two Family district.

1. Separate Subdivisions: The non-standard architectural appearance of the units permitted in this district, as well as varying practices involving site leasing rather than individual unit lot ownership, and the use of private

rather than public streets, make it impractical to provide for such units in the other districts of this Ordinance, requiring instead this separate regulatory district to be applied only to planned "mobile home parks."

2. Existing v. New Developments: Given the adverse experience in this and other communities over the long term with leased occupancy sites on private streets, resulting in lower than desirable levels of pride and maintenance of the private streets, it is the intent of this district to permit new developments only where lots are sold and where the street system is public, and where any common facilities are jointly owned by occupants of the subdivision. Existing developments containing leased sites and private streets may continue as conforming uses, but may not be expanded without bringing the existing portions into conformance with the requirements of this district.

B. Permitted Uses By Right: The following subject to approval by the Planning Commission of Building, Site and Operational Plans as set forth in section 17.05 of this Ordinance, giving special attention to the items identified under E. hereof:

1. Mobile or Manufactured Home detached dwelling units in planned mobile home parks.
2. Public or private parks and recreation areas, but not including facilities for organized athletics.

C. Permitted Accessory Uses:

1. All accessory uses as permitted in the R-E district except the following: detached greenhouses unless located in common open areas; husbandry.

2. Community Building for social gatherings, day care, crafts, laundry or similar common usage for the benefit of the park occupants.

D. Uses Permitted By Conditional Grant:

1. Public utility installations and substations, municipal and community water towers, pump stations. (see also OIP overlay district).

E. Special Regulations:

1. In reviewing and approving Building, Site and Operational Plans under section 17.05 of this Ordinance as required in B. above, the Commission shall give particular attention to:

a. Landscape screening of the perimeter, which perimeter shall be no less than 20 feet wide;

b. Typical individual lot landscape and paving standards which the Commission may require be enforceable through covenants recorded on the title of each lot;

c. Landscaping and development of any common areas;

d. Whether a non-through traffic pattern would warrant public street rights of way less than the standard required width, but not less than 50 feet, if approved by the Town Board.

17.11-6 **BASIC DEVELOPMENT DISTRICTS: COMMERCIAL**

17.11-6 (1) **B-1 Neighborhood Convenience Retail & Service District**

A. Statement of Intent: This district is intended to provide for individual or small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood, and the character, appearance and operation of these establishments are compatible with the surrounding or adjacent area which in most cases will be residential.

1. Limitations: The expected close proximity of this district to residential areas makes it necessary to regulate uses, structures, and

their placement on their lots within this district so as to limit the bulk of buildings to a mass similar to residential buildings as permitted in this Ordinance; to limit the amount of land area at any one location placed within this district; to limit certain deleterious aspects of some businesses as a precondition to their locating in this district; and to treat as Conditional Uses certain other uses which, without substantial modification, would otherwise constitute an incompatible use to existing or planned nearby residential development.

B. Permitted Uses By Right: The following classes of uses subject to approval by the Planning Commission of building, site and operational plans: (see section 17.05).

1. Retail stores and shops offering convenience goods and personal services and individually not exceeding 3200 square feet of primary floor area.

2. Business, professional, or public service offices not exceeding 2400 square feet of primary floor area.

3. Customer service establishments such as financial services, shoe repair, barber and beauty shops, studios and similar uses, each not exceeding 1600 square feet of primary floor area, and not offering drive-thru facilities.

4. Public utility transmission and distribution lines, poles, and other accessories provided that when a utility proposes a main intercity transmission facility, they shall give notice to the Planning Commission of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Planning Commission mapped description of the route of such transmission line.

C. Permitted Accessory Uses: The following subject to approval by the Planning Commission of building, site and operational plans. (see section 17.05).

1. Garages for storage of vehicles used in conjunction with the operation of the business.
2. Off-street parking and loading areas. (see sect. 17.08).
3. Signs subject to the provisions of Section 17.09 of this Ordinance.
4. Residential quarters for the owner, proprietor, commercial tenant, employee, or caretaker located in the same building as the business.
5. Any other structure or use normally accessory to the principal uses permitted.

D. Permitted Uses By Conditional Grant:

1. Automobile fuel sales.
2. Rental apartments as a secondary use of a commercial building, and on other than the ground floor level.
3. Restaurants, taverns, bars, etc. not offering live entertainment.
4. Small animal veterinary clinics and accessory indoor boarding kennels.
5. Care Centers such as children or adult day care, nursing or convalescent centers including hospices but not hospitals.

E. Special Regulations:

1. This district should not normally be applied to parcels or groups of parcels whose primary floor area would total as a group more than 20,000 square feet.
2. Outside storage uses such as travel-moving vehicle or trailer rental, sale of motor vehicles, outside display of merchandise or goods storage, are not permitted.
3. Outdoor sound systems, cooking odors from food preparation, high intensity site lighting, drive-thru facilities, and late hours of opera-

tion, each pose special stress to nearby residential uses and should not ordinarily be approved in this district as part of permitted uses, unless the Planning Commission is satisfied in the specific circumstances that the degree of such aspects would be reduced below stress levels, or that mitigation measures would adequately protect nearby residential areas.

17.11-6 (2) **B-2 Community Business District**

A. Statement of Intent: This district is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, offices, and service establishments serving the needs of the larger community area. The size and location of such districts shall be based upon evidence of justifiable community need, of adequate customer potential, and of satisfactory relationship to the arterial highway system, and other related facilities. The impact on adjacent residential uses because of traffic, size of buildings, hours of operation, and the need for some arrangement of the uses within the district with respect to compatibility and interchange of customer traffic, will require Planning Commission approval of specific development plans.

1. Limitations: Uses that depend upon a substantial amount of outdoor storage of their product such as building supply yards, motor vehicle equipment sales and service, or which present other types of characteristics such as an outdoor theater, trucking terminal, motor vehicle body repair, and similar uses, tend to be incompatible with the retail shopping center and office developments which form the core of the permitted uses of this district. Consequently such uses are prohibited as uses of right in this district.

B. Permitted Uses By Right: The following classes of uses subject to approval by the Planning Commission of building, site, and operational plans: (see section 17.05).

1. Retail stores and shops without limitation as to size, on individual sites or grouped into shopping centers, but involving only incidental outdoor storage of goods or display of merchandise.

2. Community and customer service establishments including financial services, consumer item repairs including motor vehicle service, eating and drinking establishments, overnight lodging, indoor commercial recreation such as bowling alleys, physical fitness salons, theatres.

3. Offices for the professions, businesses and utilities, studios, clinics.

4. Automobile Drive-Thru facilities provided the service rendered or product sold is provided to each customer while they remain in or near their car and provided one or a few vehicles at a time are served as contrasted with an outdoor theater where all customers are served at once (see the OCR overlay district for such uses).

C. Permitted Accessory Uses: The following subject to approval by the Planning Commission of building, site and operational plans. (see Section 17.05).

1. All accessory uses as permitted in the B-1 District.

2. Signs as regulated in section 17.04.

D. Uses Permitted By Conditional Grant:

1. Rental apartments as a secondary use of a commercial building on other than a ground level floor.

2. Care centers, such as for children or adults, nursing or convalescent centers including hospices but not hospitals.

3. Any use permitted by right in the B-3 district but not so permitted in this district.

17.11-6 (3) **B-3 General Business District**

A. Statement of Intent: This district is intended to provide space for a widely diversified range of commercial uses, including those retail or service uses with a wholesale aspect and those businesses, both small and large, not suited to the B-1 or B-2 districts, including those with extensive outdoor product storage or display.

1. Site Characteristics: The uses to be located in this district traditionally need individually owned sites near other major commercial activity and facing or near important traffic arterials, but relying much less upon interchange of customers between adjacent uses as found among B-1 and B-2 uses. To discourage the stripping of B-3 uses along the principal arterial highways, thereby damaging the capacity of such arterials to move traffic safely as set forth in section 17.08-4 of this Ordinance, wherever possible uses should be arranged in "General Business Parks." Where stripping is unavoidable, the traffic management measures set forth in said 17.08-4 will need to be carefully followed.

2. Site Regulation: While this district is intended to be quite broad in its permissiveness within the general range of commercial enterprise, the potential is so high among some of the allowable uses for creating a damaging image for their neighborhood (especially where outside storage/display is involved) it is necessary for the Planning Commission to be especially vigilant in exercising its power of approval of building, site and operational plans under section 17.05 of this Ordinance.

B. Permitted Uses By Right: Subject to approval by the Planning Commission of building, site and operational plans as set forth in section 17.05 of this Ordinance:

1. Any uses permitted by right or by conditional use in the B-1 or B-2 Districts, except rental apartments as a secondary use.

2. Any retail or service uses involving outside storage or display of product which are otherwise prohibited in the B-1 and B-2 districts, for example automobile sales, building supply stores and yards, excluding, however, such uses as contractor equipment storage yards because the service provided is entirely offsite (see M-1 district), and auto salvage yards which are regulated in the AG district.

3. General merchandising and wholesaling establishments.

C. Permitted Accessory Uses: Any accessory uses, including signs, as permitted in the B-1 and B-2 districts, as well as any others customarily associated with the permitted uses of this district.

1. Retail or service uses involving related indoor manufacturing, (cabinet shops, heating and cooling equipment sales and service with onsite ductwork fabrication, etc.) where the manufacturing floor area does not exceed 5000 sq.ft. (See M-1 District for floor areas over 5000 sq.ft.)

17.11-6 (4) **B-4 Office District**

A. Statement of Intent: This district is intended to provide for individual sites, or for planned groupings on single larger sites or on subdivided larger sites, of office buildings and related service uses serving the needs of both the neighborhood and of the larger community area. Planning Commission approval of the building, site and operational plans of each such building proposal will be necessary to achieve a satisfactory relationship of the office use and its operating characteristics to possible adjacent residential uses, to the arterial highway system, and in some cases to adjacent retail and customer service uses where shared parking is likely and some interchange may occur between these various uses.

B. Permitted Uses By Right: The following subject to approval by the Planning Commission of build-

ing, site and operational plans: (see section 17.05).

1. Offices, whether for single or multiple tenant use, including business, professional, governmental or other institutional occupancy as well as for medical and dental clinics.

C. Permitted Accessory Uses: The following subject to approval by the Planning Commission of building, site, and operational plans: (see section 17.05).

1. Incidental service uses such as product or service display area, warehousing and repair service, customer or employe services including restaurants, cafeterias, day care facilities, studios or instructional areas, provided that these uses are accessory or subordinate to the principal office use by not comprising cumulatively more than 30% of the floor area.

2. Off-street parking or loading areas. (see section 17.08).

3. Signs subject to the regulations of 17.09.

4. Any other structure or use normally accessory to the principal permitted uses.

D. Permitted Use By Conditional Grant:

1. Banks, savings and loans, credit unions and similar financial service facilities having drive-up window service.

2. Rental apartments as a secondary use on other than the ground floor level.

3. Day care centers not accessory to a principal office use.

17.11-7 (1) **B-P Business Park District**

A. Statement of Intent: This district is intended to provide space where office, retail, and customer service uses may be mixed with industrial

uses in a highly landscaped setting free of outside storage or display, where the setting is highly visible to one or more main traffic arteries, and all of the uses seek or require such exposure and all are willing to adhere to a higher standard of architectural and grounds appearance to maximize the benefit of such visibility.

C. Permitted Accessory Uses: Subject to approval by the Planning Commission of building, site and operational plans under section 17.05:

1. Any accessory uses, including signs, permitted in the B-1 through B-4 or M-1 districts, as well as any others customarily associated with the permitted uses of this district, but excluding those involving outside storage or display.

D. Uses Permitted By Conditional Grant:

1. Uses, which at the time of zoning permit application are questionable as to compliance with one or more of the Performance Standards of section 17.04 of this Ordinance, that agree to a Grant For Specific Time Period as provided for under 17.06-3(10) of this Ordinance in order to allow for site-specific testing of the questionable standard.

E. Special Regulations:

1. That the Planning Commission shall not approve building plans that do not treat all exterior walls, of all structures permitted herein, with acceptable materials that present an equally finished facade to all sides.

2. That necessary loading docks, and enclosed waste storage awaiting pickup, be especially well treated in terms of site placement and landscape and other suitable screening.

17.11-8 (1) **M-1 Manufacturing and Warehousing District**

A. Statement of Intent: This district is intended to provide for all industrial uses that would

not violate the Performance Standards of section 17.04 of this Ordinance. In the context of this district Industrial is intended to mean those activities which make or add value to goods through various manufacturing processes.

1. Related Functions: This district also provides for warehousing and transportation activities, both as ancillary activities of manufacturing, and as independent facilities and services. Warehousing is also intended to encompass inside or outside storage of raw materials or finished goods, as well as of equipment used on or off the premises.

2. Industrial Service Functions: Retail and service functions providing direct service to industry are also permitted, as well as those having extensive outside storage which are not industrial or serving industry but which are also permitted in this district on the basis of visual and functional impact compatibility, rather than similarity of use.

B. Permitted Uses By Right: Subject to approval by the Planning Commission of building, site and operational plans as set forth in section 17.05 of this Ordinance.

1. Manufacturing, assembly, fabrication, and processing operations, including related materials storage and warehousing.

2. Transportation terminals, including trucking and railroading, and related transportation services such as overnight lodging, restaurants, vehicle fuel sales, service and wash facilities oriented to trucks.

3. General warehousing.

C. Permitted Accessory Uses: Subject to approval by the Planning Commission of building, site and operational plans under section 17.05:

1. Office, storage, power and water supply and other such uses normally ancillary to the permitted principal uses.
2. Off-street parking and loading facilities as regulated in section 17.08, including garages and terminal docks.
3. Signs as regulated in section 17.09.
4. Residential quarters for guard or caretaker. Any separate lot shall at least meet the R-2 district standards.
5. Any other accessory use normally ancillary to the permitted principal use.

D. Uses Permitted By Conditional Grant:

1. Uses, which at the time of zoning permit application, are questionable as to compliance with one or more of the Performance Standards of section 17.04 of this Ordinance, which applicants agree to a Grant For Specific Time Period as provided for under 17.06-3(10) of this Ordinance in order to allow for site-specific testing of the questionable standard.

[The remainder of this page is blank for possible future use.]

17.11-9 (1) **Wetland Protection District**

- A. Statement of Intent: This district is intended to preserve, protect and enhance wetlands, some of which lands under ss.66.231 Wis. Stats. must be so protected by state mandate, and others of which are protected hereunder as called for in the Town Plan. (see definition of Wetlands in section 17.01-4 Appendix).
- B. Permitted Uses By Right:
1. Agricultural uses, provided that they do not involve extensions of cultivated areas, extension of or creation of new drainage systems, and further provided that they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
 2. Fishing.
 3. Grazing in dry conditions.
 4. Hunting if permitted under other Town laws.
 5. Preservation of scenic, historic and scientific areas.
 6. Public fish hatcheries.
 7. Public or private parks, where left in a natural, undeveloped, open-space use.
 8. Sustained yield forestry if conducted under a US Soil Conservation Service management plan.
 9. Stream, bank and lakeshore protection.
 10. Water retention and wildlife preserves.
- C. Permitted Accessory Uses:
1. Structures accessory to principal uses, not intended for human habitation or the confined housing of animals or livestock.
- D. Uses Permitted By Conditional Grant:

No conditional uses shall be permitted in this District except:

1. Sod farming.
2. Utility facilities (except buildings and substations) such as underground water tight conduits, telephone and electric poles, etc., constructed in conformance with section NR116.17 of the Wisconsin Administrative Code.
3. Public road crossings of the wetland provided other routes have first been studied and discarded, and provided the construction technique and final roadway design used do not permanently impair the overall function of the wetland being crossed. Where some permanent damage appears unavoidable, the Planning Commission, if satisfied the crossing is in the public interest, may require compensating measures which create at least an equal amount of wetlands nearby or elsewhere, or which preserve an equal or larger area of wetland nearby or elsewhere which is otherwise not protected.

E. Special Regulations:

1. Where a lot or parcel of land is located partially within this district and partially within an adjoining district having minimum land area or open space requirements to meet the standards of that district as set forth in section 17.10-7, that portion of said lot or parcel which fails within this district may be counted toward said 17.10-7 standard but not to exceed 40 percent of said standard, and provided that the physical arrangement of the wetland does not preclude satisfactory positioning of the lot or parcel.
2. On-site Well and Sewage Disposal Prohibited: No private well used to obtain water for human consumption nor soil absorption sewage effluent treatment system or holding tank shall be placed within this district.

17.11-10 (1) **PUL PUBLIC OR UTILITY LANDS**

- A. Statement of Intent: This district is intended to eliminate the ambiguity of maintaining an unrelated use district for areas which are under public or private utility ownership and where the use for public purpose is anticipated to be permanent. To qualify for this district, land must be owned by the municipal, county, state or federal government or any agency thereof, or by a public utility subject to the jurisdiction of such regulatory bodies as the Wisconsin Public Service Commission or State Aeronautics Board.
- B. Permitted Uses By Right: The following subject to approval by the Planning Commission of building, site and operation plans:
1. Public schools, libraries, museums, auditoriums, art galleries, concert halls or similar facility designed to serve the educational or cultural needs of the community.
 2. Public administrative offices and public service buildings including fire and police stations.
 3. Public parks and recreational areas, but not including facilities for organized athletics except as a permitted conditional use.
 4. Public parking lots.
 5. Public utility offices, installations, transmission, and distribution facilities.
 6. Airports.
- C. Permitted Accessory Uses:
1. Residential quarters for employees or caretaker.
 2. Garages for storage of vehicles used in conjunction with the operation of the permitted facility.

3. Parking and service areas and structures serving the employees or for the public using the permitted facility per section 17.08.

4. Signs as regulated in section 17.04.

5. Service buildings and facilities normally accessory to the principal use permitted.

D. Uses Permitted By Conditional Grant:

1. Public service yards containing outside storage, or overnight outdoor parking.

2. Public Parking structures.

3. Public penal, reform, disciplinary and mental institutions.

4. Public hospitals or sanitariums, (see also OIP district).

5. Military installations.

6. Public outdoor recreational facilities for organized athletics.

[The remainder of this page is blank for possible future use.]

17.11-11 **OVERLAY DISTRICTS**

17.11-11 (1) **OCR Commercial & Private Recreation Overlay District**

A. Statement of Intent: This District is intended to provide for both indoor and outdoor non-governmental recreational uses which exceed the scope of those permitted in association with residential districts, and which involve both commercial operations which do not fit within the commercial districts, such as outdoor drive-in theaters, and private operations such as membership golf courses. The wide variation in the impact of uses permissible under this district on the surrounding pattern of land use and transportation facilities requires limiting uses by right to existing uses, requiring extensions thereof, or new operations, to be processed as Conditional Use grants.

B. Permitted Uses By Right: Existing private and commercial recreational uses including, but not limited by enumeration to: golf courses, camp grounds, swimming and tennis clubs, athletic fields and stadiums, outdoor theaters, archery and firearm ranges, horse riding stables, etc. including the right to maintain and remodel the improvements involved therewith, except that remodeling shall not involve a basic expansion of the use, and any activity requiring a zoning permit shall require approval by the Planning Commission of Building, Site and Operational plans per section 17.05.

C. Permitted Accessory Uses:

Subject to approval by the Planning Commission of Building, Site and Operational plans per section 17.05:

1. Off-street parking and loading areas per section 17.08.
2. Signs as regulated in section 17.09.
3. Residential quarters for the owner or caretaker.

D. Uses Permitted By Conditional Grant:

1. Expansion of uses: All continuation of present uses involving new construction or additions and remodeling that expand the use.
2. New uses including, but not limited by enumeration, to those listed under permitted uses by right.

17.11-11 (2) **OIP Institutional & Public Service Overlay District**

A. Statement of Intent: This district is intended to permit in those basic districts in which such uses are appropriate, specifically defined areas where churches, schools, libraries, and other uses of a public or institutional nature shall be permitted subject to such regulatory standards as will insure compatibility with the underlying basic district uses, often residential.

B. Permitted Uses By Right: The following uses subject to approval by the Planning Commission of building, site, and operational plans per section 17.09:

1. Public and private schools.
2. Churches and religious institutions other than hospitals.
3. Care centers such as nursing and convalescent homes, day care centers, hospices but not hospitals or clinics.
4. Cemeteries and mausoleums.
5. Libraries, museums, art galleries and concert halls.
6. Public administrative offices.
7. Private lodges and clubs.

C. Permitted Accessory Uses: The following subject to approval by the Planning Commission of building, site and operational plans per section 17.05:

1. Off-street parking and loading areas per section 17.08.
2. Signs as regulated by section 17.09.
3. Bar, restaurant or other service facilities accessory to a permitted use, and intended solely for the convenience of members and guests and not operated as a business nor open to the general public. Where such facilities are accessory but are open to the public, they may be permitted as a Conditional Use as hereinafter specified.
4. Any other structure or use normally incident or accessory to the permitted overlay use.

D. Uses Permitted By Conditional Grant:

1. Public service yards.
2. Radio and television transmission and relay towers.
3. Hospitals.
4. Bar, restaurant or other service facilities basically accessory to a permitted principal use, but open to the public and operated as a business.
5. Penal, reform, disciplinary, and mental institutions.

17.11-12 (1) OPD Planned Development Overlay District

- A. Statement of Intent: This district is intended to provide for the zoning map implementation of the special regulations authorized by Section 62.23(7)(b) of the Wisconsin Statutes and incorporated into this Ordinance as Section 17.07. This section is also intended to implement a.66.027(3)Wis. Statutes for Traditional Neighborhood Developments and for Conservation Subdivisions

- B. Permitted Uses By Right: Any use permitted in the underlying basic or overlay districts subject to the regulation as to the manner in which permitted as provided in Section 17.07-3.
- C. Permitted Accessory Uses: Any accessory use permitted in the underlying zoning districts, but subject to the regulations as to the manner in which permitted as provided in Section 17.07-3.
- D. Uses Permitted By Conditional Grant: Subject to all of the regulations of section 17.06 and 17.07:
 - 1. Any conditional use permitted in any district.
 - 2. Any use permitted by right in any district.
 - 3. Any accessory use permitted in any district.

17.11-13 (1) **OAH Airport Height Overlay District**

- A. Statement of Intent: This district is intended to restrict the otherwise permissible height of buildings, structures and landscaping, or other natural growth, in the path of airport runways regulated by the State Aeronautical function within the Wisconsin Department of Transportation so as to minimize restrictions to the free and safe flight of aircraft taking off or landing upon said runways. This district also restricts certain land uses which act as hazards to aircraft flying at low levels, or which interfere with the navigational aspects of airport operation, and this district may prohibit or discourage land uses which might be adversely affected by airport operations.

Definitions:

- 1. "Airport Runway Affected Zone:" That area contiguous to the ends of existing or planned runways extending outward five times the length of the existing or planned runway, and extending to one half mile on either side of said runway corridor.

2. "Airport Owner:" that municipal, county, state, or private owner or combination thereof which owns an approved airport.
 3. "Approved Airport:" that existing or proposed airport which has been approved as an airport site by appropriate state and federal aeronautical regulatory agencies, and which
 - a. has been included on the state airport system plan;
 - b. has its fee simple title vested in the airport owner.
 4. "Height Restriction Maps:" Maps prepared as part of the Airport Development Plan which is approved by appropriate state and federal aeronautical regulatory authorities and the Town Planning Commission, which maps show allowable heights for obstructions to air traffic within the Airport Affected Runway Zone.
 5. "Land Use Restriction Maps:" Maps and text prepared in the plan of 4 preceding which set forth uses to be prohibited or modified within the Airport Affected Runway Zone so as to minimize interference with safe flight or navigation of aircraft. Said maps and text may also recommend land uses to be prohibited or discouraged by the undue danger or annoyance of aircraft operations, particularly noise.
- B. Permitted Uses By Right: All uses as permitted by the basic and overlay districts lying within this OAH overlay district, subject to the height or land use modifications as may be adopted by the Town Board, upon recommendation of the Planning Commission as an amendment to this district in connection with adoption of any approved Airport Development Plan.
- C. Permitted Accessory Uses: All accessory uses as permitted by the basic and overlay districts lying within this OAH overlay district, subject to the height or land use modifications as may be adopted by the Town Board upon recommendation of the Planning Commission as an amendment to

this district in connection with adoption of any approved Airport Development Plan.

D. Uses Permitted By Conditional Grant: All uses as permitted by basic and overlay districts lying within this OAH overlay district, subject to the height or land use modifications as may be adopted by the Town Board upon recommendation of the Planning Commission as an amendment to this district in connection with adoption of any approved Airport Development Plan.

E. Special Regulations:

1. Application of this District: shall be by petition of the airport owner, following the procedures set forth under section 17.14 Changes and Amendments of this Ordinance.

2. Prior to Petition: or prior to scheduling of any public hearing on the petition, the airport owner shall cause to be prepared an Airport Development Plan which provides the information described in A, and any related information required by the State aeronautical board responsible for approval of such plans. The Town shall be provided with a copy of said plan no later than the owner's filing of the plan with the State.

3. Adoption of Airport Development Plan: Following adoption of the Airport Development Plan in its original or amended form by the Town Board, after recommendation of the Planning Commission, and preparation of specific restrictions to be enforced under the terms of this district, the petition shall proceed to public hearing and consideration for action as set forth in section 17.14 Changes and Amendments.

4. Application of the OAH Overlay District to the Official Zoning Map as described in section 17.10-5 shall implement the restrictions found in the adopted Airport Development Plan as if they were part of this Ordinance and this district. The Zoning Administrator may prepare excerpts from the plan to aid his office and

owners of affected property to understand the regulations being implemented by this district.

5. Airport Notification: Amendments to this district once in place shall not be effective until such time as the airport owner has been notified by the Town and given a reasonable opportunity to comment upon the proposed amendment.

17.11-14 (1) **OWC Woodlands Conservation District**

A. Statement of Intent: This district is intended to protect and enhance the remaining significant woodlots in the Town in order to preserve one of the important scenic elements of Town character, to sustain the remaining wildlife which depends upon such woodlots, to help protect steep topography in some cases and to retard soil erosion in other cases, and to retain some natural diversity in the man-affected environment of urban development and farmed rural areas.

1. Economic Value To Be Retained: Preservation of the Town's remaining woodlands is not intended to unfairly penalize the economic value of the properties on which the woodlands occur. Accordingly, this district provides for a variety of techniques that both preserve woodlands while allowing for economic value of land to be realized.

2. Variety of Preservation Methods: Subject to approval by the Planning Commission of building, site, and operational plans under section 17.05 of this Ordinance, the examples under E. following may be used alone, or in combination to retain the Town's remaining quantity of woodlands while providing the owner with fair economic value.

B. Permitted Uses By Right: Any use as permitted in the basic or overlay districts falling within this district, except that all uses, whether required or not by the other district regulations, if located within this district, for the purpose of woodlands preservation shall be subject to approval by the Planning Commission of

building, site and development plans as set forth in section 17.05 of this Ordinance. In cases where subdividing is involved, once having established a basic plan to preserve woodlands in the area, the Commission may delegate to the Zoning Administrator the review of individual plans within each lot to assure conformance with the overall subdivision woodland preservation plan.

- C. Permitted Accessory Uses: Any accessory uses as permitted in the basic or overlay district falling within this district, subject to the same requirement for principal uses of B. preceding that they be processed under section 17.05.
- D. Uses Permitted By Conditional Grant: Any use as permitted by conditional grant in the basic or overlay districts falling within this district, except that the existence of this district shall be weighed as part of the criteria of section 17.06 whether or not to grant the petitioned use, and the conditions established under 17.06 may substitute for a separate processing under 17.05.
- E. Special Regulations: In application of any or all of the following methods of woodlands preservation and enhancement, the Planning Commission under its powers of building, site and operational plan review and approval of section 17.05 of this Ordinance, or as appropriate section 17.06, shall always require that covenants be placed upon the deed of the property describing protected areas so that subsequent owners are informed of the tree zone to be protected and managed for preservation.

The Commission may in consultation with the US Forest Service, US Soil Conservation Service, or Wisconsin Department of Natural Resources, provide tree management guidelines for use by owners with said protective covenants.

- 1. Minimized Destruction: In cases where all or a high percentage of the property is wooded, leaving in the Commission's judgement no alternative to some woodland destruction, the Commis-

sion shall seek to limit the destruction to the smallest amount possible by requiring limited construction areas around buildings and other improvements, narrower drives and roadways, and building and road levels which least cause tree loss from grading.

2. Clustering-Repositioning: In cases where woodlands are in groups mixed with open space, the Commission shall seek to encourage and allow alternative arrangements of the roadway and development plan including modification of lot size or shapes, and of the location of buildings and parking lots within those lots or within the tract if subdividing is not involved, so as to cause the least destruction of woodlands, for example arranging that the trees fall in required yard areas rather than in the buildable portions of lots. Where necessary, the Commission shall encourage application of the OPD Planned Development Project overlay district to effect any necessary modifications in lot size, building placement or the substitution of other building types, to accomplish the tree preservation plan.

3. Replacement: In cases where in the Commission's judgment some tree loss is unavoidable, the Commission shall require replanting on the same or nearby properties as the petitioner is able to arrange. Replanting shall be at a ratio of two acres of new plantings for each one acre of lost mature woodlot. The Commission may prepare tree planting plans in anticipation of such reforestation planting so that isolated tree groups become connected, bare steep slopes become tree planted, and other objectives of woodland preservation are achieved.

17.11-14 (2) **OWP Wellhead Protection District**

A. Statement of Intent: This district is intended to protect from contamination the groundwater recharge zone of the Town of Weston's existing and planned municipal ground water wells, which wells supply the potable water to the Town's many residential, business, institutional and other utility customers. This district is

necessary because the water utility by geological necessity must draw its water from the ground levels lying closest to the surface, which grounds contain soil types that rapidly transmit pollutants, thereby threatening the entire ground water supply being drawn upon by the municipal wellhead.

1. Supremacy of this District: The choice of regulation employed via this overlay district is to entirely prohibit certain uses that otherwise may be permitted by basic and other overlay districts falling within the confines of this overlay district. The regulations of this district shall supercede the regulations of all other such districts occupying the same geographic area.

2. Uses Prohibited: The uses prohibited by this district have been identified in environmental health studies and in geologic surveys as risks for groundwater contamination. This method of regulation by complete prohibition is employed to provide the greatest assurance that inadvertent discharge of pollutants into the ground water supply will not occur, since groundwater cleanup is often prohibitively expensive, and liability for such cleanup is often hard or impossible to establish.

3. Use List Not Exhaustive: The uses prohibited by this district represent the state of present knowledge and the most common description of said uses. As other polluting uses are discovered, or other terms of description become necessary, it is the intention to add them to the list of uses prohibited by this district. To screen for such other uses or terms for uses, no use shall be permitted in this district without first submitting its building, site and operational plans for Planning Commission review and approval under section 17.05 of this Ordinance.

4. Changing Technology: The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by that class of uses, which technology causes the

uses as a class to be groundwater pollution risks. As the technology of identified use classes changes to non-risk materials or methods, upon petition from such a use, and after conferring with expert public health, environmental and geological opinion, it is the intention to delete from the prohibited list, or allow conditionally, uses which demonstrate convincingly that they no longer pose a pollution hazard.

5. Substitution of Hazards Prohibited: In dealing with uses or classes of uses which attempt to become permissible, under the terms of this district, by continuing to utilize pollutant materials but altering their methods of storage or handling, for example transferring materials storage from leak prone but explosion resistant underground tanks, to leak resistant but explosion vulnerable above ground vessels, it is not the intention to accept such alternate hazards as the basis for making a use permissible. It is the intention to continue the ban on such uses until the technology of the class of uses removes reliance upon the pollutant materials or processes.

B. Permitted Uses By Right: All uses permitted by underlying basic or other overlay zones are permitted, subject to review of the building, site and operational plans of such uses by the Planning Commission pursuant to section 17.05 of this Ordinance, whether required or not by the underlying and other overlay districts, except the following uses, which are specifically prohibited by this district:

List of Prohibited Uses:

1. Animal waste storage areas and facilities.
2. Asphalt ingredients storage or processing plants.
3. Automobile or truck laundries.
4. Automobile or truck fuel sales or service stations.
5. Building materials and products storage yards.
6. Cartage facilities, truck terminals.
7. Cemeteries.

8. Chemical storage, sale, processing or manufacturing plants.
9. Dry cleaning establishments.
10. Electronic circuit manufacture or assembly plants.
11. Electroplating operations.
12. Exterminating supply, storage, or application shops.
13. Fertilizer manufacturing or storage operations.
14. Foundries and forge plants.
15. Garages for repair and servicing of motor vehicles, including body repair, painting, or engine rebuilding.
16. Highway salt storage areas.
17. Industrial liquid waste storage areas.
18. Junk/Recycling yards, motor vehicle salvage yards.
19. Landfills, areas for dumping or disposal of garbage, refuse, trash or demolition material.
20. Metal reduction and refinement plants.
21. Mining operations.
22. Motor and machinery service and assembly shops.
23. Motor freight terminals.
24. On-site soil absorption sewage treatment systems on new lots under 40,000 sq.ft.
25. Paint products manufacturing.
26. Petroleum products storage or processing.
27. Photography studios, involving the developing of film or pictures.
28. Plastics manufacturing.
29. Printing and publishing establishments.
30. Pulp and paper manufacturing.
31. Septage and municipal sewage sludge disposal sites.
32. Storage, manufacturing or disposal of toxic or hazardous materials.
33. Underground petroleum products storage tanks for industrial, commercial, residential or other uses. (see also #26).
34. Woodworking and wood products manufacturing.

- C. Permitted Accessory Uses: All accessory uses permitted by the underlying basic or other

overlay zones are permitted, subject to review of the building, site and operational plans of such uses by the Planning Commission pursuant to section 17.05 of this Ordinance, whether required or not by the underlying and other overlay districts, except those uses prohibited in B. preceding, which are hereby prohibited whether judged to be principal or accessory uses.

- D. Uses Permitted By Conditional Grant: Any class of uses prohibited by this district may become a use permitted by right, or an individual use within a class potentially may be permitted by conditional grant pursuant to A.4. of this district, Changing Technology.

However, the Planning Commission shall not favorably recommend to the Town Board a petition to remove a use from the Prohibited List of this district, nor favorably process a petition for Conditional Use status, notwithstanding any of the provisions of section 17.06 of this Ordinance, without being sure beyond a reasonable doubt, that the action will not materially violate the Intent of this district, resulting in exposure of the public water supply to pollution.

17.11-14 (3) **OME Mineral Extraction Overlay District**

- A. Statement of Intent: This district is intended as the regulatory method for establishing minimal controls for existing operations, and for permitting proposed new operations, involving either removal of earth materials or for filling, the regulations herein being particularly oriented to assuring safe, nuisance-free operations leading systematically to a restored site having future usefulness, either for agriculture where so basically zoned, or for urban uses where so planned or zoned.
- B. Permitted Uses By Right: The following subject to approval by the Planning Commission of building, site and operation plans (see section 17.05): New Uses involving:

1. Open Pit removal of sand and gravel including washing, crushing and similar processing, provided that all excavations shall be at least 200 feet from any right of way or property line, and all accessory uses such as office, parking areas, or stock piles shall be at least 100 feet from right-of-way and property lines.
 2. Stripping of topsoil, related sifting and mixing.
- C. Permitted Accessory Uses: The following subject to approval by the Planning Commission of building, site and operational plans per section 17.05.
1. Office, outside storage of machinery and equipment.
 2. Stockpiling of extracted materials or soil covering material.
 3. Power supply and other such uses normally auxiliary to the permitted uses.
 4. Signs as permitted in the underlying district.
 5. Residential quarters for the guard or caretaker.
- D. Uses Permitted By Conditional Grant:
1. Existing extractive operations as enumerated under permitted uses by right or existing filling operations, may apply for legal conforming status hereunder.
 2. New site filling operations greater than can be handled under a developer's agreement under the subdivision ordinance.
 3. The following only in conjunction with a permitted use by right, which shall cease upon completion of the principal operations:
 - a. Concrete mixing.
 - b. Cement-concrete products manufacturing.

c. Asphalt paving production.

4. Quarrying of rock, crushing for aggregate

5. Underground mining of minerals.

E. Special Regulations:

1. Existing Operations: Whether intending to conform to this Ordinance or to remain legal non-conforming, within 180 days after adoption hereof, all such uses shall be required to file with the Planning Commission data showing:

a. The Present Operations, including boundaries of the ownership and of the areas and depths of the actual operation, a full and adequate description of all phases of the operation and the specific mention of type of machinery and equipment which are 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.

b. The Restoration Plan for the site, as hereinafter described.

c. Such existing operations shall be required to modify their operations, procedures and their restoration plans in conformance with those minimum requirements imposed by the Planning Commission to assure safety, minimization of nuisances, and restoration of the site, provided that such requirements shall not be economically and engineeringly unreasonable with respect to existing conditions.

2. Proposed Operations Operational Plan: Application for re-zoning to this District, or for a conditional use hereunder, shall augment the data required under sections 17.05 and 17.14 and where appropriate section 17.06 of this Ordinance by supplying at least the following:

- a. A written description of the nature of the proposed operation including type and amount of machinery and equipment to be used; the source, quantity and disposition of water to be used, and the nature of proposed fill materials, if any.
 - b. A map showing existing contours at vertical intervals of at least five feet, plus existing trees.
 - c. The depth, by area, of proposed excavations or filling.
 - d. Proposed visual screening method, including earth berms, fences, plantings.
 - e. Drainage Plan during operations.
2. Proposed Operations Restoration Plan:
- a. Proposed stages of excavation and filling by area.
 - b. Estimated timetable for commencement and restoration.
 - c. Proposed contours of the land after completion.
 - d. General Use Plan such as proposed roads and lots for future urban development if so zoned or planned.
 - e. Depth of restored topsoil and location of proposed planting or reforestation.
3. Existing & New Operations Performance Guarantees: in the form of a surety bond or other such method acceptable to the Town Board and approved by the Town Attorney, and Planning Commission upon advice of the Town Engineer.
- a. The applicant in designing a plan of operation shall give consideration to operating in compact stages to minimize the required amount of performance guarantee in any one guarantee period.

b. Such guarantees shall be for periods not to exceed two years, with renewals allowable for additional two year periods. With each renewal the Town Engineer shall advise the Town on the proper amount of guarantee to cover restoration of operations, existing and proposed, for the next period.

4. Approval of Rezoning: to this District, or other actions under this section, shall be premised on concern for:

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, and the possibility of soil erosion as a result of the proposed operation.

c. The practical possibility of restoration of the site, in keeping with probable land use after restoration.

17.11-14 (4) **OFF Floodplain Protection Overlay District**

A. Statement of Intent: This district is intended to implement the mandate of ss.87.30 Wis.Stats. which requires adoption of an effective local floodplain zoning district, and to qualify owners of property in existing floodplains for federal floodplain insurance.

1. The broader purpose of the regulations in this district are to provide sound floodplain management so as to:

a. Protect life, health and property.

b. Minimize expenditures of public monies for costly flood control projects.

c. Minimize rescue and relief efforts, typically undertaken at the expense of the general public.

d. Minimize business interruptions.

e. Minimize damage to public facilities on the floodplains, such as water mains, sewer lines, streets and bridges.

f. Minimize the occurrence of future flood-blight areas on floodplains.

g. Discourage the victimization of unwary land and home buyers.

h. Preserve, essentially as open space-natural use of lands, which are unsuitable for intensive development purposes due to poor natural soil conditions and periodic flood inundation.

i. Regulate floodplain areas so as to maintain and improve water quality, protect aquatic and wildlife habitat, and prohibit the location of structures on soils which are generally not suitable for such use.

2. Definitions, see Section 17.01-4, Appendix, particularly: bulkhead line, channel and channeling, development, ditching, drainageway, dry-land access, equal degree of hydraulic or hydrologic encroachment, FEMA, all definitions beginning with "flood", freeboard, high water mark, increase in regional flood height, marina, obstruction to flow, official letter of map amendment, ordinary high water mark, pierhead line, shorelands, shore yard, storage capacity, flood.

3. Designation of Floodplain Areas: The lines of this district as depicted upon the Official Zoning District Map are intended to offer general information as to the location of the floodplain. However, to the extent these lines represent information from other sources, particularly the "Flood Insurance Rate Maps" published by the Federal Emergency Management Agency and similar studies as from time to time shall be prepared by that and similar agencies, the original source shall be consulted for detail information. As they become available, large-scale topographic mapping of the floodplains shall be published as an official exten-

sion of the Official Zoning District Map that is part of this ordinance.

- B. Permitted Uses By Right: Those uses of land, but not of buildings, or of structures, as permitted in the underlying basic or other overlay districts which fall within this district, which uses of land are consistent with the purposes of this district. Examples would be: croplands in any agricultural district; required yards in a residential district; parking and loading areas in a commercial or industrial district, provided that inundation depths for parking and loading areas do not exceed two feet or that such areas are not subject to flood velocities greater than four feet per second upon the occurrence of a 100 year recurrence interval period flood.
- C. Permitted Accessory Uses: Those accessory uses of land, but not of buildings or structures, as permitted in the underlying basic or other overlay districts which fall within this district, which accessory uses of land are consistent with the purposes of this district. Examples include those given under B. above.
- D. Uses Permitted By Conditional Grant: (see section 17.06)
1. Bridges and approaches.
 2. Filling as authorized by the Wisconsin Department of Natural Resources and the United States Army Corp of Engineers to permit the establishment of approved bulkhead lines.
 3. Marinas.
 4. Municipal water supply and sanitary sewage systems.
 5. Navigational structures.
 6. Public water measuring and control facilities done in accordance with the provisions of section NR116.17 of the Wisconsin Administrative Code.

7. Utility facilities (except buildings and substations) such as underground water-tight conduits, telephone and electric poles, etc., constructed in conformance with section NR116.17 of the Wisconsin Administrative Code.

E. Special Regulations:

1. Lot Area: Where a lot or parcel is located partially within a floodplain and partially within an adjoining use district, that area of the lot or parcel in the floodplain may be used to meet the lot area requirements of the adjoining district provided that at least 40 percent of the minimum lot area requirement is provided outside the floodplain where public sanitary sewerage facilities are available. and at least 40,000 sq.ft. is provided outside the floodplain where public sewerage facilities are not available.

2. Dumping, Filling, Excavation and Obstruction Prohibited: Lands lying within this District shall not be obstructed in any manner, nor shall such lands be used for dumping of any material or substance (including manure) or be filled, except as authorized to permit the establishment of approved bulkhead lines or to accommodate bridge approaches. Excavation in the Floodplain area shall be prohibited, except that normal earth grading activities as defined in this ordinance to permit utilization of the lands for open space, outdoor recreation, yard, parking, and similar uses are permitted.

3. Storage of Materials Prohibited: Lands lying within this District shall not be used for the storage of materials that are buoyant, flammable, explosive, or injurious to human, animal, plant, fish or other aquatic life.

4. Incompatible Uses Prohibited: Lands lying within this District shall not be used for any solid waste disposal site, on-site soil absorption sanitary sewage system site, holding tank, or the construction of any wells used to obtain water for ultimate human consumption. The re-

stricted confinement or permanent sheltering of animals or livestock is prohibited.

5. Structures Prohibited: Except for navigational structures, public water measuring and control facilities, bridges and utilities, no structures, dwellings, mobile homes or shelters shall be located, moved or placed on lands located within this District. This section shall be strictly construed and shall not be subject to variances.

6. Channel Structures: In addition to the above structures, the erection of all structures in a channel shall require a permit from the State agency having jurisdiction pursuant to section 30.12(2) of the Wisconsin Statutes. All bulkheads, wharves and piers shall comply with bulkhead or pierhead lines established by any municipality pursuant to section 30.11 or 30.13 of the Wisconsin Statutes.

7. Dam Construction: Dam construction, operation, maintenance and abandonment are uses requiring a public hearing before the Planning Commission in accordance with section 17.06 of this Ordinance. The Commission shall then advise the State agency having jurisdiction under sections 31.05, 31.07, 31.13 and 31.185 of the Wisconsin Statutes of the Commission's findings prior to the issuance of the required State permit.

8. Removal of Trees and Shrubs: The removal of trees, shrubs and foliage from the Floodplain Overlay District shall be prohibited unless conducted in accordance with section 17.05 and with the further provision that such activity is conducted in a manner so as to be consistent with sound floodplain management.

17.11-14 (5) **OCS County Shoreland Overlay District**

A. Statement of Intent: This district is intended to only appear on the Town zoning map as an aid to affected property owners and other users of the map to remind them of the regulations imposed upon those lands by virtue of ss.59.971

Wis.Stats. which requires the County to adopt and enforce shoreland zoning districts along navigable waters as defined in ss.144.26(2) (d) Wis.Stats. as enumerated below. This district may also continue to appear on Town territory annexed into a city or village to remind map users that some of the County regulations must be enforced by said incorporated municipality.

1. One thousand feet from a lake, pond or flow-age. If the navigable water is a glacial pothole lake, this distance shall be measured from the high-water mark of the lake.

2. Three hundred feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

- B. Permitted Uses By Right;
- C. Permitted Accessory Uses;
- D. Uses Permitted By Conditional Grant:

Any of the above uses as permitted in the underlying basic or overlay districts unless prohibited or subject to additional regulations imposed by the County shoreland district controls.

[The remainder of this page is blank for possible future use.]

17.12 NON-CONFORMING LOTS, BUILDINGS AND USES

17.12-1 INTENT

(1) Previously Lawful Conditions: Within the districts established and mapped by this Ordinance or amendments thereto, there may exist lots, buildings, structures, or uses of lands or buildings, which were lawful before this Ordinance or amendments were enacted, but which do not now conform to the regulations herein. As set forth in ss.62.23(7)(h) Wis. Statutes., such non-conforming conditions may be continued, but may not be extended, repaired or altered beyond the limitations set forth in said Statute and as enumerated below. It is the intent of this Ordinance to permit such non-conformities to continue in accordance with said 62.23(7)(h) and the provisions hereunder, until the non-conformities are removed or corrected by economic forces or otherwise, except that structures which are not buildings may be required to conform if provided for in this Ordinance.

(2) Non-Precedent Status of Non-Conformities: It is not the intent of this Ordinance to encourage the undue survival of non-conformities, since it has been determined that they are incompatible with the character of the district in which they are located. In particular, existing non-conformities shall not be used as the basis for justifying deviations from district regulations on other properties.

17.12-2 CLASSIFICATION AND REGULATION

For the purpose of equitable administration of section 62.23(7)(h) of the Wis. Statutes, non-conforming conditions are hereby classified and separately regulated as follows:

(1) Non-Conforming Lots:

A. Lots of Record which are non-conforming, (also called "substandard lots"), as to the minimum numerical regulations of the district in which they are placed, may be built upon so long as the regulations relating to location and minimum sizes of buildings and uses thereon will still be met, and the required open space is not reduced by a ratio more than the ratio which the

lot area fails to meet the district regulation for minimum lot size.

B. Vacant Lots in Common Ownership: which do not meet the minimum numerical requirements as to area or width shall not be conveyed separately to others except in conformity with the applicable provisions of the Land Division Ordinance. Any such lots which fail to meet the following minimum criteria, shall be denied a zoning permit until the lots are resubdivided to conform, or more nearly conform, to the district requirements:

Area:	5,000 sq.ft.
Average Width:	50 feet (sewered); 65 feet (unsewered)
Depth:	100 feet
Rear Yard:	15 feet
Side Yard:	5 feet (non-common wall construction)
Setback:	15 feet to building; 20 feet to garage
Street Access:	10 feet of frontage width

C. Wetland or Floodplain Lots of record shall not be issued zoning permits which would require destruction of the wetland or invasion of the floodplain, unless in conformance with the terms of the WPD and OFP districts or an action by the Board of Zoning Appeals granted in the spirit of those districts.

D. Buildings on Substandard Lots which buildings otherwise conform to all the locational, open space, floor area and parking regulations of the district shall not be considered non-conforming buildings for purposes of 62.23(7) (h) .

(2) Non-Conforming Use of Land:

A. No such use shall be expanded or enlarged. Expansion or enlargement examples include greater primary floor area; longer hours of operation; more employees; more output of emissions which adversely affects surrounding land uses, such as

dust, odor, noise, traffic volume, etc., as listed in Section 17.04 Performance Standards; more trucking volume per unit of time; and similar evidences.

- B. Upon petition to and approval of the Board of Appeals, such use may be changed to another use provided the Board determines that the new use would result in the same or less degree of non-conformity as the previous use, provided further that if the new use is less non-conforming such new use shall thereafter determine the degree of legal non-conformity.
- C. Where any such use is discontinued for a period of 12 consecutive or for 18 cumulative months during any three year period, any future use of the land shall conform to the regulations of the district in which it is located.

(3) Non-Conforming Buildings: includes buildings which contain too little or too much floor area; buildings which encroach upon floodplains or upon required setbacks and yards; buildings which have too much height.

A. No such building shall be repaired or altered during its lifetime to an extent, including the cost of floodproofing, which exceeds 50 percent of its full market value at the time it became non-conforming. If such a building is damaged to more than 50 percent of its full market value it shall be razed unless the reconstruction would bring the building into compliance with the district regulations.

B. Alterations or extensions allowable within the limits of A. preceding shall not increase the degree of non-conformity, for example, making an extension farther into an inadequate yard, adding more fill to the floodplain, adding floor area to a building which already exceeds the floor to land area ratio, converting more space to primary floor area without increasing already inadequate parking space, etc.

- C. Alterations which tend to reduce the degree of non-conformity, for example enlarging buildings

which are too small, reducing buildings which are too large, removing portions which encroach upon floodplains or required yard spaces, may be approved by the Board of Zoning Appeals if the Board first finds that the alteration makes a substantial reduction in the degree of non-conformity; does not prolong an overall non-conformity which would best be discouraged from survival; and as part of the alteration improves other shortcomings of the building or premises as enumerated in section 17.05 Building, Site and Operational Plans. Where the Board is inclined to make such a finding involving section 17.05, it shall condition its approval upon receipt from the Planning Commission of a favorable recommendation on the alterations as reviewed under 17.05.

(4) Non-Conforming Use of Buildings: includes buildings which may or may not be non-conforming as defined in (3) above, but which contain uses which do not conform to the use regulations of the district in which the property is located, for example, an improper commercial use in a building designed for and located within a residence district, and otherwise conforming to the district numerical regulations.

- A. No such use shall be expanded or enlarged. Expansion or enlargement of "use" shall be defined as described in A. above under (2) Non-conforming Use of Land).
- B. Structural repairs or alterations to a building containing a non-conforming use shall not, as long as such use continues, exceed 50% of the full market value of the building, and if the building is damaged to more than 50% of said value the building shall not be restored unless the non-conforming use is removed.
- C. Repairs or alterations allowable within the limits of B. preceding shall not increase the degree of non-conformity, for example devoting more floor space to the non-conforming use, changing the appearance and function of the building away from a conforming use or toward the non-conforming use, or other changes such as

enumerated in (2)A. Non-Conforming Use of Land above.

- D. Alterations which tend to reduce the degree of non-conformity, for example reducing the floor space devoted to a non-conforming use in a mixed use building, may be approved by the Board of Zoning Appeals if they first find that the alteration makes a substantial reduction in the degree of non-conformity; does not prolong an overall non-conformity which would best be discouraged from survival; and as part of the alteration improves other shortcomings of the building or premises as enumerated in section 17.05 Building, Site and Operational Plans. Where the Board is inclined to make such a finding involving section 17.05, it shall condition its approval upon receipt from the Planning Commission of a favorable recommendation on the alterations as reviewed under 17.05.
- E. Upon petition to and approval of the Board of Appeals, such use may be changed to another use provided the Board determines that the new use would result in the same or less degree of non-conformity as the present use, and provided further that such new use shall thereafter determine the degree of legal non-conformity.
- F. Where any such use is discontinued for a period of 12 consecutive or for 18 cumulative months during any 3 year period, any future use of the building shall conform to the regulations of the district in which it is located.

(5) Non-Conforming Structures Other Than Buildings: includes signs, fences, light poles, buried or above ground tanks, and similar facilities which do not conform to the regulations of the district in which the property is located, or which are accessory to a principal building or use which is non-conforming. Such structures shall not be repaired or altered to an extent exceeding 50% of their individual full market value, and if damaged to more than 50% of their value shall be removed or replaced with a facility that conforms to the district regulations.

- A. Notwithstanding the provisions of the preceding paragraph, and in conformance with 17.12-1(1), if the district regulations or other sections of this Ordinance so provide, a non-conforming structure which is not a building may be required to be removed or made to conform before the 50% level of repair, alterations or damage has been reached, for example a fence which blocks a vision corner, a light pole fixture which causes glare to traffic on public streets, a tank which is leaking, etc.

17.12-3 REMOVAL OF HAZARDS

Where, upon complaint to the Zoning Administrator, any non-conforming building, structure, or use, shall be found by the Board of Appeals as a matter of fact to be a detriment to the public health, safety or general welfare, especially as defined by one or more of the Performance Standards of Section 17.04, the hazardous aspect shall be ordered to be corrected or such aspect to be discontinued within such time as the Board may deem reasonable. Upon failure to carry out such order, the Town may take such steps as are necessary to remove such hazardous aspect or discontinue such use and assess the cost thereof against the property owner.

17.12-4 CONDITIONAL USE STATUS

Subject to the procedures set forth in Section 17.06 Conditional Uses, non-conforming uses of land or of buildings, as classified herein, may petition to achieve conforming status by becoming a use permitted by Conditional Use grant, notwithstanding the use regulations of the district in which the property is located. The Planning Commission in processing such a petition shall conclude that the existing non-conforming status is very unlikely to become conforming for the foreseeable future, that with the imposition of conditions the most deleterious aspects of the use which make it non-conforming in its circumstances can be largely ameliorated, and that deterioration of the use that may result from imposition of the 50% limit on repair or alterations imposed by ss.62.23(7)(h) over time may cause more damage to adjacent properties or the neighborhood than granting conforming conditional use status.

17.13 BOARD OF ZONING APPEALS

17.13-1 ESTABLISHMENT AND PURPOSE

There is hereby established a Board of Zoning Appeals for the Town of Weston as authorized by ss.62.23(7)(e) Wis. Stats., for the purpose of hearing appeals from any person aggrieved or from any officer, department, board or commission of the Town affected by a decision of the Zoning Administrator or Planning Commission, provided said appeal be taken within a reasonable time, as provided by the rules of said Board of Zoning Appeals. Said Board may also decide special exceptions, other than Conditional Uses, or grant special condition variances from the terms of this Ordinance.

17.13-2 MEMBERSHIP

(1) Size, Appointment, and Removal: The Board of Appeals shall consist of five members appointed by the Chairman of the Town Board and approved by the Town Board of Supervisors. The Chairman shall make his nominations at least one month prior to their appointment, or within one month of vacancies. Members may be removed by the Town Chairman for cause upon written charges and after public hearing. Cause may include excessive absenteeism.

(2) Terms of Office shall be for staggered three-year periods, beginning June 1st of each year.

(3) Eligibility: Members of the Board shall reside within the Town.

(4) President: The Town Chairman shall designate one of the members as President annually.

(5) Two Alternate Members may be appointed by the Town Chairman for a term of three years each, designating one as 1st alternate and the other as 2nd alternate. The 1st Alternate shall act only when a regular member is absent or refuses to vote because of personal interest in a matter to be decided. The 2nd Alternate shall so act only when the 1st Alternate so refuses or is absent or when more than one member of the Board so refuses or is absent. The provisions of (1) above with regard to removal and the filling of vacancies shall apply to such Alternates.

(6) The Zoning Administrator shall attend all meetings for the purpose of providing technical and secretarial assistance as requested by the Board.

(7) Official Oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten days of receiving notice of their appointment, or before their first Board meeting.

(8) Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

17.13-3 OPERATION

(1) Rules: The Board of Zoning Appeals shall adopt rules for the conduct of its business which rules shall be in accordance with the provisions of this Ordinance and the Wisconsin Statutes. Such rules of operation shall require approval by a majority of the Board.

(2) Meetings shall be held at the call of the President or at such other times as determined by the Board's rules, and shall be open to the public within the provisions of the Wisconsin open meeting statutes, Chapter 14, Subsection IV.

(3) Minutes of the proceedings and a record of all actions shall be kept by the Board, showing the vote or the absence or abstention of each member upon each question, the reasons for the Board's determination, and its findings of facts. These records shall be immediately filed in the office of the Board and shall be a public record.

(4) Voting: The Concurring Vote of four members of the Board shall be necessary for all of its actions other than setting its rules of operation. Such votes and discussions between members shall comply with the Open Meeting Law (ss. 19.82 Wis. Stats.).

17.13-4 POWERS

The Board of Zoning Appeals shall have the following powers:

(1) Errors: To hear and decide appeals where it is alleged there is error in any order, requirement,

decision or determination made by the Zoning Administrator or by the Planning Commission.

(2) Special Exceptions: To decide special exceptions to the terms of this Ordinance, other than Conditional Uses as regulated in Section 17.06 of this Ordinance.

(3) Special Condition Variances: To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in practical difficulty or unnecessary hardship. Such variance shall not be contrary to the public interest and shall be so conditioned that the spirit and purposes of this Ordinance are observed.

(4) Substitutions of Conforming Uses: To hear and grant applications for substitution of the same or more restrictive non-conforming uses for existing non-conforming uses as provided for in this Ordinance under section 17.12-2. Whenever the Board permits such a substitution, the use may not thereafter be changed without reapplication to the Board.

(5) Permits: The Board may reverse, affirm wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that and shall have all the powers of the officer from whom the appeal is taken, and may issue, revoke, or direct the issuance or revocation of a permit.

(6) Oaths and Testimony: The president of the Board, or the vice-president in the absence of the president, may administer oaths and compel the attendance of witnesses.

(7) Staff Assistance: The Board may request assistance from other Town officers, departments, commissions and boards, as well as from non-Town agencies such as county, regional, state or federal entities, or as its budget allows, from private sources.

(8) Limitation of Powers: The deciding of Special Exceptions in (2) above and the authorization of Special Condition Variances in (3) above shall not have the practical effect of permitting uses that are otherwise

prohibited in a district; of granting or denying a Conditional Use including the modifications of any of the conditions if granted, which powers are granted by this Ordinance solely to the Planning Commission; or of changing the district classification of a property or of amending the textual regulations of this Ordinance. Furthermore, in exercising its powers to grant special condition variances, the Board shall take care to grant only the minimum variation necessary to relieve the practical difficulty or unnecessary hardship it finds, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

17.13-5 PROCEDURE

(1) Appeals to the Board of Zoning Appeals shall be filed in the office of the Zoning Administrator within thirty (30) days after the date of the decision or order of the Zoning Administrator or Planning Commission which is being appealed. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. Such appeals and application shall include the following:

- A. Name and Address of the appellant or applicant and all abutting and opposite property owners of record as found on the Town tax roll or assessment records.
- B. Plat of Survey prepared by a registered Land Surveyor in the State of Wisconsin or other map drawn to scale and approved by the Zoning Administrator, showing all of the information required under this Ordinance for a Zoning Permit. Where the aggrieved party filing the appeal is not the applicant for the Zoning Permit or other decision in dispute, this requirement is waived.
- C. Grounds claimed for the appeal and any other additional information required by the Zoning Administrator or Board of Zoning Appeals.
- D. Fee Receipt from the Zoning Administrator required by Section 17.02-6 Fees.

(2) Special Exception or Special Condition Variance Requests: shall include items A. through D. preceding under (1) except that the appellant in the case of a special condition variance request shall also be very specific under C. Grounds to set forth the facts which purport to show where literal enforcement of the terms of this Ordinance would result in practical difficulty or unnecessary hardship.

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

17.13-6 HEARING

The Board of Zoning Appeals shall fix a reasonable time and place for the hearing, giving notice thereof by:

(1) Publishing one Notice in a newspaper of general circulation.

(2) Mailed notice to parties of interest including the appellant and to abutting owners, including those opposite and fronting on the subject lands across a right of way. Such mailed notice shall be postmarked at least 10 days before the date of hearing.

17.13-7 STANDARDS AND FINDINGS

Pursuant to ss.66.23(7) (e)1.Wis. Stats. wherein the creation of a Board of Zoning Appeals by ordinance may include establishing appropriate conditions, safeguards, and general or specific rules to guide said Board, the following standards, in addition to the Limitation of Powers of 17.13-4(8), are hereby imposed to provide the Board with direction consonant with this Ordinance in the conduct of the Board's powers, and the Board in each case in granting a petition shall first render findings which satisfy itself that all of the following facts and

conditions exist and the Board shall so indicate in its minutes:

(1) Physical Conditions v. Convenience: That there are present actual physical conditions applying to the lot, parcel, building, structure, use or intended use on that premises which are creating the practical difficulty or unnecessary hardship in the application of this Ordinance, as distinguished from a mere inconvenience to the owner if the strict letter of the regulations are required;

(2) Unique v. General Conditions: That the conditions of (1) preceding are unique, exceptional, extraordinary or unusual circumstances applying only or primarily to the property under appeal, and are not of such a general or recurrent nature elsewhere in the same zoning district as to suggest or establish the basis for Ordinance changes or amendments, or of having that effect if relied upon as the basis for granting an appeal.

(3) Absence of Precedent: That in granting an appeal there will not be created a general precedent which encourages the filing of similar appeals to take advantage of the precedent without the existence of properly qualifying conditions.

(4) Absence of Detriment: That in granting an appeal there will not be created initial detriment to the subject, adjacent, or neighborhood properties or to the general public interest. (see 17.14-5(2)A. for public interest criteria).

(5) Conditions Not Created by Appellant: That the alleged conditions of (1) preceding creating the difficulty or hardship were not caused by the appellant nor by any person still having an interest in the property.

17.13-8 DECISION

(1) Time of Decision: The Board of Appeals shall decide all appeals and applications within fifteen (15) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.

(2) Conditions may be placed upon any Zoning Permit ordered or authorized by this Board.

(3) Expiration of Permits: Permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

17.13-9 REVIEW BY COURT OF RECORD

Any person or persons aggrieved by any decision of the Board of Appeals may present to the Court of Record a petition, duly verified, appealing such decision as provided for in Section 62.23(7)(e)10.Wis. Stats. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision in the offices of the Board. Filing shall consist of the completion of the transcription of the minutes of the meeting wherein the Board decision being appealed from was finally made, the accuracy of the transcription to be first reviewed by the Zoning Administrator.

[The remainder of this page is blank for possible future use.]

17.14 CHANGES AND AMENDMENTS

17.14-1 INTENT

It is the intent of this Ordinance to provide stability and regularity in the zoning of the property in the Town of Weston, nevertheless, to best achieve the full purposes of this Ordinance it is likely that from time to time amendments will be necessary in the text or in the district map portions of this Ordinance to recognize that changing conditions or expectations call for changed plans, and changed plans call for changed regulations. As a result, owners of property subject to particular regulations under this Ordinance cannot enjoy an eternally vested right to those regulations if the public interest demands otherwise.

Among the conditions which may be expected to require zoning changes include:

(1) Holding Districts: which constitute a form of temporary zoning, may require re-zoning to other basic or overlay districts as full development becomes imminent; [see 17.10-2(1)]

(2) Additional State Imposed Regulations: may require amendments to this Ordinance to conform to such state mandates;

(3) Town Plan Amendments or refinements may require adjustments in the boundaries of districts or in the form of text regulation in order to reflect the new knowledge added to the Plan;

(4) County and Regional Plan Amendments or refinements may, as in (3) preceding require similar adjustments;

(5) Property Owners Petitions in which owners may propose modifications to the zoning in which they are located in order to better do their part in carrying out the Town Plan and in serving the public interest.

17.14-2 AUTHORITY

Whenever the public necessity, convenience and general welfare require, the Town Board may, by ordinance as provided for in ss.6062 and in ss.62.23(7)(d)2., Wis.

Statutes. amend any part of this Ordinance, including amending the textual regulations, the district regulations, or the reclassifying of property into other districts. Such amendments shall be by petition and be considered as provided for herein.

17.14-3 INITIATION

A petition for change or amendment may be made by any property owner or agent of the owner in the area to be affected by the change or amendment, by the Town Board, or by the Town Planning Commission.

17.14-4 FILING OF PETITIONS

(1) Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Zoning Administrator together with the fee required in Section 17.02-6 and the following information where appropriate on forms supplied by the Town.

(2) Required Information for District Map Changes:

- A. Plot Plan or map drawn to scale, or map of legal descriptions, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of adjacent properties.
- B. Owners Names and Addresses as listed on such records as the Town Assessor's Maps or Town Tax Roll, of all properties lying within one hundred (100) feet of a proposed district change.
- C. Additional Information as required by the Town Board or Planning Commission on forms available from the Zoning Administrator.

(3) Required Information for Text Amendments:

- A. Proposed Text Amendment Language, and if possible, a defense of the necessity for such a change.
- B. Owners Names and Addresses as described in (2)B. preceding if it is determined by the Zoning Administrator or by said office in consultation

with the Town Attorney that the amendment is sufficiently site specific to consider protest petitions as provided for in ss.62.23(7)(d) 2m. a., Wis. Stats., and Section 17.14-8 herein.

- C. Additional Information as required on forms available from the Zoning Administrator.

17.14-5 REFERRAL AND RECOMMENDATIONS

(1) Referral to Planning Commission: The Zoning Administrator shall check the petition for completeness, conferring with the petitioner as necessary. When the petition appears complete, the Administrator shall place it upon the Planning Commission agenda, with copies to other town staff whom the Commission is likely to consult on the petition.

(2) Planning Commission Review and Recommendations: Upon receipt of the petition the Commission shall conduct the necessary study and investigation in order to provide, as promptly as possible, a recommendation to the Town Board as set forth in ss.66.23(7)(d)1.b., Wis. Stats., and Section 17.02-2(4)B. of this Ordinance.

- A. Commission Public Interest Criteria: In making its recommendations the Commission shall always be guided by a finding that the change or amendment would be in the public interest, and not solely for the benefit of the applicant. The public interest shall be found by weighing the following:

1. Compliance with the Town Plan adopted by the Commission.
2. Compliance with county, regional or other such plans as adopted by the Commission.
3. Compliance with the Intent and Purposes in View of this Ordinance as set forth in sections 17.00-5 and 17.00-6.

- B. Informational Hearings: In developing its recommendations the Commission may hold an informational hearing, noticed as it determines in each case.

17.14-6 OFFICIAL HEARING

The Town Board shall hold a public hearing upon each proposed change or amendment, the Town Clerk giving notice of the time and place of such hearing by:

(1) Publication of a Class 2 Notice under Chapter 985 of the Wisconsin Statutes.

(2) Mailed notice to the owners of record on Town Tax Rolls or assessor maps of all lands lying within 100 feet of any part of the land involved in either a Zoning District change or an Ordinance text amendment found to have specific impact upon only a few properties.

A. Mailed Notice Postmark: such mailed notice shall be postmarked at least 10 days prior to the date of hearing. The failure of such notice to reach any property owner provided such failure be unintentional, shall not invalidate any amending ordinance, or other action taken upon the matter noticed.

B. Waiver or Reduction of Mailed Notice: Where the Town Board finds that the number of mailed notices will exceed ten under this provision, the Board may waive the mailed notice entirely, or reduce the number to ten by providing notice to those owners directly opposite and directly adjacent on the fronting street.

17.14-7 ACTION

(1) Town Board: After such public hearing and no later than the second Town Board meeting following receipt of the Planning Commission's recommendations, the Board shall act to approve, modify and approve, or disapprove the proposed change or amendment.

(2) Re-Referral to Planning Commission:

A. The Town Board shall not take action without having first heard the recommendations of the Planning Commission. Should the Board not concur in the recommendation of the Planning Commission, including an intent to approve with modifications not contained in the Commission recommendation, the Board shall re-refer the matter

to the Commission for reconsideration before taking final action, specifying the amount of time available to the Commission for its reconsideration. When the matter so re-referred to the Planning Commission returns to the Town Board, the Town Board shall assume the sole responsibility for disposition of the proposed change or amendment.

- B. Once the Town Board has so assumed the sole responsibility for the disposition of the proposed change or amendment, the following action may take place: If the Board acts to disapprove, the amendment is defeated. If the Board acts to approve, or modify and approve, it is approved for submittal to the County Board for their action.

(3) Provisional Zoning: In connection with its action to modify and approve, (or to approve if already so recommended by the Planning Commission), the Town Board may provisionally rezone the property which is the subject of the petition. Any such provisional rezoning shall become permanent provided that the conditions imposed by the Board have been complied with in such period of time as may be designated by the Board, but not to exceed three (3) years.

- A. Zoning Map Notation: For such period of time until the provisions have been met and so certified by the Town Zoning Administrator, the official zoning map of the Town shall show the property to be zoned "P*___" (*for provisional) _____".
- B. Waiver of Vested Interest: By accepting the provisional rezoning, the petitioner is deemed to waive any claim of vested rights in the property during the period of provisional rezoning.
- C. Title Recording: The Board, in its discretion, may cause notice of the provisional rezoning, together with the provisions imposed, to be recorded on the property in the office of the Register of Deeds.

- D. County Board Action: Petitions approved provisionally shall immediately be processed with the County Board as in (2)B. above.

17.14-8 PROTEST

(1) Filing of Protest Petition and Verification: In the event a protest against a proposed change or amendment is filed under ss.62.23(7)(d) Wis. Stats. with the Town Clerk at least twenty-four (24) hours prior to the time of the meeting of the Town Board at which the recommendation of the Town Plan Commission is to be considered, appearing to be duly signed and acknowledged by the owners of 20% or more of the area proposed to be altered, or by abutting owners of over 20% of the total perimeter of the area proposed to be altered included within 100 feet of the parcel or parcels proposed to be rezoned, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, action on such Ordinance may be deferred until the Town Clerk has had a reasonable opportunity to ascertain and report to the Town Board as to the authenticity of such ownership statements.

(2) Extra Majority Required: If such statements are found to be true, such Ordinance shall not be adopted except by the affirmative vote of three-fourths of the members of the Town Board of Supervisors present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present, such protest may be disregarded.

17.14-9 EFFECTIVE DATE

The amending Ordinance transmitted to the Town Board shall become effective upon passage and publication by the Town and County Boards.

[The remainder of this page is blank for possible future use.]

APPENDIX OF DEFINITIONS

(See section 17.01-4)

Access:

A way of approaching or exiting a property. Access also includes ingress, the right to enter, and egress, the right to leave.

Accessory Use of Structure: (See Section 17.03-1 (2) B)

Addition:

Any construction which increases the size of a building, such as a porch, attached garage or carport, or a new room or wing. An addition is a form of alteration.

Airport:

An area of land or water which is used or intended for use for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or right-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces. (See ss.114.013 (3) Wisconsin Statutes)

Airstrip or Landing Field:

Any land intended for the landing or take-off of aircraft.

Alley:

A special public right-of-way affording only secondary access to abutting properties typically at the rear or sides. (See also Street, Frontage)

Alterations:

A physical change in a building or an addition to it. As applied to a building or structure, means a change or rearrangement, in the structural parts or in the exit facilities or an enlargement, whether by extending on a side, by increasing in height, or the moving from one location or position to another.

Animal Hospital, Small:

A building or premises for the medical or surgical treatment of domestic animals or pets, including dogs and cats, as contrasted with veterinary facilities for

farm and other large animals such as horses and cows, and distinguished from a kennel in that no outdoor runs shall be permitted for boarded animals.

Apartment:

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

Apartment, Efficiency:

A one room apartment, not counting kitchen or bath designed for occupancy by a single individual.

Apartment Hotel:

A building or that portion thereof used for or containing both individual short term rental guest rooms and guest units designed for more or less permanent occupancy as dwellings.

Apartment House:

A building or that portion thereof containing three or more dwelling units, usually, but not necessarily, sharing a common building entrance. (See also Town House) (See Dwelling, Multiple).

Area:

Synonymous with the word "tract", which is "a piece of land capable of being described with such definiteness that its location may be established and its boundaries ascertained."

Arterial, Principal:

Roadways which are designed to accommodate long trips at the highest allowable speeds within and the through the community. They connect all sub-regions within the area and urban and rural service areas, as well as providing connections to outstate cities. Direct land access to principal arterials is typically restricted by this ordinance and by transportation agencies.

Automobile Salvage or Wrecking Yard:

Any place where two or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building, or structure used for wrecking or storing of such motor vehicles or farm machinery, or

parts thereof, and including the commercial salvaging of any other goods, articles, or merchandise.

Automobile Service Station:

A retail place of business where gasoline, kerosene, or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles and possibly including facilities for greasing, oiling, washing and minor repair of vehicles on the premises, but not including automatic car washing or any body repair facilities, or storage of vehicles for scrap or spare parts.

Auto Laundry: (See Car Wash)

Awning:

A roof-like cover that projects from the wall of a building for the purpose of shielding doorways or windows from the elements of sun and weather.

Basement:

A portion of a building located partly underground, but for purposes of computing floor area ratio having half or less than its floor-to-ceiling height below the average grade of the adjoining ground. (See also Cellars.)

Base Setback Area:

The land lying between the edge of the existing street right-of-way and the Base Setback Line.

Base Setback Line:

The line from which all required setbacks are measured, which line corresponds to the established ultimate street right-of-way line as set forth in Section 17.03-4.

Bed & Breakfast Lodging: (See Tourist Home)

Billboard:

For purposes of this Ordinance, a type of sign which advertises products, services, or speech not related to the premises on which the sign is located.

Boarding House:

A building or premises where meals, or meals and lodging are offered for compensation for four or more persons,

but not more than 12 persons and having no more than four sleeping rooms for this purpose in addition to any apartment occupied by the operator. An establishment where meals are served for compensation for more than four sleeping rooms shall be deemed a hotel or motel. (Also, see Rooming House")

Boathouse, Private:

Any accessory building designed for the purpose of storing boats and other water-related recreational materials, and accessible from the water.

Buildable Area:

The portion of a lot remaining after required yards have been provided. (See Section 17.03-5 and also Floor Area Ratio and Open Space).

Building:

Any structure used, designed, or intended for the roofed shelter, enclosure or protection of persons, machinery, animals, or materials, and is permanently affixed to the land. (See Trailer, Mobile Home, Recreational Vehicle).

Building, Detached:

A principal building surrounded by open space on the same lot.

Building, Principal:

The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.

Building, Height of:

The vertical distance from the average building grade in front of the structure at the building line, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the highest point of the highest gable of a gambrel, hip, round, arched, or pitch roof (See Section 17.03-4)

Building Line:

(See Setbacks and Offsets, Section 17.03-4(4))

Bulkhead Line:

A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to

ss.30.11, Wis.Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway or other provisions of this ordinance.

Business:

Any establishment, occupation, employment or enterprise wherein merchandise is manufactured, repaired, exhibited, stored, or sold, or where services are offered for compensation. (See Home Occupation and Residential Business)

Camp Ground:

Any area or tract of land used to accommodate two or more camping parties, including cabins, tents, house trailers, or other camping outfits for overnight occupancy.

Camping Trailer:

Any shelter designed to provide sleeping, eating and living quarters and designed to be transported on wheels from place to place, but being less than 20 feet in length. In any such shelter which exceeds 20 feet, it shall be considered a house trailer, and if the wheels have been removed, it shall be construed as a permanent dwelling structure. (See also Recreational Vehicle)

Carport:

A structure having a roof, with or without supporting walls, posts or columns, used, designed or intended to be used for the protection or shelter of private motor vehicles. For the purpose of this ordinance, a carport shall be considered to be the equivalent of a garage except when computing minimum required residential floor area.

Car Wash:

Any facility used for the washing of passenger car sized vehicles requiring the installation of special equipment or machinery and plumbing affixed to or affixed separate of a structure.

Cellar:

That portion of the building having more than one-half (1/2) of the floor-to-ceiling height below the average grade of the adjoining ground, and not qualifying as floor area.

Cemetery:

Land used for the burial of the dead, and dedicated for cemetery purposes, including columbarium, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery. (see OIP District)

Channel:

Those floodlands normally occupied by a stream of water under average annual high water flow conditions while confined within generally well established banks.

Channeling:

The act or action which results in an interconnection of two bodies of water, usually navigable by surface craft.

Child Care Center:

(See Day Care Center)

Church:

A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

Clinic, Medical or Dental:

A group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including overnight bed-patient care. (see Hospital)

Closed Cup Flash Point:

The lowest temperature at which a combustible liquid under prescribed conditions will give off a flammable vapor that will propagate a flame. The Tag closed cup tester shall be authoritative for liquids having a flash point below 175°F. The Pensky-Martens tester shall be authoritative for liquids having flash points between 175°F and 350°F.

Club or Lodge:

Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation, and not operated primarily for profit nor to render a service which is

customarily carried on as a business. Restaurant or alcoholic beverage serving services shall be secondary to the main purposes and use of the property.

Collector Road (Street):

Roadways which are designed to perform the function of collecting traffic from local streets and distributing that traffic to and from arterial roadways

Commercial Antenna:

Any antenna regardless of height or size erected for the purpose of radiating or receiving electronic signals such as for communication purposes, and operated for commercial purposes including subleasing to other individuals, corporations, partnerships, or associations, etc. for the same purposes.

Community Living Arrangements:

Any facility falling within the definition of section 46.03(22) of the Wisconsin Statutes.

Conditional Uses: (See Section 17.06)

Condominium:

The ownership of single units in a multi-unit structure or of single units on a tract with more than one such unit where the land or other common areas and facilities are owned jointly.

Conservation Standards:

Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide prepared by the USDA Soil Conservation Service for a County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets the needs in developing a soil and water conservation plan.

Conversion:

Any modification or change to an existing dwelling which is intended to or actually does increase the number of dwelling or room units.

Crown Cover: (Woodlands, Trees)

The ratio between the amount of land shaded by the vertical projection of the branches and foliage area of standing trees to the total area of land, usually expressed as a percentage.

Day Care Center, Adult:

A facility serving ages other than children, typically the infirm elderly in the manner of a child care center.

Day Care Center: (Child Care or Elder Care*)

Any facility or home where children under twelve (12) years of age who are not members of the family or the superior or custodian in charge:

- A. Meet or are scheduled to meet regularly for more than one day a week, for all or part of the day but not overnight; and
- B. Meet either to be watched or cared for, while their parent or guardian is otherwise engaged, to be afforded opportunities for physical, social, emotional or intellectual growth or stimulation.

These terms shall not include hospitals, nursing homes, Sunday schools, facilities under the direction of an established and accredited school system, facilities used for club or organization meetings when such club or organization regularly meets no more than once a week, or casual babysitting. *Facilities for the elderly ages are included provided A and B above are met.

Decibel:

A logarithmic unit of measurement of the intensity, (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels".

Density, Gross:

The quotient of the total number of dwelling units divided by the gross site area. This form of computation usually applies only in planned unit developments. (See section 17.07)

Density, Net:

The allowable number of dwelling units per net buildable site area after excluding all or portions of present and future street right-of-way, wetlands, water bodies, or floodplains.

Developer:

The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase.

Development:

Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or deposition of materials.

District, Overlay:

Overlay districts allow for superimposing certain additional requirements or uses upon a basic zoning district. (See Section 17.10-3)

Ditching:

The process of excavation for purposes of surface water drainage and removal; a shallow channel, not navigable, used for the conductance of waters.

Dog Kennel:

A facility for the keeping or boarding of more than four (4) dogs over six (6) months of age.

Domestic Servant:

A person who lives in the family of another, paying no rent for such occupancy and paying no part of the cost of utilities therefor, performing household duties and working solely within the house for the upkeep thereof and for the care and comfort and convenience of the family and occupants thereof. No person, and no member of the family of any person, who pays rent for himself or his family shall be deemed the domestic servant of the person to whom such rent is paid.

Dormitory:

A building or portion thereof used for sleeping purposes in connection with a school, college or other institution.

DNR:

The Wisconsin Department of Natural Resources.

Drain:

A surface ditch or underground tile line constructed for the purpose of lowering the water table so that land may be farmed or used for other purposes.

Drain Tile Line:

The placement of tile for the purpose of removing excess waters from the soil, either for agricultural purposes or for the removal of waters around the building foundations.

Drainage Basin:

The geographic area the general configuration of which causes surface waters to flow in a specified direction; the area, contained by a naturally defined watershed, draining all surface waters.

Drainageway:

Any natural or artificial water course, including but not limited to streams, rivers, creeks, ditches, channels, canals, conduits, culverts, streams, waterways, gullies, ravines or washes, in which waters flow in a definite direction or force, either continuously or intermittently and including any area adjacent thereto which is subject to inundation by reason of overflow or flood water.

Dredging:

The process by which bottom materials are removed from bodies of water for the purposes of deepening the body of water.

Driveway:

(See Access).

Drive-In:

A term used to describe an establishment designed or operated to serve a patron while seated in an automobile parked in an off-street parking space.

Drive-Thru:

Similar to drive-in, but the automobiles are made to form a queue of one or more lanes to be served at a window or automated teller outlet, rather than a parking space.

Dryland Access:

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

Duplex: (i.e. two-family residence)

A building designed and/or used exclusively for residential purposes and containing two dwelling units.

Dustfall:

The rate that particulate matter collects in an open jar for a 30-day period, expressed as tons per square mile per month. Procedures and equipment for the measurement of such shall be as standardized by the American Society for Testing and Materials.

Dwelling, Multiple:

A building or portion thereof designed for and occupied by two or more families, including apartment houses, and town houses, also called Row Houses or Town Homes.

Dwelling, Semi-Detached:

A dwelling having a party wall in common with another dwelling but which otherwise is designed to be and is substantially separate from any other structure or structures except accessory buildings.

Dwelling, Single Family Attached:

A residential structure designed to house a single family unit from lowest level to roof, with private entrance, but not necessarily occupying a private lot, and sharing common walls between adjoining units. (See Town House or Row House)

Dwelling, Single Family Detached:

A residential structure designed to house a single family on a private lot and surrounded on all sides by a private yard.

Dwelling, Two-Family:

A detached or semi-detached building used for residential occupancy by two families living independently of each other.

Dwelling, Row House or Town House:

One of a series of three or more attached dwelling units separated from one another by continuous vertical party walls without openings from basement floor to roof.

Earns A Substantial Part of Family Livelihood From the Farm Operation:

Twenty-five percent or more of the annual gross income is earned from direct farm labor.

Earth Moving:

Any process which physically alters the existing topography by means of mechanical or hydraulic equipment and the voiding of soils of vegetated cover so as to make the same soil susceptible to erosion.

Earth Removal:

The removal or extraction of any stone, sand, gravel, loam, topsoil, or other earth or earth product from a lot or parcel of land, except where such removal is for the purpose of grading a lot upon which a building is to be erected or a roadway or parking surface to be built.

Earthborne Vibrations:

Describes a cyclic movement of the earth due to energy propagation.

Easement:

Authorization by one property owner for the use by another for a limited purpose of any designated part of the property.

Efficiency Apartment: (See Apartment, Efficiency).

Encroachment:

Any fill, structure, building, use or development in the floodway.

Egg Production Commercial:

A poultry confinement facility used or designed for the raising of poultry for egg production having a capacity of two hundred (200) or more hens.

Emergency Shelter:

Public or private enclosures designed to protect people from aerial, radiological, biological, or chemical warfare; fire, flood, windstorm, riots, or invasions.

Equal Degree of Hydraulic Encroachment:

The effect of any encroachment into the floodway must be computed by assuming an equal degree of hydraulic encroachment on the other side of a river or stream for a significant hydraulic reach. This computation assures that property owners up, down or across the river or stream will have the same rights of hydraulic encroachment. Encroachments are analyzed on the basis of the effect upon hydraulic conveyance, not upon the distance the encroachment extends into the floodway.

Erosion:

The process by which the ground surface is worn away by action of wind or water.

Essential Services:

Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, underground water storage tanks, conduits, cables, stations and hydrants, but not including buildings.

Excavation:

The act by which soil, earth, sand, gravel, rock or any similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed, and shall include the conditions resulting therefrom.

Expressway:

A divided arterial street or highway with full or partial control of access and with or without grade separated intersections. A freeway allows no direct parcel access and separates the grade of all intersections.

Extension, or to Extent:

An increase in the amount of existing floor area used for an existing use within an existing building. To "extend" is to make an extension.

Exterior Storage:

Outdoor storage of fuel, raw materials, products, equipment or motor vehicles.

Extractive Operations:

The removal of rock, slate, gravel, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or any other process.

Family:

An individual or two or more persons related by blood, marriage, guardianship, foster care, or adoption, and including domestic servants and not to exceed one gratuitous guest, living together as a single housekeeping unit; or a group of not more than three persons not so related, maintaining a common household and using common cooking and kitchen facilities. (See also Group Home).

Farm:

The area and accessory buildings and structures that is used for the growing for market of the usual farm products such as vegetables, fruit trees, and grain, etc., and their storage, as well as for raising thereon the usual farm poultry and farm animals, such as horses, cattle, sheep and swine, etc. except as restricted by this Ordinance.

Federal Emergency Management Agency (FEMA):

The federal agency that administers the National Flood Insurance Program. This agency was previously cited as the Federal Insurance Administration (FIA), or the Department of Housing and Urban Development (HUD).

Flood Frequency:

The probability of a flood occurrence. A flood frequency is generally determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.

Floodfringe:

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

Flood Hazard Boundary Map:

A map prepared by FEMA designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered "A-Zones" and do not contain floodway lines or regional flood elevations. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.

Flood Insurance Study:

A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program within FEMA, the Federal Emergency Management Agency.

Floodplain:

That land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

Flood Plain District:

A "flood plain district" is a zoning district designed to be mapped primarily along the lowlands adjacent to those rivers, streams and other waterways subject to overflow or flooding in times of heavy runoff. The primary purpose of such district is to prevent property damage or loss of life in the adjoining lowlands.

Floodplain Island:

Means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Flood Profile:

A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Floodproofing:

Measures designed to prevent or reduce flood damage for those uses which cannot be removed from, or which of necessity must be erected on, floodplains, ranging from structural modifications, to installation of special equipment or materials, to operation and management safe-guards including, but without limitation due to enumeration: Underpinning of floors; permanent sealing of all exterior openings; use of masonry construction; erection of permanent water tight bulkheads, shutters, and doors; treatment of exposed timbers, elevation of flood-vulnerable utilities; use of waterproof cement; adequate fuse protection; anchoring of buoyant tanks; sealing of basement walls; installation of sump pumps; placement of automatic swing-check valves; installation of seal-tight windows and doors, installation of wire-reinforced glass; location and elevation of valuable items; waterproofing, disconnection, elevation of valuable items; waterproofing, disconnecting, elevation, or removal of all electrical equipment; the avoidance of the use of flood-vulnerable areas; temporary removal or waterproofing of merchandise; postponement of orders or rescheduling of freight shipment; operation of emergency pump equipment; closing of backwater sewer valves; placement of plugs and flood drain pipes; placement of movable, water-tight bulkheads; and the shoring of weak walls or other structures. Flood proofing of structures shall be extended at least to a point two feet above the elevation of the regional flood. Any structure that is located entirely or partially below the flood protection elevation shall be anchored to protect it from larger floods.

Flood Protection Elevation:

An elevation two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see Freeboard).

Floodway:

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

Flood Storage:

Means those floodplain areas where storage of floodwaters has been taken into account in reducing the regional flood discharge.

Floor Area (For determining floor area ratio):

For the purpose of determining the floor area ratio, the "floor area" of a building is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The "floor area" of a building shall include basement floor area when more than one-half of the basement height is above the finished lot grade level, elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof,) penthouses, attic space having head-room of seven (7) feet ten (10) inches or more, interior balconies and mezzanines, enclosed porches, and floor area of the principal building devoted to accessory uses. However, any space devoted to off-street parking or loading shall not ordinarily be included in "floor space" unless specifically allowed by section 17.10-7.

The "floor area" of structures devoted to bulk storage of materials--including, but not limited to, grain elevators and petroleum storage tanks--shall be determined on the basis of height in feet; i.e., ten (10) feet in height shall equal one floor.

Floor Area (For determining off-street parking and loading requirements): (also called Primary Floor Area)

"Floor area" when prescribed as the basis of measurement for off-street parking spaces and loading berths for any use, shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

However, "floor area" for the purposes of measurement for off-street parking spaces shall not include: floor area devoted primarily to storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; or basement floor area other than area devoted to retailing activities, to the

production or processing of goods, or to business or professional offices.

Floor Area for Parking Demand: (See Primary Floor Area (PFA))

Floor Area Ratio (F.A.R.):

The term "Floor Area Ratio" or F.A.R. shall be used to indicate the total floor area of buildings, exclusive of basement, allowed on a given lot, expressed as a percentage ratio of 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, an F.A.R. of 50% allows a floor area of one-half the total area of the lot, etc. A floor area ratio of 50% could represent a one-story building occupying 50% of the lot or a two-story building occupying 25% of the lot.

Foot Candle:

A unit of illumination. Technically, the illumination at all points one foot distant from a uniform point source of one candle power.

Foster Home:

Any home licenses as such by the State Department of health and Social Services.

Fraternity:

A body of student men associated for their common interest, business, or pleasure.

Fraternity or Sorority House:

A building containing more than one (1) dwelling unit or more than two (2) rooming units or guest rooms operated for members-only, and typically associated with a post-secondary school. Such rooming units or guest rooms shall be for residential purposes only.

Freeboard:

Means a flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for the effects of any factors that contribute to flood heights greater than those calculated. These factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the

effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and a gradation of the river or stream bed.

Freeway:

An expressway with full control of access and with fully grade-separated intersections.

Frequency:

Signifies the number of oscillations per second in a sound wave and is an index of the pitch of the resulting sound.

Frontage:

The dimension of a lot abutting a public street measured along the base setback line.

Funeral Home:

A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

Fur Farm:

Any property comprising land or buildings or both, used for the purpose of raising or harboring fur bearing animals including those defined in section 29.01(3)(c), Wisconsin Statutes, and also including chinchillas and other fur bearing animals if any, whether the animals are kept for breeding, slaughtering or pelting purposes.

Garage, Private:

A structure primarily intended and used for the enclosed storage or shelter of the private motor vehicles of the families resident upon the premises. Carports shall be considered garages within this definition, except for computing minimum required residential floor area.

Garage, Public or Commercial:

Any garage not falling within the definition of "private garage" as herein established, and used for storage, repair, rental or servicing of motor vehicles.

Garage, Private Attached:

A garage, the roof of which is attached to the principal building.

Gasoline Service Station: (See Automobile Service Station)

Grade:

In cases where all walls of the principal building are more than five feet from the nearest street line, the mean elevation of the ground adjoining the building on all sides; and in all other cases, the mean elevation of the nearest sidewalk.

Grade, Established:

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

Grading:

Any stripping, excavating, filling, stockpiling, or any combination thereof, including the land in its excavated or filled condition.

Greenhouses, Residential Accessory:

Glassed enclosures used for horticulture where the enclosure covers less than 500 square feet or 5% of the lot, whichever is lesser, and the operation thereof does not exceed the definition of a Home Occupation.

Ground Floor Area:

The square foot area of a building within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages (unless allowed by section 17.10-7), exterior stairways, and secondary stairways.

Group Home:

Any home, distinguished from a half-way house, licensed as for group residency by the State Department of Health and Social Services.

Guest House:

A detached accessory building located on the same zoning lot as the principal building and containing living quarters for temporary guests; such quarters shall not be rented.

Guest Permanent:

A person who occupies or has the right to occupy a hotel or apartment hotel accommodation as his domicile and place of permanent residence.

Guest Room:

A room in a hotel, motel, or tourist home offered to the public for compensation in which room no provision is made for cooking and which room is used only for transient occupancy.

Halfway House:

A residential facility for five or more adults who have been institutionalized for various reasons and released, or who have or have had physical or social disabilities which make operation in society difficult and require the protection of a group setting to facilitate the transition to a functional member of society (e.g. former convicts, alcoholics, drug addicts, mental patients, etc). Shelter, supervision and residential rehabilitative services are provided and the home is licensed to operate by the State Department of Health and Social Services.

Height of Buildings:

How measured - (See Building, Height of, and Section 17.03-4)

Heliport:

An accessory area, typically to a trauma center hospital, office center, or helicopter maintenance facility, used for landing or take-off of helicopters.

High-Water Mark or Elevation:

The average annual high-water level of a pond, stream, lake, flowage or wetland references to an established datum plain or if where such elevation is not available, the elevation of the line up to which the presence of the water is so continuous as to leave a distinct mark by erosion, change in or destruction of vegetation or other easily recognized topographic, geologic, or vegetated characteristics.

Home for the Aged/Housing for the Elderly:

A facility, however, named, which is designed, staffed and equipped for the care of individuals who are not in need of hospital or nursing care but who are in need of

assistance due to age with everyday activities of living in a protected environment.

Home Occupation:

Any occupation or profession carried on by a member of the immediate family residing on the premises, in connection with which there is used no sign or display that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling; there is no over-the-counter retail sales occurring upon the premises; no person is employed other than a member of the immediate family residing on the premises; no more than 25% of the floor area is devoted to the occupation, and no mechanical or electrical equipment is used which produces noise or other nuisance beyond that typical of equipment usually used for purely domestic or household purposes. Professional persons may use their residence for infrequent consultation, emergency treatment, or performance of religious rites, but not for the general practice of the profession, which brings the service recipient to the residence. No accessory building shall be used for such home occupation except for small engine repair or similar work regulated by State or local firecodes from being within a dwelling.

Music lessons or other tutoring not involving more than 3 students at home, or day care-baby sitting for 4 or less at home are hereby declared home occupations, even though the client always comes to the premises. (See also Residential Business.)

Hospital:

An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities, and staff offices.

Hotel:

A building containing 20 or more individual sleeping quest rooms or suites, having each a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, excluding accommodations for employees, and in which ingress and egress to and

from all rooms is made through an inside office or lobby supervised by a person in charge at all hours.

House Trailer:

A structure designed to be a dwelling unit, which can be moved from place to place on wheels. As defined in Section 66.058 Wis. Statutes, a dependent unit means a structure not having its own plumbing facilities, whereas an independent unit has plumbing as well as heating and cooking facilities ready for hookup to utility connections. (See also, Mobile Homes and Camping Trailers)

Household Stable:

A structure not more than 20 feet by 20 feet used for the sheltering of not more than two horses.

Husbandry:

The cultivation or production of plants and animals (livestock) and/or the by-products thereof. (see section 17.03-7).

Illegal Use:

Any use, whether of a building or other structure, or of a tract of land, or body of air or water in which a violation of any provision of this ordinance has been committed or shall exist.

Impact Noise:

A short-duration sound which is incapable of being accurately measured on a sound level meter.

Improvement:

Any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment including street grading and surfacing with or without curbs and gutter, sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, streets, and trees.

Impulsive Noise:

A sound which is no longer than two (2) seconds in duration, followed by less than a two-second rest.

Increase in Regional Flood Height:

Means a calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, resulting from a comparison of existing conditions and proposed

conditions, which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Industrial Park:

An "industrial park" is a spacial or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or government organizations.

Integrated Center:

An "integrated center" is a grouping of compatible uses on a single zoning lot, such uses being in single ownership or under unified control.

Intense Burning:

Implies a rate of combustion of a material that burns with a high degree of activity and is consumed rapidly.

Interchange:

A grade separated intersection with one or more turning lanes for travel between intersection lanes.

Junk Yard:

A "junk yard" is an open or enclosed area or building where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled - including, but not limited to - scrap iron and other metals, paper, rags, rubber tires, and glass. (See also Recycling Center)

Kennel, Commercial:

An establishment where dogs or other animal pets not part of the actual household on the lot on which the facility is located, are raised, bred or boarded for compensation or sale, and whether or not in special structures or runways.

Kitchen:

Any room used, intended to be used or designed to be used, either wholly or partly for cooking and/or the preparation of food.

Laboratory:

A building or part of a building devoted to the testing and analysis of any product or animal (including humans) or to the development of and fabrication of preliminary or pilot models. Also includes a laboratory which provides bacteriological, biological, medical, x-rays, pathological and similar analytical or diagnostic services to medical practitioners. No fabricating is conducted on the premises, except the custom fabrication of dentures. No manufacturing is conducted on the premises except for experimental or testing purposes.

Landfill:

See "Sanitary Landfill".

Land Line:

Section lines, half-section lines, quarter-section lines, and other property lines established by original township survey sections and described by meets and bounds outside the boundaries of reported land subdivision plats.

Landscaped Area:

An area that is permanently devoted and maintained to the growing of trees, shrubbery, grass and other plant material.

Landscaping:

The improvement of a lot, parcel of tract of land with grass, shrubs and/or trees. Landscaping may also include pedestrian walks, flowerbeds, ornamental objects such as fountains, statuary, and other similar objects designed and arranged to produce an esthetically pleasing compliment to the basic landscape areas.

Laundromat:

A business that provides washing, drying, and/or ironing machines to be used by customers on the premises to clean articles of clothing, but not including the use of volatile organic compounds (VOC's) as in "dry cleaning".

Legal Non-Conformity:

The zoning status of a structure or parcel of land which or the use of which, though legal prior to the passage of this Ordinance does not comply with one or more of the provisions of this Ordinance. (See Section 17.12)

Limited Access Highway:

A traffic-way, including toll roads, freeways and expressways for through traffic, to which owners or occupants of abutting property or lands and other persons have very limited or no legal right of access to or from the same, except at such points and only and in such manner as may be determined by the public authority having jurisdiction over such traffic-way.

Loading Space, Off-Street:

Space logically and conveniently located for bulk pickups and deliveries, scales to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lodging House (including Boarding and Rooming House):

A residential building, or portion thereof, (other than a motel, apartment hotel, or hotel) containing lodging rooms which accommodate persons who are not members of the keeper's family. Lodging or meals or both are provided for compensation on a weekly or monthly basis.

Lodging Room:

A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one "lodging room: for the purposes of this ordinance.

Lot:

A lot for the purposes of this Ordinance is a contiguous parcel of land of sufficient size to meet minimum zoning requirements for use and area, and to provide required yards and other open spaces. Such lot shall have front age on an improved public street, or on a Town approved private way, and may consist of:

- A. A single lot of record;

- B. A portion of a lot of record;
- C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
- D. A parcel of land described by metes and bounds.

Provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.

Lot Area:

The area of a horizontal plane bounded by the front, side, and rear lot lines of a contiguous parcel, but not including any area occupied by the waters of a duly recorded lake or river, or of land designated for a present or future public street.

Lot, Corner:

A lot situated at the junction of, and abutting on two (2) or more intersection streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty five degrees (135 degrees).

Lot, Depth:

The mean horizontal distance between the front lot line and the rear lot line.

Lot, Double Frontage or Through Lot:

A lot having frontage on two streets other than at the street intersection, the streets typically being along the front and rear lot lines. For purposes of yard space, both shall be treated as front yards.

Lot Interior:

A lot having frontage on only one public street.

Lot Line:

The property line bounding a lot except that where any portion of a lot extends into the public right of way or a proposed public right of way, the proposed ultimate line of such public right of way shall be the lot line for purposes of this Ordinance.

Lot Line, Front:

That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot, the lot line with the shortest dimension on a public street, except that a corner lot in a non-residential area shall be deemed to have frontage on both streets.

Lot Line, Rear:

That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet (10') in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet (10') in length within the lot, parallel to, and at the maximum distance from the front lot line.

Lot Line, Side:

Any boundary of a lot which is not a front lot line or a rear lot line.

Lot of Record:

Any validly recorded lot which at the time of its recordation complied with all applicable laws, ordinances and regulations.

Lot Width:

The maximum horizontal distance between the side lot lines of a lot measured parallel to the front lot line and at the rear of the required front yard.

Lot, Zoning:

A "zoning lot or lots" is a single tract of land located within a single block, which (at the time of filing for a zoning permit) is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. Therefore, a "zoning lot or lots" may or may not coincide with a lot of record.

Luminance:

Means the brightness of an object, expressed in terms of footlamberts, determined from other premises or from the street's public right-of-way, whichever is closer to the sign.

Manufacturing:

The processing and converting of raw, unfinished, or semi-finished materials or products, or any of these into an article or substance of different character, or for use for a different character, or for use for a different purpose; also, industries furnishing labor in the case of manufacturing or the refinishing of manufactured articles.

Marina:

A place for docking or storage of pleasure boats or providing services to pleasure boats and the occupants thereof, including minor servicing and repair to boats while in the water, sale of fuel and supplies, or provision of lodging, food, beverages, and entertainment as accessory uses. A yacht club shall be considered a marina, but a hotel, motel, or similar use, where docking of boats and provision of services thereto, is incidental to other activities shall not be considered a marina, nor shall boatdocks accessory to a multiple dwelling where no boat related services are rendered.

Mezzanine:

A "mezzanine" is an intermediate story between the floor and ceiling of a main story and extending over only part of the main floor.

Micron:

A unit of length, equal to one thousandth part of one millimeter (.001 millimeter).

Minor Arterial:

Local thoroughfare roadways designed to accommodate medium to short trips within urban areas at somewhat higher speeds than local collector streets. Direct land access to these roadways is typically somewhat restricted.

Mobile Home:

A structure, designed to be a dwelling unit, which is manufactured, inspected, and totally assembled in a factory and then transported to a lot or site for placement on a foundation and hookup to essential utility services for permanent habitation. Any such structure from which its wheels have been removed shall be construed to be a permanent structure for purposes of this Ordinance. (See House Trailer and Camping Trailer)

Mobile Home Lot:

A parcel of land for the placement of a single mobile home and the exclusive use of its occupants, within a mobile home park.

Mobile Home Park:

A parcel or tract of land under single ownership at the time of development which has been planned and improved for the placement of mobile homes for dwelling purposes, and not including more than 3 model units for sales of units.

Mobile Home Stand or Pad

That part of an individual mobile home space which has been planned and improved for the placement of the mobile home and additions or attachments thereto.

Moderate Burning:

Implies a rate of combustion described by a material which supports combustion and is consumed slowly as it burns.

Modular Home:

A structure which is partially pre-assembled at a manufacturing plant and placed together on a lot or parcel as a dwelling unit or units; Also called "prefabricated" or "double wide" units. For the purpose of this ordinance, modular homes must meet the requirements of all applicable state and local building codes.

Motel:

A building or series of buildings containing guest rooms in which lodging is offered for compensation and which may have more than five sleeping rooms or units for this purpose, and which is distinguished from a hotel primarily by reason of providing direct independent access to and adjoining parking for each or many of the guest rooms.

Motor Freight Terminal:

A building or area in which freight brought by motor truck is transferred and/or stored for movement in intrastate or interstate shipment by motor truck.

Motor Hotel or Motel: (See Motel)

Motor Vehicle:

A "motor vehicle" is any passenger vehicle, truck, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

Name Plate Sign:

A sign indicating the name and/or occupation of a person or persons residing on the premises or legally occupying the premises, or indicating a home occupation legally existing on the premises.

Navigable Stream:

See Section 144.26(2)(d) of the Wisconsin Statutes.

NGVD or National Geodetic Vertical Datum:

Elevations referenced to mean sea level datum, 1929 adjustment.

Night Club:

An establishment which shall include, in addition to the serving of food and entertainment, the provision for dancing and sale of alcoholic beverages to the public.

Non-Conforming Structure:

A structure which does not conform to the Building Location, Height, Building Size or Floor Area regulations of the district in which it is located. (See Section 17.12)

Non-Conforming Use of Structure:

A use carried on within any building which use does not conform to the Use or Residential Density/Open Space Regulations of the district in which it is located.

Non-Conforming Lot:

A lot which does not conform to the Lot Size Regulations of the district in which it is located.

Non-Conforming Use of Land:

A use of any land in a way which use does not conform to the Use, Residential Density, or Open Space Regulations of the district in which it is located.

Noxious Matter or Materials:

Material capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well being of individual organisms.

Nuisance:

Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

Nursery:

Shall be any land used to raise trees, shrubs, flowers, and other plants for sale or for transplanting.

Nursery School:

A place where three or more children are kept for the purpose of providing supplemental parental care, including day nursery, day care home for children, and kindergarten. (See Day Care Center).

Nursing Home:

An institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care. See also "Retirement Home" and "Home for the Aged".

Obstruction to Flow:

Means any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

Octave Band:

A prescribed interval of sound frequencies which permits classifying sound according to its pitch.

Odor Threshold:

The lowest concentration of odorous matter in the air that will produce a response in the normal human nose.

Odorous Matter:

Any matter or material that yields an odor which is offensive in any way or any matter or material that produces a response in the normal human nose.

Official Letter of Map Amendment:

Official notification from the Federal Emergency Management Agency, (FEMA), Flood Insurance Administration, (FIA), that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

On-Site Sewage Disposal Absorption System

Includes a state approved septic or mound system for collection of sanitary waste and eventual absorption of such waste into the surrounding soils.

Open Space:

An unoccupied space to the sky on the same lot with the building and not used for parking or driveway purposes. Roof terraces shall not be counted as open space unless the access thereto, design of the terrace, and similar factors deemed pertinent by the Planning Commission have been approved by the Commission in each instance.

Ordinary Highwater Mark:

The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

Outdoor Recreational Facilities:

Land and structures along with accessory equipment designed and utilized for leisure time activities of a predominately "outdoor" nature and/or more specific purpose than passive parkland open area, and further classified as follows:

- A. Public: Facilities owned and operated by a governmental agency for limited or general public use.
- B. Private Commercial: Facilities owned and operated by an individual or group for profit as a business whether or not open to general public use.
- C. Private Non-Commercial: Facilities owned and operated by a group for the exclusive use of the members of such group and their guests, and not for profit as a business.
- D. Private Residential: Facilities owned by an individual, located on the same or adjoining lot to his residence and intended solely for the use of his family and guests.

Out Lot:

An approved division of land shown on a plat which of itself may not meet the zoning requirements of a lot, but which serves some purpose such as housing a utility station, or preserves a natural resource area.

Parking Space, Off-Street:

The area on a lot designed to accommodate a parked motor vehicle as an accessory service to the use of said lot and with adequate access thereto from the public street. For purposes of satisfying parking requirements of this Ordinance, an off-street automobile parking space shall be an area of no less than 160 square feet plus associated access which usually averages 350 sq. feet per space.

Particulate Matter:

Dust, smoke, or any other form of airborne pollution in the form of minute separate particles.

Party Wall:

A wall containing no opening which extends from the elevation from building footings to the elevation of the outer surface of the roof or above, and which separates continuous buildings but is in joint use for each building.

Patio:

A terrace extending not more than six inches above the average level of the ground at its margins; provided that no fixed walls or roof shall be erected on or over any patio or similar structure that is located in a required yard.

Performance Standard:

A criterion established for the purposes of (1) assigning proposed industrial uses to proper districts, and (2) making judgement in the control of noise, odor, smoke, toxic matter, vibration, fire and explosive hazards, or glare generated by, or inherent in, uses of land or buildings.

Permanent Occupancy:

The rental of housing accommodations or rooms on a month-to-month or year-to-year basis with a fixed rent for each period of occupancy.

Person:

An individual, firm proprietorship, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit.

Pets, Household:

Animals commonly found in residences as pets, such as dogs, cats, songbirds, and other small animals, providing that they are not raised or reared for commercial resale or as a source of staple supplement. Household pets shall not include horses, chickens, cows, goats, sheep, hogs, snakes or other animals not commonly found in residences.

Pierhead Line:

A boundary line established along any section of the shore or any navigable waters by a municipal ordinance approved by the State Department of Natural Resources, pursuant to section 30.13 of the Wisconsin Statutes. Piers and wharves are only permitted to the landward side of such pierhead line unless a permit has been obtained pursuant to section 30.12(2) of the Wisconsin Statutes.

Porch, Open:

A roof partially supported by columns or wall sections.

Planned Development: (See Section 17.07)

Primary Floor Area (P.F.A.):

The floor area of a building for purposes of determining required parking ratios, which area shall include only that portion of the total floor area devoted to customer service, sales and office space and shall not include warehouses, utility, hallways and other accessory space except as they generate parking demand.

Private Antenna:

Antenna erected for noncommercial use.

Private Club or Lodge: (See Club)

Private Sewage System:

A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term

also means an alternative sewage system approved by the Wis. Department of Industry, Labor and Human Relations (DIHLR) including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

Professional Office:

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

Quarry:

A place, cavern, or pit where stone is taken from the rock or ledge, or dug from the earth, for building or other purposes; a stone pit.

Quarrying:

The digging out of stone or slate from an open excavation.

Railroad Right-of-Way:

A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

Reach:

A longitudinal segment of a stream generally including those floodlands where in flood stages are primarily and commonly controlled by the same man-made or natural obstructions to flow.

Recycling Center:

A collection station for most materials that can be used again by transport to processors, but where materials are received but not re-sold.

Recreational Camp:

An area containing one or more permanent buildings used occasionally or periodically for the accommodation of members or guests of associations or groups for recreational, educational or religious purposes.

Recreational Equipment, Major:

Major recreational equipment includes boats and boat trailers, travel trailers, converted buses, motorized dwellings, race cars, dune buggies, cars licensed as pioneer or classic vehicles, pickup campers or coaches, (designed to be mounted on automotive vehicles) and the like.

Recreational Vehicle (RV):

A vehicular type unit initially designed as a temporary living quarters for recreational, camping, or travel use, which either has its own motive power or mounted on or drawn by another vehicle. The basic types of recreational vehicles are:

- (1) Travel trailers. A vehicular unit, mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, initially designed and constructed to provide temporary living quarters for recreational, camping or travel use, and a body length of no more than 35 feet and a body width of no more than 8'6" when factory equipped for the road.
- (2) Truck camper. A portable unit, designed to be loaded onto or affixed to the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping, or travel use.
- (3) Motor homes. A vehicular unit built on a self-propelled motor vehicle chassis, initially designed to provide temporary living quarters for recreational, camping or travel use.
- (4) Camping trailer. A vehicular unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfolds at the campsite and is initially designed to provide temporary living quarters for recreational, camping or travel use.
- (5) Vans, buses, and other vehicles when equipped for camping purposes, designed to provide temporary living quarters for recreational, camping, or travel use.

Recreational Vehicle (RV) Pad:

A location on an RV lot or campground site constructed of gravel, asphalt or concrete, designed to provide proper support and drainage for placement of an RV and where possible, having amenities such as sewer, water and electrical or communications connections.

Regional Flood:

A flood determined to be representative of large floods known to have occurred in Wisconsin or which may be expected to occur on a particular lake, river or stream at the statistical probability of once in every 100 years. (See Chapter NR 116, Wisconsin Administrative Code, section 116.03(24).

Rendering Plant:

A plant for reduction of dead animals, or slaughtered animals not suitable for human consumption, to produce products such as hide, skin, grease, bones, glue and soap and for the storage of such by-products.

Reservoir Parking:

"Reservoir parking" are those off-street parking spaces or waiting lanes allocated to automobiles awaiting access to the services of a particular establishment.

Residential Business:

A home office or household occupation which is conducted principally by members of the family but may permit up to one employee not a resident on the premises, entirely within buildings of the place of residence, does not exceed one-half the area of the floor, and where the presence of the customer or client may involve his being on the premises while the service is being performed, provided that no more than two (other than those already exempt by "Household Occupation") are to be on the premises at once; that off-street parking, if required, is located and screened so as to be compatible to the surrounding residential area, that any sign is limited to a nameplate not in excess of three square feet in area, and that a zoning permit for such a use shall not be issued until the Planning Commission has reviewed the proposed use and determined that said use will meet the above conditions.

Rest Home or Convalescent Home: (See Nursing Home)

Restaurant:

A building or premises where meals are offered for compensation and typically eaten on the premises.

Restaurant With Drive-in Service:

An establishment designed, in whole or part, to cater to or accommodate the consumption of food and/or beverage in automobiles on the premises of such establishment.

Retirement Home:

A building or institution for the accommodation of elderly persons, with and without nursing or medical area; provided that if such nursing or medical care is to be provided on a continuing basis for at least three persons for not less than 72 hours per week, such building or institution shall be classified as a nursing home. (See also "Nursing Home" and "Home for the Aged".

Riding Stable:

A building or premises used for the rent or lease of horses or animals for riding.

Right-of-way Line:

The dividing line between a highway or private utility corridor and the abutting tract of land, including lots or other divisions of land.

Ringelmann Chart:

One which is described in the U.S. Bureau of Mines Information Circular 6888 or its successor, and on which are illustrated graduated shades of grey for use in estimating the light-obscuring capacity of smoke.

Ringelmann Number:

The number appearing on the Ringelmann Chart ascribed by the observer to the density of the smoke emission. Where the density or light-obstructing capacity of the smoke as observed falls between two consecutive Ringelmann Numbers, the lowest Ringelmann Number shall be considered the density of the smoke observed.

Road:

Synonymous with street.

Roadside Stand:

A "roadside stand" is a structure for the display and sale of agricultural products, with no space for customers within the structure itself.

Row House: (See Town House or Dwelling Attached).

Sand and Gravel Pits: (See Extractive Operations)

Sanitarium:

A health station or retreat. An institution for the recuperation and treatment of persons suffering from physical or mental disorders.

Sanitary Landfill:

Sanitary landfill is a type of land disposal operation involving the disposal of solid waste on land without creating nuisances or hazards to public health or safety by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day of operation or at such more frequent intervals as may be necessary.

School:

A place for systematic instruction in any branch or branches of knowledge, for purposes of this Ordinance offering such services more than twenty hours per week.

Sediment:

Soils or other surficial materials transported by winds or surface waters as a produce of erosion.

Service Station:

(See "Gasoline Station" or "Automobile Service Station" or "Truck Stop").

Setback:

The shortest horizontal distance between any structure and the base setback line. (See Section 17.03-4)

Shorelands:

All land, water and air located within the following distances from the normal high water elevation of navigable waters as defined in section 144.26(2)(d) of the Wisconsin Statutes: 1,000 feet from a lake, pond or flowage; 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater. If the navigable water is a glacial pothole

lake, the distance shall be measured from the high water mark thereof.

Shorelines:

The intersection of the land surfaces abutting lakes, ponds, streams, flowages and wetlands with the average annual high-water elevation.

Shore Yard:

A yard extending across the full width or depth of a lot, the depth of which shall be the minimum horizontal distance between a line intersecting both side lot lines at the same angle, and containing the point of the high-water elevation of a pond, stream, lake or wetland nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the high-water line.

Sign:

Any structure or part thereof or any device attached to a structure or any other form of visual communication applied by paint, illumination, embossing or other technique to a structure for the purpose of directing, advertising, informing, warning or otherwise conveying information visually to the viewer.

Sign, Directional:

A sign intended solely for the purpose of directing patrons, customers, clients or patients to an establishment off the main travelled road and not including promotional advertising unnecessary to such directional purpose.

Sign, Flashing:

A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this ordinance, any moving, illuminated sign shall be considered a "flashing sign". Such signs, other than necessary traffic signals and time and temperature signs, are prohibited in this Ordinance.

Sign, Illuminated:

A sign whose message is illuminated by artificial light, either by interior projection through translucent construction material or by directing the light at the sign

and its supporting structure or by affixing lights of any type to the supporting structure or perimeter of a sign.

Sign, Non-Accessory:

A sign related to commercial or similar activities other than those actually engaged in on the site on which such non-accessory sign is located. (Also called Off-Premises Sign)

Silt:

Soil particles, intermediate in size between sand and clay, which are readily transported by inflowing streams or surface waters into a body of water.

Slaughterhouse:

Any building or premise used for the killing or dressing of cattle, sheep, swine, goats, horses or poultry and the storage, freezing and curing of meat and preparation of meat products.

Slow Burning or Incombustible:

Implies materials which do not in themselves constitute an active fuel for the spread of combustion. A material which will not ignite, nor actively support combustion during an exposure for five minutes to a temperature of 1200°F, shall be designated "incombustible".

Smoke:

Small gasborne particles other than water that form a visible plume in the air.

Smoke Unit:

The number obtained when the smoke density in Ringelmann Number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation; each reading is then multiplied by the time in minutes during which it was observed. The various products are then added together to give the total number of smoke units observed during the entire observation period.

Soil:

For purposes of this ordinance those earth materials not regulated as sand, gravel, stone or slate mining.

Solid Waste:

garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations and from domestic use and public service activities, but does not include solids or dissolved material and waste water effluent or other common water pollutants.

Sound Level:

An operation or use is the intensity of sound, measured in decibels, produced by such operation or use.

Sound Level Meter:

An instrument standardized by the American Standards Association for measurement of intensity of sound.

Special Exception:

For purposes of this Ordinance, other than a conditional use, and not including a grant that has the practical effect of a re-zoning.

Start Commencement:

The doing of some act upon the ground on which the building is to be erected or use located, and in pursuance of a design to erect or develop, the result of which act would make known to a person viewing the premises, from observation alone, that the erection of a structure or beginning of development on the land had been commenced.

Steep Slope:

A slope over twelve percent (12%) gradient (12 ft. of rise in 100 feet of horizontal distance), which is characterized by increased run-off, erosion and sediment hazards.

Storage:

Holding or safekeeping goods in a warehouse or other depository to await the happening of some future event or contingency which will call for the removal of the goods.

Storage Capacity, Flood:

the volume of space available above a given cross-section of a floodplain for the temporary storage of flood water. The storage capacity will vary with stage.

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. A basement or cellar having one-half or more of its height above grade shall be deemed a story for purposes of height regulations.

Street:

A "street" is a public or private right-of-way which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, lane, throughway, or however otherwise designated, but does not include driveways to buildings.

Street, Arterial:

A public street or highway used or intended to be used primarily for fast or heavy volumes of through traffic including trucking. Arterial streets and highways shall include freeways and expressways, as well as arterial streets, highways and parkways.

Street, Frontage and Reversed Frontage:

A street contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property. (Also, called Frontage Road). A road performing the same function but located at the opposite end of the lot nearest the artery is called a Reverse Frontage Road.

Stripping:

Any activity which removes the vegetated surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

Structural Alterations:

Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Structural Repairs:

Any repair to the supporting members of a structure, such as bearing walls, columns, beams or girders. Ordinary maintenance repairs such as interior or exterior painting, decorating, panelling, replacing doors and windows, and replacing roof tiles or shingles are not considered structural repairs.

Structure:

A combination of materials other than natural terrain or plant growth erected or constructed to form a shelter, enclosure, retainer, container, support, base, pavement or decoration.

Structure, Accessory:

A structure or portion of a structure used for a purpose customarily incidental to the permitted principal use of the lot and located on the same lot as the principal use.

Structure, Minor:

Any small, movable accessory erection or construction, such as birdhouses; tool houses; play equipment; arbors and walls and fences under four (4) feet in height meeting all street, sides, rear and shore yard setback requirements.

Structure, Permanent:

A structure placed on or in the ground or attached to another structure in a fixed and determined position and intended to remain in place for a period of more than nine months.

Structure, Temporary:

Any structure other than a permanent structure.

Swimming Pool:

Any structure, portable or permanent, containing a body of water 18 inches or more in depth, intended for recreational purposes, including a wading pool, but not including an ornamental reflecting pool or fish pond or similar type pool, located and designed so as not to create a hazard or to be used for swimming or wading.

Tent:

A "tent" is any temporary structure or enclosure, the roof of which and/or one-half or more of the sides, are

constructed of silk, cotton, canvas, fabric, or a similar pliable material.

Theater:

A structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service is allowed.

Thoroughfare:

Roadways of higher carrying capacity than collector streets, performing the function of accommodating medium to short trips within the sub-regional and activity centers within sub-regions. Such roadways are designed to carry traffic at somewhat higher speeds than collectors, and direct land access to them is more restricted.

Tourist Home:

A building in which lodging, with or without meals is offered to transient guests for compensation and having no more than five sleeping rooms for this purpose with no cooking facilities in any such individual room or apartment. (Also called Bed & Breakfast)

Town House: (See Single Family Attached)

Town Plan:

That document or parts thereof defined in ss.62.23(3) Wis. Stats. as The Master Plan for the physical development or conservation of the municipality as further described in (2) Functions of said Statute, also commonly called Comprehensive Plan, or General Plan.

Toxic Matter:

Those materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

Traffic Lane:

A strip of roadway intended to accommodate a single line of moving vehicles.

Trailer: (See Camping Trailer, House Trailer and Mobile Home)

Truck Stop:

The same as an Automobile Service Station but oriented primarily to trucks, especially semi-tractor trucks with trailers.

Turning Lanes:

An existing or proposed connecting lane of traffic between two arterial streets or between an arterial street and any other street or driveway. Turning lanes include grade separated interchange ramps.

Use:

The purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Use, Accessory:

A use subordinate to and customarily incidental to the permitted principal use of the property or buildings and located upon the same lot as the principal use.

Use, Conditional:

A "conditional use" is a use--either public or private--which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district or districts. After due consideration, in each case, of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such "conditional use" may or may not be granted, subject to the terms of this ordinance. (See Section 17.06)

Used Car Lot:

A lot or group of contiguous lots, used for the display and sale of used automobiles and where no repair work is done, except the necessary reconditioning of the cars to be displayed and sold on the premises.

Use; Permitted:

A public or private use which of itself conforms with the purposes and objectives of a particular district and conforms with all requirements, regulations and performance standards of such district.

Use; Principal:

The main use of land or buildings as distinguished from accessory uses. A "principal use" may be either permitted by right or permitted by conditional grant.

Use; Temporary:

A use established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. (See also Section 17.02-3 (4)).

Utilities: (See Essential Services)

Variance: (See Board of Appeals).

Vegetation:

All plant growth, including without limitation, trees, shrubs, and grasses.

Vision Setback Area:

An unoccupied triangular space, at the street or alley corner of a lot, as established by Section 17.03-4 (4).

Warehouse:

A structure or part of a structure, for storing goods, wares, and merchandise, whether for the owner or for others, and whether it is a public or private warehouse.

Water Surface Profile:

Means a graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

Wetlands:

Those areas where water is at, near, or above the land surface long enough to support aquatic or hydrophytic vegetation and which soils are indicative of wet conditions. (Also see ss.62.231 Wis. Stats.)

Width:

A dimension measured from side to side at right angles to length.

Wildlife:

All free living animals.

Woodland:

A group of trees at least one-half (1/2) acre in area and with a crown cover of fifty percent (50 percent) or greater.

Yard:

A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest ground level to the sky except as expressly permitted in this Ordinance. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

Yard; Front:

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

Yard; Rear:

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

Yard; Side:

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

Zone (or District):

An area within which certain uses of land and buildings are permitted and certain other are prohibited, yards and other open spaces are required lot areas, building height limits, and other requirements are established, all of the foregoing being identical for the zone in which they apply.