

**Town of Brookfield**  
645 N. Janacek Road  
Brookfield, WI 53045  
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## **MEETING NOTICE**

Meeting will be held at the  
Town of Brookfield Municipal Building, Eric Gnant Room  
645 N. Janacek Road, Brookfield, WI

**Tuesday, February 25, 2025**

### **PLAN COMMISSION – SPECIAL MEETING**

**4:00 p.m.**

### **AGENDA**

- 1) Call to Order.
- 2) Meeting Notices.
- 3) Old Business:
  - a. None.
- 4) New Business:
  - a. Discussion and working meeting to discuss proposed revisions to Town Zoning Code.
- 5) Communication and Announcements.
- 6) Adjourn.

*Posted this 21<sup>st</sup> day of February, 2025*  
*Bryce Hembrook*  
*Town Planner*



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## TOWN OF BROOKFIELD ZONING CODE REVIEW

TO: Town of Brookfield Plan Commission

FROM: Bryce Hembrook, AICP  
SEH

REPORT DATE: February 25, 2025

RE: **Zoning Code Update Discussion**

### **Background**

The majority of the zoning code has not been amended for over 30 years and the zoning code has some elements that are outdated or could be improved. Since I began assisting the Town with planning services, I have noticed that there are some improvements that can be made to modernize the code, make the code easier to understand and administer, better clarify processes, and improve the development review process.

### **Objectives and Goals**

- Provide more user-friendly language.
- Reduce the amount of time town staff must explain or educate the public on zoning code questions.
- Reduce the number of meetings required for development review.
- Clarify processes and procedures.
- Create land use categories for similar uses rather than listing every type of use.
- Relocate text to proper sections and remove redundancies found in the Code.

### **Summary of Zoning Code**

- The Zoning Code will be restructured to consist of the following chapters:
  - 17.01. Authority, Purpose, Title.
  - 17.02. Definitions.
  - 17.03 Administration and Procedures
  - 17.04. Zoning Districts.
  - 17.05 Land Use Regulations.
  - 17.06. Planned Unit Development.
  - 17.07. Traffic, Access, Loading, and Parking.
  - 17.08 Outdoor Lighting Code.
  - 17.09. Nonconforming Premises and Structures.
  - 17.10. Signs.
  - 17.11. Wireless Telecommunications Facilities in the Right-of-Way,
  - 17.12. Mobile Tower Siting Regulations
  - 17.13. Landscaping.
  - 17.14. Schedule of Fees; Violations and Penalties.

Engineers | Architects | Planners | Scientists

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- 17.15. Zoning Matrix.
- A few things to keep in mind during the review of chapters.
  - Formatting, Typos, Grammatical errors, etc. There may be some formatting, typos, and grammatical issues that I plan on addressing after receiving all comments and amending the draft. For the sake of time and to focus on the content of the code, if there are issues you wish to call out, please send me a pdf or handwritten notes before or after the meeting instead of discussing during the meeting. The Plan Commission has limited time to discuss a rather large code amendment so I want to make sure the discussion is focused on the content and bigger picture.
  - References. There are many references in the code and I will have to check the references after changes are made to make sure they are accurate. There will be some references that show incorrectly now but will be corrected later in the process.
  - Red Text. Throughout the chapters there is some text shown in red. These items are shown in red if I am unsure whether or not to include or if I wanted to mark those items to be discussed with the Plan Commission and/or town staff.
  - Redlined Versions. I provided some redline versions for various chapters while not providing redlined versions for others. There were some chapters that were heavily amended to the point that the redlined versions were difficult to interpret and that the content no longer applied.
  - Plan Commission Discussion. During the discussion, I don't intend to go through the code line by line and discuss. I plan on discussing the high-level concepts of each chapter and may go into greater detail for certain items that are changing from the current code or on items that I want greater feedback from the Committee. I highly recommend reviewing the draft chapters prior to the meeting, prepare initial questions or feedback, gather information on the changes presented, and review the code after the meeting. I encourage you to send any comments, feedbacks, questions etc. to me in a pdf or handwritten notes.

#### **Section 17.01. Authority, Purpose, Title (~5 min)**

- Minimal proposed changes to this section and some content was relocated from other sections.
- One of the proposed changes to consider:
  - All Town owned lands are exempt from the requirements of this section.

#### **Section 17.02. Definitions (~20 min)**

- There are a considerable amount of proposed changes to the definitions section. There were also some existing definitions that were in different sections so they were relocated so all definitions are located in one location.
- Reasons for updating definitions
  - Clarity and Consistency
    - Ensures that terms are clearly defined, reducing ambiguity and potential misinterpretation.
    - Promotes consistency in the application and enforcement of the zoning code.
  - Legal Compliance
    - Aligns with current legal standards and requirements, minimizing the risk of legal challenges.
    - Reflects recent changes in state or federal regulations.
  - Enhanced Usability
    - Makes the zoning code more user-friendly for developers, planners, and the general public.

- Simplifies the process of finding and understanding relevant definitions.

### **Section 17.03 Administration and Procedures (~45 min)**

- This is a newly created section that is intended to consolidate all procedural and regulation elements into one section to make it easier for users to find relevant information quickly.
- Reasons for creating this chapter:
  - Reduces the time spent searching through multiple sections, enhancing overall efficiency.
  - Having a dedicated section for procedures and regulations helps to clearly distinguish these elements from other parts of the zoning code.
  - Minimizes confusion by providing a centralized location for all administrative guidelines.
  - Makes the zoning code more user-friendly for both staff and the public.
  - Facilitates easier training and onboarding for new staff or Plan Commission members who need to understand the procedures.
  - Simplifies the process of ensuring compliance with zoning regulations.
  - Reduces the risk of procedural errors by providing clear, consolidated guidelines.
- Summary of Content
  - Provides duties for the Zoning Administrator and Committees.
    - Town Attorney suggested to reference Section 1 of the Municipal Code for Plan Commission and Architectural Review Committee duties instead of having two separate sections.
    - Also suggested to refer to building code references for other sections.
  - Includes Procedures for various reviews and applications
    - Plan of Operation.
      - This section is intended to specify the requirements and procedures for the review and approval of plan of operation applications.
      - Our current code requires a plan of operation, but the language is confusing, and it is also discussed along with site plan and architectural review which adds to the confusion.
      - Town Attorney and Town Administrator recommended to require all new plan of operations are required to go before the Plan Commission for approval. Typically, the Plan Commission would have final approval but may decide to forward to the Town Board for final approval.
        - We can change this to require all applications to require Town Board approval but this will add considerable amount of time and money for this application which is currently conducted at a staff level and takes 5 days or less. Even the change to require Plan Commission review will be a major adjustment for applicants.
      - Applicability. A plan of operation is required for all occupancy permits and new developments. No person shall operate a commercial enterprise, industry, home business, church, school, non-profit organization, or other non-residential use, except as authorized by a plan of operation approved by the Plan Commission under this Section.
        - Plan of operations may be reviewed and approved in conjunction with other required reviews such as site plan review and conditional use permits.
      - Basis of Decision.
        - The nature of the land use with regard to the number of employees, nature and extend of truck shipments to and from the site, hours of

- operation, use of hazardous substances, and other operational characteristics.
  - The nature and extent of anticipated positive and negative impacts on properties in the surrounding area.
  - Actions the applicant will undertake to mitigate the negative effects, if any, of the proposed land use.
  - Availability of adequate parking to meet the needs of employees and customers.
  - Adequacy of street access.
  - Proximity to residential neighborhoods and the potential for disturbing and disrupting residential uses.
  - Any other factor that relates to the purposes of this Chapter or as allowed by State law.
- Temporary Plan of Operation Review and Approval.
  - The Zoning Administrator may grant temporary occupancy and plan of operation approval, if the Zoning Administrator determines that the proposed use substantially conforms to the requirements of this Chapter, while the applicant awaits final approval by the Plan Commission. A temporary approval does not constitute an official approval and the applicant assumes all risk of operating prior to final approval.
- Development Review Process
  - The Development Review process consists of the site plan review process and the architectural plan review process. The plan of operation review process also runs concurrent with the development review process.
  - Reasons for this Change.
    - Our current review process is complex and the code language
    - Current process typically requires 7 public meetings and three review phases.
      - Conceptual
        - Plan Commission review and Town Board approval.
      - Preliminary
        - Architectural Review Committee review and Plan Commission approval.
      - Final
        - Architectural Review Committee review, Plan Commission review, and Town Board approval.
    - The Town's review process is the most meeting intensive review process that our staff has seen and every applicant that has gone through this process (in my time as Town Planner) has complained about the length of review, number of meetings, costs, confusion with code requirements, and the redundancies in review.
      - In my experience with other communities, we have some communities where 90-95% of development projects are approved administratively by town staff. In other communities, the Plan Commission reviews once and recommends action to the governing body and the governing body grants final approval.

- The suggested review process considers the concerns presented and still allows for the architectural and site plan components to be reviewed by each committee at one meeting. Generally, most projects will only require 3 public meetings. The committee's always have the option to table for more information or to refer the application to another committee. But this allows for this to be a case-by-case occurrence rather than requiring 7 meetings for all new developments.
- In addition to reducing the amount of public meetings required, the process now requires that the initial review is conducted by town staff and other individuals involved in development review.
  - This allows for the development review team to provide necessary feedback and advise applicants on code compliance prior to the first public meeting so that the plans are sufficient enough for a comprehensive review by each reviewing board.
  - For example, if the zoning administrator reviews the site plan and application and determines that the plans do not conform to the code, the zoning administrator will not forward the request to the Plan Commission until it's ready to move forward.
- Applicability.
  - Development review and approval shall be required for all new buildings, including accessory structures, or additions as outlined in this Section including redevelopment and expansion. Architectural plan changes, exterior alterations, and site plan changes (not involving new buildings or additions) shall be reviewed in accordance with the requirements of §17.03(12) Site Plan Review and §17.03(13) Architectural Plan Review.
    - Similar to current code, the Zoning Administrator shall review the development plans for all new development in the A-1 Agricultural District, and the RS-1, RS-2, RS-3, RS-4, and RD-1 Residential Districts and can administratively approve the development if it meets the requirements set forth in this Section.
      - Zoning Administrator may refer site plans to the Plan Commission or architectural plans to the Architectural Review Committee when a question arises concerning generally accepted community standards or when a development is substantially different from Town norms. Town Board will then review recommendation and grant final decision.
    - In all other zoning districts, the Plan Commission is responsible for reviewing and providing a recommendation to the Town Board for site plan approval, landscaping, preliminary signage, exterior lighting, and any applicable standards listed in §17.03(12). The Architectural Review Committee's review and

recommendation shall be solely focused on architectural components, preliminary signage, preliminary lighting and any applicable standards listed in §17.03(13). The Town Board shall consider the recommendations from each reviewing entity and decide whether to approve, deny, table for more information, or refer the item back for further review.

- Process Steps
  - Conceptual Review by Town Staff and Review Team.
    - Intended to determine whether the proposed development meets code requirements and to offer feedback prior to moving forward. The applicant may request to have a conceptual architectural review or conceptual site plan meeting with the Architectural Review Committee, Plan Commission, and/or Town Board to gather initial feedback regarding the proposed project.
  - Site Plan Review.
    - After conceptual review, the applicant shall submit a site plan application, meeting site plan requirements, as determined by the Zoning Administrator. The Zoning Administrator shall not forward the application to the Plan Commission until the Zoning Administrator determines that the application meets the application requirements set forth in this chapter.
    - Plan Commission shall review site plan and provide a recommendation to the Town Board.
    - Plan Commission may review and comment on the proposed architectural materials, but the Architectural Review Committee will provide final architectural recommendation to the Town Board.
    - Plan of Operation process will typically run concurrent with this process.
  - Architectural Review.
    - Architectural Review Committee (ARC) reviews architectural plans and provides recommendation to the Town Board.
    - The ARC may defer any proposed development plan back to Plan Commission for additional review.
  - Final Approval.
    - Town Board shall consider the recommendations from the Architectural Review Committee and Plan Commission and shall approve, deny, table, or refer the development project back to either reviewing entity.
    - If proposed development is denied, the Town Board should provide a motion clearly stating that the development is denied and provide specific reasons for denial.
- Site Plan Review.
  - Outlines the review process, site plan submittal requirements, and addresses amendments.
  - Generally, the Plan Commission's main focus for review is on the proposed site plan, landscaping, preliminary signage, and lighting approval.

- Site plan amendments will generally go back to the Plan Commission but we recommend allowing staff to approve minor amendments.
  - Examples: minor amendments to the site plan such as small additions to structures and parking areas that are 1,200 square feet or less, relocating the location of structures or parking areas a short distance.
- Application Section.
  - Our current language is vague on what is required for a site plan application, so we are recommending to create a detailed application list specifically listing what we want to see for our review. I included language to state that the Zoning Administrator may waive certain requirements when something is unnecessary or unrelated.
  - Information will include:
    - Written description of intended use
    - Location map
    - Pre-development site information
    - Proposed post-development site information
    - Landscaping Plan
    - Grading, drainage, and erosion control plans
    - Traffic impact analysis.
      - May be required by Town Engineer prior to site plan review. Plan Commission and/or Town Board may require throughout review process.
    - Elevation drawings
    - Photometric plan & lighting fixture
    - Plan of operation
    - Preliminary signage package
- General Site Design Principles
  - We recommended to include general site design principles to be located under this section. The majority of these principles are currently found in Section 17-02(6) and these are what I often reference in my staff reports.
- Review
  - Ultimately, Plan Commission will review the site plans and provide a recommendation to the Town Board for final approval.
- Architectural Review.
  - Reasons for Changes
    - Currently, Section 17-02(6) mentions that architectural review is required but does not provide much information on what is reviewed and which committee makes architectural recommendations. This section is intended to clarify this and to provide better guidance as to what the Architectural Review Committee should be basing their decision on.
  - Applicability
    - Architectural review shall be provided for the following:
      - New non-residential buildings and mixed-use development, including non-residential accessory buildings.
      - Multi-family residential buildings and accessory buildings on properties with multi-family residential units.



- Any additions or exterior alterations to the buildings listed above. Exterior alterations may include but are not limited to changes in siding, paint, masonry, windows, lighting, roofing materials or color, and other exterior changes to the appearance of the building. Site changes such as landscaping, parking lot layout, concrete expansion etc. are not to be reviewed by the Committee.
- Architectural Standards
  - This section is created to provide guidance for the ARC members for their review. Some of the requirements are already included in the zoning code. Other elements were found in other codes that staff thought would be good to include.
- Review and Approval
  - ARC reviews the architectural plans and provides a recommendation to the Town Board.
  - The Town Board may modify the basis of decision or conditions as deemed necessary when approving the architectural plan elements of the development project.
  - Amendments to Architectural Plans do not require final approval by the Town Board, unless required by the Architectural Review Committee.
- Conditional Use Permit.
  - Added additional information on the process and created criteria to base the decision on.
- Temporary Use Permit.
  - The Zoning Administrator may request that the Plan Commission review and determine whether a specific temporary use is to be allowed in a subject property if the Zoning Administrator determines that the temporary use may adversely impact the surrounding properties or if the Zoning Administrator is unable to determine if the temporary use is allowed in a specific district.
- Zoning Map Amendment (Rezoning) and Zoning Ordinance Amendment.
  - Provides more detailed information on the process.
- Variances
  - Provides more detailed information on the process.

#### **Section 17.04 Zoning Districts. (~15 min)**

- In the existing code, this section contains the allowable uses, general requirements such as setbacks, lot width, building height etc., and the description of each zoning district.
- This proposed section will condense the section by focusing on providing the purpose of each zoning district, providing basic requirements for each zoning district, and providing additional requirements related to the MU-1 Zoning District.
- All allowable land uses will be relocated to a land use matrix that shows permitted and conditional uses in one location instead of two different sections of the code like the existing code is set up. Additionally, there will be more detailed information on these types of land uses and applicable regulations found in the new Section 17.05 Land Use section.
- The zoning requirements for each district will also be relocated to a matrix that provides an easy to follow table for each zoning district.
- The zoning district table shown in this section will be reformatted once added to the code online.

- There were no major changes to the zoning districts or their requirements. The biggest difference will be the land uses that are allowed in these zoning districts because the way we will categorize land uses will be drastically different than how we currently categorize land uses.

#### **Section 17.05 Land Use Regulations (~45 min)**

- This section is a new section intended to provide detailed information on land uses and provide applicable requirements for each use.
- There four different types of categories of allowable land uses:
  - Principal Land Uses Permitted by Right
  - Principal Land Uses Permitted by Conditional Use.
  - Accessory Land Uses.
  - Temporary Land Uses.
- The code breaks down the land uses into various categories:
  - Agricultural
  - Residential
  - Commercial
  - Automotive
  - Medical
  - Institutional
  - Industrial and Manufacturing
  - Storage
  - Transportation
  - Waste Facilities
  - Extraction
  - Conservancy
  - Energy Production
  - Utilities
  - Temporary
  - Accessory
- Here are a few examples of what this will look like:
  - *Single-Family*
    - A building containing one dwelling unit that is located on one lot and is not attached to any other dwelling unit by any means.
    - Regulations:
      - Parking: 2 spaces for each dwelling unit.
      - Number of Principal Structures: No more than one principal residential building shall occupy any single parcel of land except as allowed otherwise under this chapter.
      - Occupancy: A dwelling unit shall be occupied by no more than one family.
      - Building Code: The dwelling must be attached to a finished, permanent foundation, such as a poured concrete slab or basement meeting State of Wisconsin Uniform Dwelling Code (UDC) requirements.
  - *Financial Service*
    - A place where financial and banking services are offered. This use includes banks, saving and loans institutions, insurance agency, other lending institutions, title loan businesses, and payday loan businesses.
    - Regulations:
      - Parking: 1 space per 300 square feet of gross floor area.

- Drive-Through Services:
  - Conditional Use Permit Required: A conditional use permit is required for any financial service drive-through.
  - Restriction: Drive-through services are not permitted in the B-1 zoning district.
  - Traffic Circulation: The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
  - Public Safety: In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if this land use is permitted in the zoning district.
  - Interior Curbs: Interior curbs shall be used to separate driving areas from exterior fixtures such as menu boards, canopy supports, and landscaped islands. Said curbs shall be a minimum of 6 inches high and shall be of a non-mountable design.
  - Stacking Length: Each drive-through land shall have a minimum stacking length of 100 feet behind the pass through window and 40 feet beyond the pass through window. This requirement may be waived by the Plan Commission.
  - Digital Menu Boards: Digital Menu Boards may be permitted upon approval by the Plan Commission. The Plan Commission may require additional landscaping or screening to be provided to screen the menu board from surrounding properties or road right-of-ways. The Plan Commission may also place restrictions on the brightness, timing, and size of the digital menu board.
- Spacing requirements for payday lenders (*Note: This is a state statute requirement*):
- The payday lender must be located at least 1,500 feet from another payday lender.
- The payday lender must be located at least 150 feet from any single-family or two-family residential zoning district or planned unit development with single-family or two-family residential uses.
- Exceptions to the Location Requirement. If a payday lender that is doing business on January 1, 2011, from a location that does not comply with the space requirements in this section, the payday lender may continue to operate from that location.
- *Personal Service*
  - Indoor service land uses where the primary function is the provision of services directly to an individual on a walk-in or appointment basis. Examples of such uses include establishments where customers make an appointment, such as barber shops, beauty shops, massage therapy, tattoo parlors, and related land uses including ancillary on-site production of items used in the provision of such services.
  - Regulations:
    - Parking: 1 space per 350 square feet of gross floor area.
    - Licensing: Massage therapists must obtain a license from the Town.
- *Professional Service*

- A place where services involving predominantly professional, clerical, or similar operations are performed and where customers may or could come on a regular basis. This term includes law offices, real estate offices, insurance offices, and travel agencies.
- Regulations:
  - Parking: 1 space per 350 square feet of gross floor area.
- *Indoor Entertainment*
  - Land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours that extend later than other commercial land uses. Examples of this land use include, but are not limited to, movie theaters, dance halls, and theaters for performing arts. This term does not include adult-oriented establishments.
  - Regulations:
    - Parking: 1 space per 3 patron seats plus 1 space for each employee on the largest work shift.
    - Customer Entrance Setback: Any customer entrances facing abutting property zoned Single-Family Residential shall be located at least 100 feet from said abutting property line. The Plan Commission may grant exceptions to this requirement by issuance of a conditional use permit.
- *Vehicle Fuel Station*
  - A place where cars, motorcycles, and light trucks can purchase the retail sale of fuel. Ancillary uses are limited to the retail sale of food and beverages, on-site car washes, and light maintenance activities, such as engine tune-ups, lubrication, and minor repairs.
  - Regulations:
    - Parking: 1 space per 300 square feet of gross floor area, including any ancillary use.
    - Restrooms: If provided, any restroom door shall be accessed from the interior of the principal building.
    - Public Safety: In no instance shall a vehicle fuel station be permitted to operate which the Plan Commission determines that there is a potential endangerment to public safety, even if such land use has been permitted under the provisions of this section.
    - Pump Island Canopies: A pump canopy shall not exceed 25 feet in height; shall not be located at least 100 feet from a residentially zoned property; shall not be located at least 50 feet from a non-residentially zoned property; and shall be located at least 20 feet from all property lines, including any street right-of-way.
    - Ancillary Use Setbacks: Any ancillary use shall meet the principal structure setback requirements. This may include, but are not limited to, on-site car washes, electric charging stations, vacuums, and tire pump stations. The Plan Commission may approve a setback reduction or require increased setbacks.
    - Interior Curbs: Interior curbs shall be used to separate driving areas from exterior fixtures such as fuel pumps, vacuums, menu boards, canopy supports, and landscaped islands. Said curbs shall be a minimum of 6 inches high and shall be of a non-mountable design.
    - Drive-Through Restaurants: Any restaurant or drive through restaurants associated with the gas station shall follow the requirements of said land use types, except the parking requirement.

- Surface: All vehicle use areas shall be concrete or bituminous material capable of supporting a 4-ton axle load.
- Distance Requirement: Only 2 Automotive Land Uses of any kind are permitted within a mile radius.
- *Light Industrial and Light Manufacturing*
  - A place where product manufacturing, assembly, printing and packaging, and other related activities occur and may coincide with another permitted use, such as an office. All operations, with the exception of loading, are conducted within an enclosed building and such land uses are not associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line and do not pose a significant safety hazard (such as danger of explosion). Generally, this land use is less intensive than general manufacturing uses.
  - Regulations:
    - Parking: 1 space per employee on the largest work shift.
    - Restriction on Activity Area: All industrial or manufacturing activities, excluding loading and unloading, shall be conducted entirely within the confines of the building.
    - Outdoor Storage: Any outdoor storage area must be approved by the Plan Commission through the site plan and business plan of operation approval and shall be located at least 100 feet from any residentially zoned property.
- Since most new businesses or organizations will need to go before the Plan Commission for plan of operation approval, the Plan Commission will be able to determine the land use category that best fits. The zoning administrator will provide their opinion on the land use category and the Plan Commission can verify the land use.
- All of the regulations mentioned for each land use will apply. So, regardless if the use is permitted by right or not, the use may be denied if it cannot comply with the regulations listed in this section.
- It is recommended that we do not discuss each individual land use. I highly recommend that if there are land use categories or specific land uses that you wish to discuss please bring up at the meeting or discuss with Town Planner prior to the meeting.
- Discuss Mobile Food Trucks.
  - I included some information on mobile food trucks in case the Commission wants to add requirements for this use.
- Discuss Undefined Uses.
  - If there are proposed uses that do not appear to fit in a land use category, the use is either not allowed or the Plan Commission may determine a similar land use category that it can fall under.
- The Land Use Matrix would either be located at the end of this chapter or placed as an appendix. I prefer appendix.

#### **Section 17.06. Planned Unit Development (No discussion unless requested).**

- In the existing code, the Planned Unit Development (PUD) section is located under the conditional use permit section. It is generally not recommended that Planned Unit Development's are considered conditional uses and it is recommended that there is a standalone section for PUD's.
- Generally, the content from the existing code will not change much; however, most of the changes made were to reduce redundancies and clean up the section to be more user-friendly.

#### **Section 17.07. Parking, Access, Loading, and Parking (~15 min)**

- This section includes a considerable amount of new language intended to clarify regulations and review procedures.
- Adding general design principles to consider when reviewing proposed parking areas.
- Recommending to allow Plan Commission to waive parking requirements with reasonable justification.
- The parking requirements for each land use are specified in Section 17.05 under each specific use.

**Section 17.08. Lighting Code (~15 min)**

- Creating new standalone chapter to focus on outdoor lighting.
- Updating list of applicable lighting that is subject to code requirements.
- Proposing to keep some of the existing lighting code requirements from 17.02(6)(a)15 and included new provisions to help clarify requirements.
- **Further Discussion Requested:**
  - In the past, the ARC has typically review lighting plans and amendments to lighting plans. Plan Commission has reviewed as a part of proposed developments, but I would like to clarify which committee is responsible for reviewing lighting, particularly amendments to lighting plans.
    - I typically consider outdoor lighting to be a Plan Commission item, but on-building lighting can be seen as an architectural feature which may be appropriate for review by the ARC.
- Create regulations for dealing with lighting that is deemed to be hazardous or a nuisance.

**Section 17.09. Non-Conforming Premises and Structures (~5 min)**

- The existing non-conforming section is relatively small and it currently combines existing non-conforming premises and structures instead of breaking non-conforming situations further.
- We recommend to break into the following categories:
  - Nonconforming lots
  - Nonconforming structures
  - Nonconforming uses
- The Town Attorney will perform a final review and suggest changes as necessary.

**Section 17.10. Sign Code**

- No changes at this time. Planning to focus later in the process.

**Section 17.11. Wireless Telecommunications Facilities in the Right-of-Way (No discussion unless requested)**

- Few to no changes. Definitions were added in Section 17.02

**Section 17.12. Mobile Tower Siting Regulations (No discussion unless requested)**

- Few to no changes. Definitions were added in Section 17.02

**Section 17.13. Landscaping Code (No discussion unless requested)**

- Creating new standalone section for landscaping that is applicable to all uses except single- and two-family residences.
- Most of content was taken from Section 17.02(6)(a)19 and there are not many changes.
- Regulations related to parking area landscaping is proposed to be relocated to this section.

**Section 17.14. Schedule of Fees; Violations; and Penalties (No discussion unless requested)**

- No proposed changes

**Next Steps**

Based on this discussion, the Plan Commission should determine whether to discuss further or to move forward and set a public hearing date for these proposed changes. Staff will also send the draft to the County once there is a recommendation from the Plan Commission.

A-1 Agricultural District Rs-1 Single-Family Residential District Rs-2 Single-Family Residential District Rs-3 Single-Family Residential District Rs-4 Single-Family Residential District Rd-1 Two-Family Residential District Rm-1 Multifamily Residential District Rm-2 Multifamily Residential District B-1 Neighborhood Business District B-2 Limited General Business District B-3 Office and Professional Business District M-1 Limited Manufacturing District M-2 General Manufacturing District M-3 Quarrying District I-1 Institutional District P-1 Park District C-1 Conservancy District MU-1 Mixed-Use District																		Land Uses Permitted (P=Permitted, C=Conditional)	Current Code Comparison	Permitted by right?	Permitted by Conditional Use?	
																		Ag Uses				
P																		Cultivation	General farming including agriculture, dairying, floriculture, forestry, grazing, hay, orchards, truck farming and viticulture.	A-1		
																			Keeping and raising of domestic stock for agribusiness, show, breeding or other purposes incidental to the principal use of the premises subject to the following limitations: a. No more than one horse, cow, sheep or similar animal, over six months of age, shall be kept for each two acres. b. No more than five chickens, ducks, or similar poultry, over two months of age, shall be kept for each acre. c. No more than eight rabbits or hare, over two months of age, shall be kept for each acre. d. The keeping and raising of hogs or fur-bearing animals, except rabbits, is prohibited. e. Combinations of the above shall be apportioned to the total acreage and the Building Inspector shall determine the total number of animals allowed.			
P																		Husbandry	A-1			
P															P	P		Community Garden	None.	-		
P								C	C		P							Greenhouse	Commercial Greenhouse and Garden Center	M-1, B-2		
																		Residential Uses				
P	P	P	P	P	P													Single-Family	Single-family dwellings	RS-1, RS-2, RS-3, RS-4, MU-1*		
					P	P	P											Two-Family	Two-family dwellings	RD-1, MU-1*		
							P	P														
							P	P										P	Multi-Family (3-8 units per structure)	Multi-Family Residential Structures	RM-1 and RM-2 (8 or less units per structure), MU-1*	RM-1 and RM-2 (exceeding 8 units per structure), MU-1*
								P	P									P	Multi-Family (3-8 units per structure)	Multi-Family Residential Structures	RM-1 and RM-2 (8 or less units per structure), MU-1*	RM-1 and RM-2 (exceeding 8 units per structure), MU-1*
								C	C									C	Multi-Family (9-15 units per structure)	Multi-Family Residential Structures	RM-1 and RM-2 (8 or less units per structure), MU-1*	RM-1 and RM-2 (exceeding 8 units per structure), MU-1*
									C									C	Multi-Family (15+ units per structure)	Multi-Family Residential Structures	RM-1 and RM-2 (8 or less units per structure), MU-1*	RM-1 and RM-2 (exceeding 8 units per structure), MU-1*
																		P	Mixed-Use Housing	No specific use listed but can be approved in MU-1.	MU-1*	
	P	P	P	P	P	P	P											P	Community living arrangement (8 persons or less)*	Community Living Arrangements*	RS-1*, RS-2*, RS-3*, RS-4*, RD-1*, RM-1*, RM-2*, MU-1*	
	C	C	C	C	C													C	Community living arrangement (9-15 persons)	Community Living Arrangements*		MU-1*
																		C	Community living arrangement (16+ persons)	Community Living Arrangements*	RM-1 and RM-2	MU-1*
																		Commercial				
																			Business office; Architecture and Engineering Offices; Insurance office; Professional offices; Real Estate Sales Office; Communication Offices or exchanges; Administrative and Public Service Offices; and other variations			
																		P	Office	B-1, B-2, B-3, MU-1 but depended on specific office type	M-1 *and M-2*	
																		P	Financial Service	Banks, savings and loan associations and other financial institutions	B-1, B-2, B-3, MU-1	
																		C	Financial Service with Drive- Through Service	Banks, savings and loan associations and other financial institutions	B-1, B-2, B-3, MU-2	B-1, B-2, and B-3 and MU-1 for drive-in banks
																		P	Personal Service	Barbershops; beauty shops; optical stores; self service laundry and dry cleaning; and other variations	B-1, B-2, B-3, MU-1	-
																		P	Professional Service	Business office; Insurance office; Professional offices; Real Estate Sales Office; Communication Offices or exchanges; Administrative and Public Service Offices; and other variations	B-1, B-2, B-3, MU-1 but depended on specific office type	-
																		P	Artisan Studio and Store	Not specifically listed but could include a variety of different land uses. Photography and art studio is likely most similar. But there are many uses listed in the M-1 district that could better be described as an artisan studio rather than a manufacturing use	-	-
																		P	Indoor Sales or Service	Bakeries; Clothing Stores; Drugstores; Fish Markets; Florists; Fruit Stores; Gift Stores; Grocery Stores; Hardware Stores; Hobby Shops; Meat Markets; Optical Stores; Packaged Beverage Stores; Sporting Goods Stores; Tobacco Stores; Vegetable Stores; Videostore Sales and Rental; Antique and Collector's Stores; Appliances Stores; Art Shops; Book or Stationary Stores; Building Supply Stores (excluding lumber yards); Confectioneries and Ice Cream Store; Convenience Food Store; Department Stores; Electronic Equipment Sales; Equipment Rental Facilities; Fruit and Vegetable Stores; Furniture Stores; Garden Centers; Jewelry Stores; Music and Radio Stores; Notion and Variety Stores; Pharmarcies; Shoe stores; Supermarkets; Tailoring or dressmaking shops;	B-1, B-2, and MU-1 but depended on specific store type	
																		P	Restaurant	Restaurants, Delicatessens, Soda Fountain and Ice Cream Stores;	B-1, B-2, and MU-1	M-1 *and M-2*



A-1 Agricultural District Rs-1 Single-Family Residential District Rs-2 Single-Family Residential District Rs-3 Single-Family Residential District Rs-4 Single-Family Residential District Rd-1 Two-Family Residential District Rm-1 Multifamily Residential District Rm-2 Multifamily Residential District B-1 Neighborhood Business District B-2 Limited General Business District B-3 Office and Professional Business District M-1 Limited Manufacturing District M-2 General Manufacturing District M-3 Quarrying District I-1 Institutional District P-1 Park District C-1 Conservancy District MU-1 Mixed-Use District																			Land Uses Permitted (P=Permitted, C=Conditional)	Current Code Comparison	Permitted by right?	Permitted by Conditional Use?		
										C									C	Drive-Through Restaurant	Restaurants, Delicatessens, Soda Fountain and Ice Cream Stores with drive-thru		B-2 and MU-1. Not clear whether M-1* and M-2* is allowed as a conditional use	
										P									P	Tavern	Not specifically listed but restaurant is likely closest use	-	-	
										P		C	C						P	Brewpub	Not specifically listed but restaurant is likely closest use	-	-	
																					Commercial Recreation Facilities (CUP) - clubs, dance halls, and theaters. Note: Outdoor versions of these uses are Outdoor Recreation use or otherwise specified. Some others that may be included are conservatories, and zoological and botanical gardens.		All non-residential districts for commercial recreation facilities. The others listed are generally only permitted by conditional use in the P-1 Park District.	
												C	P	C	C	C		C	C		C	Indoor Entertainment		
																					Commercial Recreation Facilities (CUP) - arcades, bowling alleys, driving ranges, gymnasiums, lodges, miniature golf facilities, physical culture facilities, pool and billiard halls, racetracks, rifle ranges, Turkish baths, skating rinks. Some others that may be included are archery ranges, bathhouses, stadiums, and pools. Golf simulator is proposed to be included in this.	B-2 for Indoor tennis and racquetball courts and physical fitness centers	All non-residential districts for commercial recreation facilities. The others listed are generally only permitted by conditional use in the P-1 Park District.	
												C	P	C	C	C		C	C		C	Indoor Recreation		
																					Commercial Recreation Facilities (CUP) - driving ranges, miniature golf facilities, racetracks, rifle ranges, skating rinks, and theaters. Archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, ice boating, marinas, music halls, polo fields, pools, riding academies, stadiums, and zoological and botanical gardens in the P-1 Park District.	P-1* (some are)	All non-residential districts for commercial recreation facilities. The others listed are generally only permitted by conditional use in the P-1 Park District.	
																			C	Practice Driving Range	Commercial Recreation Facilitiy (CUP) - Driving Range		P-1 and all non-residential districts.	
																					Clinic. Also, animal hospital with exterior runs (CUP). It is unclear if it falls under medical clinic which is allowed in the B-3 district.	B-1, B-2, B-3?, I-1	B-2, M-1 and M-2 for animal hospitals with exterior runs	
																			P	General Veterinary Clinic	Hotels and Motels	B-2, MU-1		
																			P	Commercial Indoor Lodging	Not specified. These were probably approved as being similar to vet clinics	-	-	
																			C	Animal Boarding				
																					There were several separate repair use but none of these falls under this new category. The parking section does call out "General merchandise repair services" but it is not listed as a land use. This new use is defined as "place where consumer goods such as shoes, bicycles, applicants, computers, and business equipment are repaired. This term does not include repair of motor vehicles or industrial equipment"			
																			P	General Repair		-	-	
																			C	Funeral Home	Funeral Home	B-2, MU-1	I-1, B-1, B-3	
																					Equipment rental facilities. There is no definition for this. This new land use would include rentals for large equipment stored outdoors such as modular buildings, trucks and trailers, vertical lifts, skid loaders, forklifts, backhoes, excavators, etc.	B-2, MU-1		
																					Equipment rental facilities. There is no definition for this. This intended for Items for rent or sale are predominantly stored indoors and may include hand tools, party equipment, and lawn and yard equipment.	B-2, MU-1		
																					Not specifically listed in the code. New use would be defined as: place where a landscape contractor may establish a base of operation, which may include one or more the following: office space; retail sale of plant and landscape materials; indoor and outdoor storage of materials, equipment, and machinery, such as trucks and heavy equipment; and shops for repair and machinery and equipment owned by the business.	-	-	
																					Not specifically listed in the code but could fall under a number of uses. New definition would be: place where instruction or training is offered in such areas as gymnastics, dance, art, music, and martial arts.			
																			P	Instructional Services	Commercial Day Care Centers		B-2 and B-3	
																			C	Commercial Day Care Centers	Commercial Day Care Centers			
																					Automotive Uses			
																			C	C*	Vehicle Fuel Station	Gasoline Service Stations and Car Washes*	B-1, B-2, M-1*, M-2*, MU-1	
																					Automotive Sales, Service, and Repair*. Examples of the new use include: Examples include quick lube/oil change facilities, tire stores, car washes, and vehicle detailing.		B-2	
																					Automotive Sales*. The new use would include: place where motorcycles, mopeds, snowmobiles, and all-terrain vehicles are offered for rent, sale, lease, or exchange.		B-2	
																					Vehicle Sales		B-2	
																					Vehicle Repair	Automotive Repair*	M-2	

A-1 Agricultural District Rs-1 Single-Family Residential District Rs-2 Single-Family Residential District Rs-3 Single-Family Residential District Rs-4 Single-Family Residential District Rd-1 Two-Family Residential District Rm-1 Multifamily Residential District Rm-2 Multifamily Residential District B-1 Neighborhood Business District B-2 Limited General Business District B-3 Office and Professional Business District M-1 Limited Manufacturing District M-2 General Manufacturing District M-3 Quarrying District I-1 Institutional District P-1 Park District C-1 Conservancy District MU-1 Mixed-Use District																			Land Uses Permitted (P=Permitted, C=Conditional)	Current Code Comparison	Permitted by right?	Permitted by Conditional Use?
																			Medical Uses			
																			Health Care Center	Hospital*. The new definition would be: place where medical treatment, or nursing, rehabilitative, or preventative care is offered. The term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, and rehabilitation facilities.	I-1	
								P	P	P									Health Care Clinic	Clinic and medical clinic	B-1, B-2, B-3, I-1, MU-1	
																			Institutional Uses			
																			Administrative Government Center	Public administrative offices and public service buildings, including fire and police stations; Administrative and public service offices. New definition would include the following: Administrative offices, post offices, and courthouses.	I-1, B-3* (Not 100% clear)	M-1, M-2, and P-1*, and MU-1
	C	C	C	C	C	C	C		P	P	P	C	C						Community Center	There are a number of uses that this could fall under but the main one is governmental and cultural uses such as community centers. New definition: place where short-term and intermittent meetings or gatherings of individuals are held for purposes of sharing information, entertainment, social service, or similar activities. The term includes senior centers; neighborhood recreation centers; fraternal, social, or civic clubs; lodges; and union halls.		M-1, M-2, and P-1*, and MU-1. Clubs, fraternities, lodges, and meeting places allowed as CU in all residential districts and I-1
																			Community Cultural Facility	Libraries, museums and public art galleries. New Definition: Place where people may gather for studying, reading, personal education, cultural facility or viewing the visual arts. The term includes libraries, museums, art galleries, and observatories. The term does not include performing arts.	I-1	M-1, M-2, MU-1, P-1
	C	C	C	C	C	C	C												Worship Facility	Church	I-1	B-3, P-1, and all residential districts, MU-1
																			Public Safety Facility	Governmental and cultural uses, such as fire and police stations; Public administrative offices and public service buildings including fire and police stations. New definition: place where public safety services are offered. The term includes ambulance services, fire stations, police stations, and jails. This term does not include correctional facilities.	I-1	M-1, M-2, P-1, MU-1
																			Post-Secondary Educational Facility	Falls under public or private schools, including college and university	I-1	It isn't 100% clear but it doesn't look like it's allowed as a conditional use
	C	C	C	C	C	C	C				C								Pre-K through Grade 12 Educational Facility	Schools, public and private	I-1	MU-1 , P-1. all residential districts
																			Animal Shelter	Not specifically defined.		
																			Cemetery	Cemeteries, mausoleums, and crematoriums	-	I-1
	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Passive Outdoor Recreation	Most uses are covered in the P-1 district. New definition: Recreational land uses which involve passive recreational activities, such as arboretums, natural areas, wildlife areas, hiking trails, bike trails, cross country ski trails, horse trails, picnic areas or shelters, botanical gardens, fishing areas, and similar land uses.	P-1*	
																			Active Outdoor Recreation	Most uses are covered in the P-1 District. New definition: Recreational land uses which involves active recreational activities such as tennis or pickleball courts, basketball courts, ball diamonds, football or soccer fields, neighborhood parks, playgrounds and tot lots, outdoor swimming pools or beach areas, fitness courses, public golf courses, and similar land uses. Sport courts (such as tennis courts, basketball courts etc.) that are an accessory use to a residential use are considered to be a Private Sport Court.	P-1*	
																			Institutional Residential	New definition: Residential development designed to accommodate institutional residential land uses, such as senior housing, retirement homes, assisted living facilities, nursing homes, hospices, dormitories, limited care facilities, and similar land uses not considered to be Community Living Arrangements.		I-1, RM-1*, RM-2*
																			Industrial Uses			

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								C	C	C	P	P						C	Artisan Workshop	A wide range of low impact manufacturing activities could fall under this. New definition is: A place where handmade craft items or works of art are made on a small-scale and offered for retail sale. Examples of such items may include paintings, textiles, weaving, photography, sculptures, pottery, leather products, handmade paper, jewelry, hand-blown glass, small wooden items, candles, soaps, and lotions. This use is more intended to utilized as a worker space for the artisan with less than half of the space is dedicated to retail area or open to the public.	M-1*, M-2	
											P	P							Light Industrial and Light Manufacturing	A wide variety of manufacturing and industrial uses would apply. New definition: place where product manufacturing, assembly, printing and packaging, and other relatable activities occur and may coincide with another permitted use, such as an office. All operations, with the exception of loading, are conducted within an enclosed building and such land uses are not associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line and do not pose a significant safety hazard (such as danger of explosion). Generally, this land use is less intensive than general manufacturing uses.	M-1*, M-2*	
											C	P							General Manufacturing	A wide variety of manufacturing and industrial uses would apply. New definition: place where products or parts are manufactured at a large scale, including processing, fabrication, assembly, treatment, packaging, incidental storage, and administrative offices. The term includes a tool and die maker, large scale furniture production, metal fabrication, apparel manufacturing, large scale printing and publishing.	M-2*, and maybe some uses allowed in M-1.	Some uses may fall under conditional use such as: Processing and manufacturing of feeds prepared for animals and fowl; storage of animal feeds, fertilizer, seeds, animal health products, and lawn and garden equipment; Lumberyards, millwork, sawmills, and planing mills; Manufacturing and processing of dimension hardwood flooring, veneer, and plywood
									C	P	P							C	Research and Development Facility	Not specified in code	-	-
																			Storage Uses			
											P	P							Warehouse	Wholesaling	M-1, M-2	
											P	P							Truck Terminal and Distribution Center	Not specifically listed.		
											C	C							Personal Storage Facility	Self-service storage facilities	M-1, M-2	
																			Transportation Uses			
C														C					Airport	Airport, airstrip, and landing fields		I-1, M-1, M-2, A-1
								C	C	C	C	C		C				C	Helipoint	Public passanger transportation terminals, such as heliports		B-1, B-2, B-3, M-1, M-2
								C	C	C	C	C		C				C	Transit Center	Public passanger transportation terminals, such as bus and rail depots		B-1, B-2, B-3, M-1, M-3
											C	C		C					Bus Storage Facility	Not specifically listed		
								C	C	C	C	C	C	C	C			C	Off-Site Parking	Not specifically listed		
																			Waste Facilities Uses			
C												C		C					Composting Facility	Not specifically listed but probably lumped in with dumps and disposal areas		A-1, M-2
C												C		C					Recycling and Solid Waste Transfer	Not specifically listed but probably lumped in with dumps and disposal areas		A-1, M-2
																			Extraction Uses			
																				Falls under Mineral Extraction uses in the CUP section. New definition: a.Land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, or other material in excess of that required for approved on-site development or agricultural activities. Mineral extraction operations, including washing, crushing, or other processing, and processing and storage of cement products may be permitted.		
														C					General Extraction			M-3, except topsoil removal is permitt
																			Conservancy Uses			
																		P	Permitted Activities in Conservancy District	From the Conservancy uses section of the CUP section. All current permitted uses were transferred into the new land use section	C-1	
																		C	Conservancy Road	From the Conservancy uses section of the CUP section.		C-1
																		C	Conservancy Non-Residential Building	From the Conservancy uses section of the CUP section.		C-1
																		C	Conservancy Utilities	From the Conservancy uses section of the CUP section.		C-1
																		C	Conservancy Railroad	From the Conservancy uses section of the CUP section.		C-1
																			Energy Production Land Uses			
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Wind Energy System	Not Listed.		

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P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Land Uses Permitted (P=Permitted, C=Conditional)																		
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Solar Energy System
																		Utilities Land Uses
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Essential Services
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Major Utility Installation
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Minor Utility Installation
												P	P		P			Utility Maintenance Yard
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Stormwater Management Facility
																		Temporary Land Uses
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		Contractor's Office
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			Temporary On-Site Real Estate Sales Office
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			Temporary On-Site Construction Storage
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		Earth Materials Stockpile
P								P	P	P	P	P	P	P	P		P	Farmer's Market
C											C	C	C	C				Off-Site Construction Yard
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			Party Tent
	P	P	P	P	P	P	P											Temporary Storage Container
P								P	P	P					P	P		Seasonal Product Sales
P								P	P	P					P	P		Temporary Outdoor Sales
P	P	P	P	P	P	P	P							P				Garage or Estate Sales (Auction)
P								P	P	P	P	P		P	P			Temporary Outdoor Assembly
								P	P	P								Pop-Up Retail
								P	P	P	P	P					P	Mobile Food Trucks
P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	Undefined Temporary Use
																		Accessory Uses
P	P	P	P	P	P	P	P	P	P	P					P	P		Accessory Building, Residential
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			Accessory Building, Non-Residential
P	P	P	P	P	P	P	P	P	P	C	P							Minor Home Occupation
C	C	C	C	C	C	C	C	C	C	C								Conditional Home Occupation
P	P	P	P	P	P	P	P	P							P	P		Play Structure
P	P	P	P	P	P	P	P	P	P	P	P	P			P	P		Deck
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			Patio
P	P	P	P	P	P	P	P	P	P	P	P	P			P	P		Landscaping Feature
P	P	P	P	P	P	P	P											Residential Kennel
C	C	C	C	C	C	C	C											Private Sport Court
					P	P	P	P	P	P	P	P	P	P	P			Screening Enclosures
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			Fence

Current Code Comparison  
Solar Energy Collectors

Essential Services. It is defined in definitions but is not listed as a land use. It is recommended to add as a use. New definition: erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies, of underground and overhead lines and pipes for gas, electric, telephone, communications, cable television, steam, public water supply, sanitary sewage collection, stormwater conveyance, or other comparable utilities. Essential Services include such above-surface facilities as poles, guide wires, fire alarm boxes, water hydrants, pump houses, well houses, lift stations, utility posts, police call boxes, and standpipes. Essential Services do not include larger utility facilities such as electric substations, wastewater treatment plants, and water towers. Essential services are exempt from regulations listed in the specific zoning district.

Utility substations, wells, pumping stations, and water towers. New Definition:A place, building and/or structure, or portion thereof, whether public (excluding Town owned land) or private, used or is intended for providing basic infrastructure or utility services and which could potentially have a moderate to high impact on neighboring properties. This term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, electric transmission lines with a design capacity of 110kV or more, underground pipelines, and hydroelectric facilities.

Utility substations, wells, pumping stations, and water towers. New Definition: utility installation generally having low impact on neighboring property. This term includes public water system wells without a tower; below ground sewer lift stations; and stormwater pumping stations. The term does not include utility cabinets.

Not specifically listed. New Definition: A place where a public (excluding Town owned land) or private entity maintains administrative offices, equipment, and supplies necessary for maintaining the infrastructure it provides.

Not specifically listed. New definition: natural or manmade feature that collects, conveys, channels, holds, inhibits, or diverts the movement of stormwater.



Any district

All Districts

All Districts

A-1 Agricultural District Rs-1 Single-Family Residential District Rs-2 Single-Family Residential District Rs-3 Single-Family Residential District Rs-4 Single-Family Residential District Rd-1 Two-Family Residential District Rm-1 Multifamily Residential District Rm-2 Multifamily Residential District B-1 Neighborhood Business District B-2 Limited General Business District B-3 Office and Professional Business District M-1 Limited Business District M-2 General Manufacturing District M-3 Quarrying District I-1 Institutional District P-1 Park District C-1 Conservancy District MU-1 Mixed-Use District																		Land Uses Permitted (P=Permitted, C=Conditional)
P	P	P	P	P	P	P	P							P	P		P	Swimming Pool
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	In-Home Daycare
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Antenna
									P	P	P	P	P					Residential Quarters
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Onsite Parking
									P	P	P	P	P	P	P		P	Company Cafeteria
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Onsite Ancillary Use
P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	Undefined Accessory Use

Current Code Comparison



**§ 17.01 Authority, purpose, and title.**

- (1) Authority. These regulations are adopted under the authority granted by Wis. Stat. §§ 60.62, 61.35, 62.23(7) and 66.0103.
- (2) Purpose; jurisdiction. The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of this community. The jurisdiction of this chapter shall include all lands and waters within the limits of the Town. All Town owned lands are exempt from the requirements of this section.
- (3) Intent. It is the general intent of this chapter to regulate and restrict the use of all structures, lands and waters; lot coverage, population distribution and density; size and location of structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic, and other dangers; provide adequate light, air, sanitation, and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; facilitate the use of solar energy devices and other innovative development techniques; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; reduce construction site erosion; avoid construction problems resulting from high groundwater; preserve and promote the beauty of the community; and implement the community's Comprehensive Plan or plan components. To this end, it is further intended to provide for the administration and enforcement of this chapter and provide penalties for its violation.
- (4) Abrogation and greater restrictions. It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to applicable law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.
- (5) Interpretation. In its interpretation and application, this chapter shall be held to be the minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (6) Severability. If any section, clause, provision, or portion of this chapter is for any reason adjudged unconstitutional, illegal, or invalid by a court or administrative agency of competent jurisdiction, such unconstitutional, illegal, or invalid portion shall be severable, and shall not affect or impair the remaining portions of this chapter.
- (7) Repeal. All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are hereby repealed.
- (8) Title. This chapter shall be known as, referred to, or cited as the "Zoning Ordinance, Town of Brookfield, Waukesha County Wisconsin."
- (9) Compliance. No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered except in conformity with the regulations herein specified

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for the district in which it is located, except as allowed under § 62.23(7)(hc), Wis. Stats.

§ 17.02 **Definitions.**

- (1) General definitions. For the purposes of this chapter, certain words or phrases shall have meanings that either vary from their customary dictionary meanings or are intended to be interpreted to have a specific meaning. Words used in the present tense include the future. The word "person" includes a firm, association, partnership, trust, company, corporation, an individual. The word "shall" is mandatory, "should" is advisory, and "may" is permissive. Any words not defined in this section shall be presumed to have their customary dictionary definitions.
- (2) Specific words and phrases. The following terms shall have the meanings indicated:

**~~ACCESSORY USE OR STRUCTURE~~**

~~A use or detached structure subordinate to the principal use of a structure, land or water, located on the same lot or parcel and serving a purpose customarily incidental to the principal use or the principal structure. (See also "minor structure.")~~

**ACCESSORY STRUCTURE**

A detached structure subordinate to the principal use of a structure, land, or water that is located on the same lot or parcel and serving a purpose customarily incidental to the principal use or the principal structure.

**ACCESSORY USE**

A subordinate use which is clearly and customarily incidental to the principal use on the same lot.

**ADDITION**

Any walled and roofed expansion to the perimeter and/or height of a building in which the addition is connected by a common load bearing wall. Any walled and roofed addition connected by a fire wall or is separated by independent perimeter load bearing walls is new construction.

**AIR DOME STRUCTURE**

~~A building consisting of a reinforced fabric envelope, anchored at its base, which is supported by air pressure.~~

**Commented [BH1]:** Was there a reason this was previously defined?

**ADJACENT/ADJOINING**

Property that touches or is directly across a street, private street or access easement, or right-of-way (other than a freeway or principal arterial) from the subject property.

**ALLEY**

A special public right-of-way affording only secondary access to abutting properties.

**ALTERATION**

Any act or process that changes the exterior architectural appearance of one or more features of a structure, including, but not limited to the erection, construction,



reconstruction, remodeling, or removal of any structure or site.

#### **APPLICANT**

The party applying for permits or other approvals required by this chapter. The applicant is typically the property owner or any person or entity acting as an agent for the property owner.

#### **ARCHITECTURAL/DECORATIVE LIGHTING**

Exterior lighting that is decorative, and/or used to illuminate architectural and/or landscaped features and pedestrian walkways, and are primarily installed for aesthetic effect. This lighting may be wall or ground mounted.

#### **ARCHITECTURAL PLAN**

A plan or rendering showing the proposed architectural features of a proposed development or proposed exterior alteration.

#### **ARCHITECTURAL REVIEW COMMITTEE (ARC)**

The Town of Brookfield Architectural Review Committee.

#### **ART STUDIO**

An establishment engaged in the sale, exhibit, or instructing or creating of art works, such as paintings, sculpture, macrame, knitted goods, stitchery, or pottery. Art studio does not include nude modeling and other pornographic exhibits.

#### **ASSEMBLY**

When used in describing an industrial operation, the fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, welding, or other similar technique. Assembly does not include the construction, stamping, or reshaping of any of the component parts.

#### **BABYSITTING**

The act of providing care and supervision for fewer than four children. This definition does not apply when the babysitter is related to the child or when more than four children in one household are related.

#### **BASEMENT**

The portion of a structure that is below or partly below grade and partly above grade in which the vertical distance from the grade to the floor exceeds the vertical distance from the grade to the ceiling.

#### **BASE STATION**

As defined in 47 CFR § 1.6100(b)(1), a structure or wireless telecommunications equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. Base station does not include

towers.

### **BED & BREAKFAST**

The use of a lot in the manner described in Wis. Stat. 97.01(1g).

### **BOARDINGHOUSE**

A building not open to transient customers where meals or lodging are regularly furnished by prearrangement for compensation for four to 12 persons that are not members of a family.

**Commented [BH2]:** Note: The existing zoning code defines boardinghouse but does not list where this is a permitted use. This new code does not mention this use in the land use section. We can discuss whether we want to allow and if so, where?

### **BUILDING**

A structure having a roof supported by columns or walls and used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials.

### **BUILDING COVERAGE**

~~The sum of all principal and accessory building areas on a lot, including all structures with a roof. The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on the lot.~~

### **BUILDING HEIGHT**

The vertical distance from the highest grade-level at the front wall of the building to the highest point of the roof.

### ~~**CLOTHING STORES**~~

~~Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, and dress, hosiery and millinery shops.~~

### **COMMERCIAL DAYCARE CENTER**

A child care center licensed by the state under § 48.65, Wis. Stats., where care and supervision is provided for four or more children under the age of seven for less than 24 hours a day, or an adult day care center licensed by the state under 49.45( 47), Wis. Stats., that provides services for part of a day in a group setting to adults who need an enriched health -supportive or social experience and who may need assistance with activities of daily living, supervision or protection. A family child care home is not a commercial daycare center.

### **COMMUNITY LIVING ARRANGEMENT**

A facility licensed, operated, and permitted under the following Wisconsin Statutes: child welfare agencies under § 48.60, group foster homes for children under § 48.02(7), and, adult family homes and community-based residential facilities under § 50.033. Community living arrangement shall not include day-care centers, nursing homes, general hospitals, special hospitals, prisons, or jails. Community living arrangements are also governed by Wis. Stat. §§ 46.03(22), 59.69(15), 60.23, and 62.63(7)(i).

[Amended 5-17-2016; 12-7-2021 by Ord. No. 2021-004]

#### **CONDITIONAL USE**

~~Uses of a special nature as to make impractical their predetermination as a permitted use in a district. A use that may not conform with the permitted uses of a zoning district but may be permitted by this chapter if certain conditions specified herein or determined to be necessary by the Town are required as part of the permit issued by the Town pursuant to this chapter.~~

#### **CONDOMINIUM**

A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all owners on a proportional, undivided basis. It is a legal form of ownership of real estate and not a specific building type or style.

#### **DENSITY**

A term used to describe the number of dwelling units per acre including rights-of-ways, infrastructure, outlots, and other similar areas.

#### **DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including but not limited to, construction of an addition or substantial improvement to buildings, other structures or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.

#### **DISTRICT, OVERLAY**

Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict requirements shall apply.

#### **DRIVE-THROUGH RESTAURANT**

A ~~freestanding establishment~~ building used for the sale, dispensing, or serving of food, refreshments, or beverages in or on disposable plates and cups, including those establishments where customers may serve themselves and may eat and drink on or off the premises. Contemporary drive-in or fast-food restaurants often offer drive-through service. ~~For the purpose of this chapter, an eating establishment, located in a shopping center with three or more attached business/retail establishments, which does not provide drive-through service and which may serve food, refreshments or beverages in or on disposable plates and cups is not considered to be a drive-through restaurant. (See also "restaurant.")~~ "Drive-through restaurant" shall not include an establishment that serves food, refreshments, or beverages in or on disposable plates and cups, and is located in a shopping center with three or more attached business/retail establishments, and does not provide drive-through service.

#### **DRIVE-THROUGH SERVICE**

The delivery of products or services to customers while the customer is inside a vehicle, excluding food, refreshments, or beverages. Examples of this term includes a drive-through atm or drive-through pharmacy.

## **DWELLING**

~~A detached building, also called a duplex, designed or used exclusively as a residence or sleeping place, but not including boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.~~ A building or part of a building designed or used as a residence or sleeping place. Dwelling does not include boarding or lodging houses, motels, tents, cabins, or mobile homes.

## **DWELLING, BI-LEVEL**

~~A two-level dwelling with one level above grade and the other level half above grade and half below grade. The lowest level may or may not have exterior access. For the purpose of measuring living area, the Building Inspector will determine functional areas as defined under "living area" and the first floor area will be considered to be the first level that is entirely above grade.~~ A dwelling with one level above grade and one level half above grade and half below grade. The lowest level may have exterior access.

## **DWELLING, MULTIPLE-FAMILY**

~~A residential building designed for or occupied by three or more families, with the number of families in residence not to exceed the number of dwelling units provided.~~ A dwelling containing three or more attached dwelling units with the number of families in residence not to exceed the number of dwelling units.

## **DWELLING, SINGLE-FAMILY**

~~A detached building designed for or occupied exclusively by one family.~~ A detached dwelling containing one dwelling unit designed for or occupied exclusively by one family.

## **DWELLING, TRI-LEVEL**

~~A three-level dwelling with two levels above grade, and a third level half above grade and half below grade. The lowest level may or may not have exterior access.~~ A dwelling with two levels above grade and a third level half above grade and half below grade. The lowest level may have exterior access.

## **DWELLING, TWO-FAMILY**

~~A detached building containing two separate dwelling (or living) units, designed for occupancy by not more than two families.~~ A detached dwelling containing two dwelling units, designed for occupancy of two or less families.

## **DWELLING UNIT**

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

## **ELECTION CAMPAIGN PERIOD**

In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day on which candidates would circulate nomination papers were papers to be required and ending the day of the election. In the case of a referendum, the period beginning on the day on which the question to be voted upon is submitted to the electorate and ending on the day on which the referendum is held.

## ELIGIBLE FACILITIES REQUEST

As defined in 47 CFR § 1.6100(b)(3), any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving (i) co-location of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

## ESSENTIAL SERVICES

Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. Essential services include, but not limited to, underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

## FACADE

The view of any building or other structure from any one of 4 sides regardless of the configuration or orientation of a building.

## FAMILY

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

## FAMILY CHILD CARE HOME

A dwelling licensed as a day-care center under Wis. Stat. § 48.65 or Wis. Stat. 66.1017 where care is provided for not more than eight ~~or less~~ children.

## FCC

The Federal Communications Commission.

## FENCE

A structure consisting of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary for privacy or for containment.

## FENCE, OPEN

~~A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary.~~ A fence with over 30% of its surface area open for free passage of light and air. Open fences include, but not limited to, barbed wire, chain-link, picket, and rail fences.

## FENCE, ORNAMENTAL

~~A fence intended to decorate, accent, or frame a feature of the landscape. Ornamental fences~~

are often used to identify a lot corner or lot line or frame a driveway, walkway or planting bed. Ornamental fences are those with more than 80% of their surface area open for free passage of light and air. Ornamental fences are often of the rail or wrought iron type. A fence with over 80% of its surface area open for free passage of light and air, and designed to decorate, accent, or frame a feature of the landscape. Ornamental fences are often of the rail or wrought iron type and used to identify a lot corner or lot line, or frame a driveway, walkway, or planting bed.

#### **FENCE, SOLID**

A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Solid fences are those with 30% or less of their surface area open for free passage of light and air and designed to conceal from the activities conducted behind them. Examples of such fences are stockade, board-on-board, board and batten, basket weave, louvered and chain-link with screening inserts. A fence with 30% or less of its surface area open for free passage of light and air, and designed to conceal the activities conducted behind it. Solid fences include, but not limited to, stockade, board-on-board, board and batten, basket weave, louvered, and chain-link with screening inserts.

#### **FIXTURE, LIGHTING**

A complete lighting assembly (including the lamp, housing, reflectors, lenses, and shields), less the support assembly (pole or mounting bracket); a light fixture. Includes luminous tubes, lamps or similar devices, permanently installed or portable, used for illumination, decoration, or advertisement.

#### **FLEA MARKET**

A structure or open air structure where the principal use is the sale of new or used household goods, personal effects, tools, art work, small household appliances and similar merchandise, equipment or objects in small quantities, for use or consumption by the immediate purchaser. Flea market does not include rummage sales.

#### **FLOOR AREA RATIO**

The total square footage area of all floors of any building on a lot divided by the total square footage of the lot. The sum of the floor area of all stories is the total floor area of that building.

#### **FOOTCANDLE**

A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.

#### **FRONTAGE**

The smallest dimension of a lot abutting a public street measured along the street right-of-way line. For lots abutting a lake or stream, the smallest dimension measured along the shoreline.

#### **FULL CUTOFF/FULL SHIELD FIXTURE**

A light fixture shielded or constructed in such a manner as to emit no light above the

horizontal plane through the luminaire's lowest light-emitting part.

#### **GARAGE, PRIVATE**

An enclosed structure primarily intended for and used for the storage or shelter of the private motor vehicles of a family occupying the premises. Private garages include carports.

#### **GARAGE, PUBLIC OR COMMERCIAL**

A garage other than a private garage.

#### **GLARE**

Intense or blinding light that is significantly brighter than the level to which the eyes are adapted, to cause visual discomfort, or loss of visual performance and ability.

#### **GRADE**

The elevation established for the purpose of regulating the number of stories and the height of buildings. Grade shall be the mean level of the finished surface of the ground adjacent to the exterior walls of the buildings.

#### **GROSS FLOOR AREA**

The sum of all areas within a building designed to carry a vertical load, excluding any area used exclusively for off-street parking or equipment that provides utilities or climate control to the building.

#### **GROUP ASSEMBLY**

A company of persons gathered together for any purpose for a period of two or more hours.

#### **HOME INDUSTRY**

An occupation for gain or support that is of a more intense nature or exceeds the limitations of a home occupation due to storage of stock or inventory, use of equipment not customarily household in nature, or display of goods. A home industry includes, but not limited to, assembly, mass mailing, multitiered marketing, gunsmithing or licensed firearm sales, furniture and cabinetry woodworking, furniture upholstery and refinishing, route sales, schools or classes of four or less students in one interval, studios, animal grooming with no overnight boarding, and salons. ~~Home industries are to be considered conditional uses as provided in § 17.02(14)(e).~~

#### **HOME OCCUPATION**

An occupation for gain or support that is incidental to the principal use of the premises and conducted entirely within buildings by resident occupants. A home occupation includes, but not limited to, telephone marketing, desktop publishing, word processing, computer services, home business office, employment services, travel services, babysitting, canning, laundering, dressmaking, woodworking, and crafts. Home occupation does not include salons, studios, schools, real estate, insurance agencies, or the display of goods. ~~Home occupations shall be considered accessory uses as provided in § 17.02(14)(g).~~

### **IMPROVED SURFACE**

Any exterior grade altered from a natural vegetated state by the installation of an impervious surface intended for accessory use, such as a driveway, parking area, deck, or patio.

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### **JUNK OR SALVAGE YARD**

An area consisting of buildings, structures, or premises where junk, waste, and discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards and house wrecking and structural steel materials and equipment yards. Junk/Salvage yard does not include the purchase or storage of used furniture, household equipment, or used cars in operable condition.

### **LANDSCAPED AREA**

The area of a site which is planted and continually maintained in vegetation, including grasses, flowers, herbs, garden plants, native or introduced groundcovers, shrubs, bushes, and trees. The landscaped area includes the area located within planted and continually maintained landscaped planters.

### **LIGHT SOURCE**

The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

### **LIVING AREA**

The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics or any other similar areas as determined by the Building Inspector.

### **LOADING AREA**

A completely off-street space or berth on the same lot as the principal use it serves for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

### **LOT**

~~For the purpose of this chapter a lot shall be defined as~~ A parcel of land on which a principal building and its accessory building are placed, together with the required open spaces, provided that no such parcel shall be bisected by a public street and should not include any portion of a public right-of-way. ~~No~~ Lands dedicated to the public or reserved for roadway purposes ~~should be~~ are not included in the computation of lot size.

### **LOT LINE**

A lot line is the property line, including the vertical plane established by the line and the ground, 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 line of such public right of way shall be the lot line.



**LOT WIDTH**

The width of a parcel of land measured at the setback line.

**LOT, CORNER**

A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. A lot abutting two or more streets at their intersection provided the corner of such intersection has an angle of 135 feet or less, measured on the lot side.

**LOT, DOUBLE FRONTAGE**

A parcel of land, other than a corner lot, with frontage on more than one street or with frontage on a street and a navigable body of water. A rear yard shall be determined by the zoning administrator.

**LUMEN**

A quantitative unit measuring the amount of light emitted by a light source.

**LUMINAIRE**

The complete lighting unit, including the lamp, the fixture, and other parts.

**MACHINE SHOP**

Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding and sheet metal, plumbing, heating, electrical repair, and overhaul shops.

**MANUFACTURING**

When used in describing an industrial operation, the making or processing of a product with machinery.

**MINOR STRUCTURE**

A small, movable structure, such as birdhouses, toolhouses, pethouses, play equipment, arbors, walls, and fences.

**MIXED USE**

Some combination of residential, commercial, industrial, medical, institutional, and/or other land uses within a district or development.

**MOTEL**

A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.

**NAVIGABLE WATER**

All natural inland lakes, rivers, streams, ponds, sloughs, flowages, and other waters within the territorial limits of Wisconsin, including the Wisconsin portion of boundary waters, which are navigable under the laws of Wisconsin. The Wisconsin Supreme Court has

declared navigable all bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. For the purposes of this Section, rivers and streams will be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps until such time that the Wisconsin Department of Natural Resources has made a determination that the waterway is not, in fact, navigable.

#### **NONCONFORMING STRUCTURE**

A building or structure which was lawfully existing under ordinances or regulations preceding this Section, but which would not conform to this Section if the building or structure were to be erected under the provisions of this Section.

#### **NONCONFORMING OR SUBSTANDARD LOT**

A lot that lawfully existed prior to the effective date of this Section, but which does not meet the dimensional (i.e., minimum lot area, width, street frontage) of the district in which it is located.

#### **NONCONFORMING USES OR STRUCTURES**

~~Any structure, land or water lawfully used, occupied or erected at the time of the effective date of this chapter or amendments thereto which does not conform to the current regulations of this chapter or amendments thereto. Any such structure conforming with respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements is considered a nonconforming structure and not a nonconforming use.~~

#### **NONCONFORMING USE**

An active and actual use of land, building, structures, which was lawfully existing prior to the enactment of this Section, which has continued as the same use to the present, and which, does not comply with all applicable regulations of this Section.

#### **NON-CUTOFF FIXTURE**

A light fixture that has no limitations on light distribution at any angle.

#### **OFFSET**

~~The distance between any lot line, except a right-of-way line and the nearest enclosed portion of a building. The offset may also be referred to as a side yard or rear yard.~~

#### **OUTDOOR DINING**

The use of a lot for consumption of food outside of a building on the premises of a restaurant.

#### **OUTLOT**

A parcel of land, other than a lot, so designated on a plat or certified survey map and/or does not meet the requirements of a lot, which is not intended for building or structure development. Parking and driveway areas may be permitted.

**PARKING LOT**

A structure or premises containing 10 or more parking spaces open to the public. Such spaces may be for rent or for a fee.

**PARKING STRUCTURE**

A building used to facilitate the ingress, egress, and parking of motor vehicles.

**PARTIALLY SHIELDED**

A luminaire shielded in such a manner that more than zero but less than ten percent of the light emitted directly from the lamp or indirectly from the fixture is projected at angles above the horizontal plane through the luminaire's lowest light-emitting part and includes semi-cutoff fixtures.

**PARTIES IN INTEREST**

All abutting property owners, all property owners within 300 feet, and all property owners of opposite frontages.

**PROCESSING**

When used in describing an industrial operation, the series of continuous actions that changes one or more raw materials into a finished product. The process may be chemical as in the processing of photographic materials; it may be a special method such as processing butter or cheese; it may be a mechanical process such as packaging a base product.

**PLAN COMMISSION**

The Town of Brookfield Plan Commission.

**PRINCIPAL BUILDING**

The building on a lot in which a principal use is primarily conducted.

**PRINCIPAL USE**

A primary or predominant use of a premises.

**PROFESSIONAL HOME OFFICE**

Residences of clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, real estate agents, artists, teachers, authors, musicians, or persons in other recognized professions, used to conduct their professions. A home office shall not exceed 25% of the floor area of one floor of the residence and only one nonresident person is employed.

**PUBLIC UTILITY SERVICE STRUCTURE**

A structure that is exclusively used to provide public utilities.

**REAR YARD**

A yard extending across the full width of the lot, the depth of which shall be the minimum

horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard is opposite the street yard or one of the street yards on a corner lot.

## **RESTAURANT**

An establishment where food, refreshments, and beverages are prepared, served, and consumed primarily within the principal structure.

## **RIGHT-OF-WAY**

The surface of, and the space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane, landscape terrace, shoulder, side slope, and public sidewalk over which the Town has an interest, or exercises any rights of management and control.

## **RUMMAGE SALE**

~~The occasional sale of personal property at a residence conducted by one or more families in a neighborhood. Rummage sales do not exceed four consecutive days in length and are not conducted more often than three times per year. Rummage sales do not involve the resale of merchandise acquired for that purpose. Rummage sales are also known as "garage sales." Flea markets, defined elsewhere in this section, are not rummage sales.~~ The occasional sale of personal property at a residence, including in a residence's garage, conducted by one or more families in a neighborhood. A rummage sale does not include the resale of merchandise acquired for that purpose and flea markets.

## **SEAT**

Furniture ~~upon which to sit~~ having a used for seating with a linear measurement of 24 or more inches across the surface used for sitting.

## **SEMI-CUTOFF FIXTURE**

A luminaire shielded in such a manner that more than zero but less than five percent of the light emitted directly from the lamp or indirectly from the fixture is projected at angles above the horizontal plane through the luminaire's lowest light-emitting part and includes semi-cutoff fixtures.

## **SETBACK**

The distance between a lot line and a building or structure. Building setback shall be measured from building foundation.

## **~~SETBACK OR STREET YARD~~**

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots and double frontage lots have two such yards.

## **SHORELANDS**

~~Those lands lying~~ The area within the following distances from the ordinary high-water

mark of navigable waters: 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 is greater. Shoreland does not include lands adjacent to farm drainage ditches where such lands are not adjacent to a navigable stream or river; those parts of drainage ditches adjacent to such lands which were nonnavigable streams before ditching or had no previous stream history and such lands are maintained in nonstructural agricultural use.

#### **SIDE YARD**

A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

#### **SIGN**

Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which is visible from any public street or highway. The following are not considered to be signs for the purposes of this Section:

1. Any flag or emblem of any nation, organization of nations, state, or municipality, or any religious, fraternal, or civic organization.
2. Temporary signs, including Christmas lights, containing only holiday messages and no commercial message.
3. Merchandise, pictures, or models of products or services incorporated in a window display.
4. Works of art, (excluding murals) including memorials and statues, which in no way identify a commercial message.
5. Scoreboards located on athletic fields including advertising intended solely for spectators.
6. Building colors and outline lighting which do not convey a logo or message specific to the use therein (as determined by the Zoning Administrator).
7. Traffic control and other public agency messages located within a right-of-way.
8. Messages that are directed towards visitors on-site and not legible to those off-premises.
9. Drive-thru menu boards.

**Commented [BH3]:** Go thru sign code definitions when reviewing sign code. Consider moving sign specific definitions to the sign code chapter. Or consider moving signage to a different chapter.

#### **SIGN AWNING**

A sign that is mounted or painted on, or attached to, an awning, canopy, or marquee.

**SIGN COPY**

The message or advertisement and any other symbols on the face of a sign.

**SIGN FACE**

The area or display surface used for the message.

**SIGN, GROUND**

A sign placed upon or supported by the ground independent of any other structure.

**SIGN, POLE**

A sign mounted on a freestanding pole or other support so that the bottom edge of the sign is at least 10 feet above grade.

**SIGN, PORTABLE**

A sign that is temporary, affixed to a building or the ground. Such signs are sometimes mounted on wheels to make it transportable.

**SIGN, PROJECTING**

A sign that is dependent upon a building for support and projects over 12 inches from such building.

**SIGN, ROOF**

A sign mounted on the roof of a building that projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

**SIGN, WALL**

A sign mounted or painted on the wall of a structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign. A wall sign does not project over 12 inches from such structure.

**SIGN, WINDOW**

A sign attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window.

**SILVICULTURE**

The care and cultivation of forest trees or forestry.

**SITE PLAN**

A map or graphics prepared to scale depicting the development of a tract of land, including but not limited to the location and relationship of the structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, existing and proposed grading, walkways, and other site development information as related to a proposed development.

**SMALL WIRELESS FACILITY**

As defined in 47 CFR § 1.6002(l), a facility that meets each of the following conditions:

**[Amended 12-7-2021 by Ord. No. 2021-004]**

1. The structure on which antenna facilities are mounted is:
  - a. 50 feet or less in height; or
  - b. No more than 10% taller than other adjacent structures; or
  - c. Not extended to a height of more than 50 feet or by more than 10% above its preexisting height, whichever is greater, as a result of the co-location of new antenna facilities.
2. Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume;
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any preexisting associated equipment on the structure, is cumulatively no more than 28 cubic feet in volume;
4. The facility does not require antenna structure registration;
5. The facility is not located on Tribal lands; and
6. The facility does not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified by federal law

**START OF CONSTRUCTION**

The date the building permit is issued, provided the actual start of activity was within 365 calendar days of the permit date. The actual start of activity means either the first placement of permanent structure construction on the site such as pouring a slab or footings, the installation of piles, or the construction of columns. Permanent construction does not include land preparation, such as clearing, grading, filling; nor does it include the installation of streets and/or walkways; nor does it include the excavation for basement, footings, piers, or foundations; nor does it include the erection of temporary forms; nor does it include the installation of accessory buildings not occupied as dwelling units or part of the main structure.

**STREET**

A public right-of-way designated for vehicular traffic, whether designed as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lanes, place, or otherwise designated and includes all of the area between the roadway or right-of-way lines. ~~that is at least 50 feet wide and provides primary access to abutting properties.~~

**STRUCTURAL ALTERATIONS**

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

**STRUCTURE**

~~Any erection or construction, such as buildings, prefabricated or prebuilt buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment. Anything constructed or erected, the use of which requires a more or less permanent location on the ground, or attached to something having a permanent location on the ground. This excludes the following: landscape features, fences, pools, public utilities, and other minor site improvements.~~

#### **SUBSTANTIAL COMPLETION**

The date certified by a registered architect or engineer that a project is sufficiently complete to be occupied by the owner and permit the Building Inspector to issue a temporary occupancy permit.

#### **SUBSTANTIAL IMPROVEMENT**

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the present assessed value of the structure, either before the improvement or repair is started or if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement does not include the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure or site documented as deserving preservation by the State Historical Society or listed on the National Register of Historic Places. Substantial improvement does not include ordinary maintenance repairs, such as internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components.

#### **SUPPORT STRUCTURE**

Any structure capable of supporting wireless telecommunications equipment.

#### **SURETY**

~~Whenever the terms "surety," "surety bond" or "bond" are used in this chapter, such term shall describe only an~~ An irrevocable letter of credit or a cash bond as approved by the Town Attorney.

#### **SUSTAINED YIELD FORESTRY**

Management of forested lands to provide annual or periodic crops of forest products.

#### **TOWER**

As defined in 47 CFR § 1.6100(b)(9), a structure built for the sole or primary purpose of supporting any FCC licensed or authorized antennas and their associated facilities, and structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, and unlicensed wireless services and fixed wireless services, such as microwave backhaul, and the associated site. Tower does not include utility poles.

#### **TOWNHOUSES**



A group of single-family dwellings having an unpierced common wall between each adjacent section and the end units having side yards.

#### **TURNING LANE**

An existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

#### **UNDERGROUND AREAS**

When related to wireless telecommunication facilities, areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right-of-way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages over 35,000 volts.

#### **UPLIGHTING**

A lamp or wall light designed or positioned to cast its light upwards. The lights shall be designed to minimize light that does not illuminate the target area. The light source shall be screened or shielded from adjoining properties.

#### **USABLE OPEN SPACE**

That part of a lot which is unoccupied by driveways, drive aisles, service drives, off-street parking spaces and/or loading berths, principal buildings or accessory buildings, and is unobstructed to the sky. This space shall be available to all occupants of the development and shall be usable for greenery, recreational space and other leisure activities normally carried on outdoors. Balconies and roof areas, designed and improved for outdoor activities, may also be considered as usable open space. Ground level spaces for this purpose may include open terraces (including outdoor dining areas) plazas or courtyards, but may not include a permanently roofed-over terrace or porch. An open space credit of up to 7.5% is available for building designs utilizing of vegetated roof strategies.

#### **USE**

The purpose for which land or a building or structure is arranged, designed, or intended, or for which it is, or may be, occupied or maintained.

#### **UTILITIES**

Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations. Utilities does not include sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

**UTILITY POLE**

A structure in the right-of-way designed to support electric, telephone, and similar utility distribution lines and associated equipment. A tower is not a utility pole.

**WETLAND**

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

**WIRELESS INFRASTRUCTURE PROVIDER**

A person that owns, controls, operates, or manages a wireless telecommunications facility or portion thereof within the right-of-way.

**WIRELESS PERMIT**

A permit issued under this chapter that authorizes the placement or modification of a wireless telecommunications facility of a design specified in the permit at a particular location within the right-of-way, and the modification of any existing support structure to which the wireless telecommunications facility is proposed to be attached.

**WIRELESS REGULATIONS**

Those regulations adopted under Subsection (5)(b)1 to implement the provisions of this chapter.

**WIRELESS SERVICE PROVIDER**

An entity that provides wireless services to end users.

**WIRELESS SUPPORT STRUCTURE**

A structure described in Wis. Stat. 66.0414(1)(zp) that actually used to support small wireless facilities.

**WIRELESS TELECOMMUNICATIONS FACILITY**

A facility at a fixed location in the right-of-way consisting of a base station, antennas and other accessory equipment, and a tower and necessary underground wiring associated with the base station.

**YARD**

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

**ZONING ADMINISTRATOR**

The individual authorized and designated by the Town Administrator in charge of administering this Chapter.

**ZONING DISTRICT**

Areas of the Town in which this chapter uniformly governs the use and location of land and buildings



## **Section 17.03 Administration and Procedures**

### **(1) Purpose**

- (a) The purpose of this Section is to establish responsibilities for the administration of this Chapter, and the enforcement procedures and penalties for non-compliance with the provisions of this Zoning Ordinance. The purpose of this Section is also to establish procedural requirements for zoning text amendments, zoning map amendments, and various development approvals under this Chapter, including conditional use permits, temporary use permits, variances, certificates of occupancy, architectural and site plan review and approval.

### **(2) Exempt Activities**

- (a) The following activities/uses do not require review or approval by the Town:
  - 1. The maintenance or improvement of a public road or railroad track not involving substantial engineering redesign if the work is carried out on land within the boundaries of the right of way.
  - 2. Work by any utility not involving substantial engineering redesign for the purpose of inspection, repair, renewal or construction on established rights-of-way of any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.
  - 3. Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or decoration of the exterior of the structure (but does not otherwise materially affect the external appearance of the structure).
  - 4. The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products outdoors or for other agricultural purposes except the growing or storage of livestock.
  - 5. Official public information street graphics installed by or at the direction of a governmental unit.

### **(3) Zoning Administrator**

- (a) Duties: The Town Zoning Administrator is designated as the administrative and enforcement officer for this chapter. The Zoning Administrator shall be the Town Administrator or the Town Administrator's designee such as but not limited to Town Planner, Building Inspector, Fire Chief, Sewer District No. 4 Superintendent, Town Attorney and Police Chief. The Zoning Administrator shall interpret all permits required by this chapter and to issue all permits required by this chapter. The Zoning Administrator shall also have the following specific duties and responsibilities:
  - 1. Maintain permanent and current records of this Chapter, including but not limited to, all maps, amendments, conditional uses, temporary uses, site plans, occupancy permits, variances, appeals, interpretations, and applications thereof.
  - 2. Receive, review, analyze, and develop written reports (if necessary) on all applications for zoning and land use permits, certificates of occupancy, appeals, variances, amendments to this Chapter, or other development matters.
  - 3. Coordinate official development review processes among government offices to the extent feasible.
  - 4. Shall review all site plans, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, drainage, sewerage and water systems, and utilization of landscaping and open space as deemed appropriate for all development in the A-1 Agricultural District, and the Rs-1, Rs-2, Rs-3, Rs-4, and Rd-1 Residential Districts. The Zoning Administrator shall grant or deny associated building permit application, or refer application to the Architectural Review Committee, Plan Commission, and/or Town Board for further consideration.

5. Inspect and access all structures, lands, and waters during reasonable hours to ensure compliance with this Chapter.
6. Serve as an ex-officio non-voting member of the Plan Commission, Architectural Review Committee, and Zoning Board of Appeals.
7. Interpret whether specific uses are permitted and concerning the precise selection of zoning district boundaries.
8. Issue land use permits and certificates of occupancy when the requirements of this Chapter have been met, and make and maintain records thereof.
9. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this chapter to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the Town Attorney.
10. Along with any authorized agent, issue citations for the enforcement of this Chapter and assist the Town Attorney in the prosecution of violations of this Chapter.
11. Procure a special inspection warrant under Wis. Stat. § 66.0119.
12. Prohibit the use or erection of any structure, land, or water until such use is inspected and approved in accordance with this chapter.
13. Request assistance and cooperation from the Town Police Department, Building Inspector, and Town Attorney as deemed necessary.

**(4) Building Inspector**

- (a) See Section 14.02 for Building Inspector powers and duties.

**(5) Building Permit**

- (a) See Section 14.03 for building permit requirements.

**(6) Plan Commission**

- (a) See Section 1.20 of the Town Municipal Code.

**(7) Architectural Review Committee**

- (a) See Section 1.28 of the Town Municipal Code.
- (b) The Architectural Review Committee shall review the architectural plans for all new development and any exterior alterations to originally approved plans as outlined in Section 17-03(12).

**(8) Zoning Board of Appeals**

- (a) Established. There is hereby established a Zoning Board of Appeals for the Town for the purpose of hearing appeals and applications and granting variances and exceptions to this chapter.
- (b) Membership. The Zoning Board of Appeals shall consist of five members appointed by the Town Chairperson and confirmed by the Town Board.
  1. Terms. Terms shall be staggered for three-year periods.
  2. Chairperson. The Chairperson shall be designated by the Town Chairperson. The Chairperson for the Zoning Board of Appeals may administer oaths and compel the attendance of witnesses.
  3. Alternate Members. The Town Chairperson shall appoint a first alternate and second alternate member to act only when a regular member is absent or refuses to vote because of interest. The second alternate member may act only when the first alternate is unable to act or is already sitting.
  4. Qualifications. One member shall be a Plan Commissioner and one member shall be a registered architect, registered professional engineer, builder, or real estate appraiser.
  5. Secretary. The Board Secretary and Board office shall be the Town Clerk and the Town Clerk's office.
  6. Zoning Administrator. The Zoning Administrator shall attend all meetings for the purpose of providing technical assistance when requested by the Board.

**Commented [BH1]:** Transfer § 17.02(8) to building code chapter and update if needed. Change ref from ZA to building inspector

**Commented [BH2]:** Consider amending 1.20 to include language from 17.02(3)

**Commented [BH3]:** Town Attorney to add language and procedures to this section.

**Commented [BH4R3]:** TH and MVK agreed that we should do this.

**Commented [BH5]:** Consider relocating this information to Chapter 1.21 as well

**Commented [BH6R5]:** Chapter 1.21 currently references the zoning code.

7. Oaths. Official oaths shall be taken by all members in accordance with Wis. Stat. § 19.01, within five days of receiving notice of their appointment.
  8. Vacancies. Vacancies shall be filled for unexpired terms in the same manner as appointments for full terms.
- (c) Organization. The Board shall organize and adopt rules of procedure for its government in accordance with this Chapter.
1. Meetings. Meetings shall be held at the call of the Chairperson and shall be open to the public.
  2. Minutes. Minutes of the proceedings and a record of all actions shall be kept by the Secretary or other designated person, showing the vote of each member upon each question, the reasons for the Board's determination and its findings of fact. These records shall be immediately filed in the office of the Board and shall be a public record.
  3. Vote. If a quorum is present, the Board may take action by a majority vote of the members present.
- (d) Powers. The Zoning Board of Appeals shall have the following powers:
1. Errors. To hear and decide appeals when it is alleged there is error in any order, requirement, decisions, or determination made by any administrative official in the enforcement, administrations, or interpretation of this Chapter.
  2. Variances. To authorize upon appeal in specific cases such variances from the terms of this Chapter as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done. The Board may not permit as a variance any use that is not permitted under this Chapter for property in the zoning district where the affected person's land is located. See Section 17.03(19) for the variance process.
  3. Assistance. The Board may request assistance from other Town officers, departments, commissions, and boards.
- (e) Appeals and Applications. Appeals of the decision of any administrative official concerning the literal enforcement of this chapter may be made by any person aggrieved or by any officer, department, board, or bureau of the Town. Such appeals shall be filed with the administrative official from whom the appeal is taken and the Secretary of the Board within 30 days after the date of written notice of the decision or order of the administrative official. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Secretary. All appeals and applications to be review by the Board shall include the following:
1. Name and address of the appellant or applicant and all abutting and opposite property owners of record.
  2. Plat of survey prepared by a registered land surveyor showing all information required under §17.02(12)(d)3.-4.
  3. Additional information required by the Plan Commission, Town Engineer, Town Attorney, Zoning Board of Appeals, Zoning Administrator or Building Inspector.
- (f) Hearings. The Board shall fix a reasonable time and place for the hearing, provide public notice under § 17.03(9), and provide notice to the parties in interest. At the hearing, the appellant may appear in person, by agent, or by attorney.
- (g) Decision. The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and thereafter file the decision with the office of the Board.

1. The Board may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.
  2. The Board's decision shall specify an expiration date of a variance, substitution, or use permit that is granted by the Board. The expiration date shall be based on when the specific action authorized by the variance, substitution, or use permit must be commenced or be completed.
- (h) Certiorari review. Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board, or bureau of the Town, may, within 30 days after the filing of the decision in the office of the Board, commence an action seeking the remedy available by certiorari.

**(9) Public Hearings**

- (a) Notice. Notice of any public hearing which the Town Board, Plan Commission, or Zoning Board of Appeals is required to hold under this chapter shall specify the date, time, place of hearing, and matter to be presented at the hearing. Under Wis. Stat. Ch. 985, the notice shall be published as a Class 2 notice in a newspaper of general circulation in the Town at least once each week for 2 consecutive weeks, the last publication of which shall be at least one week before the public hearing.
- (b) Parties-in-interest. At least 10 days before the hearing, notice of the public hearing shall be mailed to the petitioner, the Clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the petition, the owners of all lands included in the petition, and all lands lying within 300 feet of lands, within town limits, included in the petition. Failure to give any notice to any property owner shall not invalidate the action taken by the Town Board, or any Town Commission or Committee.

**(10) Plan of Operation.**

- (a) Purpose. The purpose of this Section is to specify the requirements and procedures for the review and approval of plan of operation applications. The provisions of this Section are designed to ensure that proposed land uses complies with the requirements of this Chapter.
- (b) Applicability. A plan of operation is required for all occupancy permits and new developments. No person shall operate a commercial enterprise, industry, home business, church, school, non-profit organization, or other non-residential use, except as authorized by a plan of operation approved by the Plan Commission under this Section.
  1. All plan of operation applications are to be reviewed and approved by the Plan Commission prior to the issuance of an occupancy permit or building permit. Plan Commission may forward any plan of operation application to the Town Board for final approval.
  2. Plan of operations may be reviewed and approved in conjunction with other required reviews such as site plan review and conditional use permits.
- (c) Application. All plans of operation shall be submitted to the Zoning Administrator on forms supplied by the Town. An application for a plan of operation permit shall include the following information:
  1. Name, type, and address of the business or institution.
  2. Name, address, email address, and phone number of applicant.
  3. Name, address, email address, and phone number of owner.
  4. Proposed hours of operation.
  5. Number of full-time and part-time employees.
  6. Plot plan for multi-tenant buildings (if applicable).

7. Interior floor plan of tenant space (if applicable).
8. Narrative explaining the operation, including types of indoor and outdoor uses, products, or services offered.

(d) Basis of decision. The Plan Commission shall consider the following factors in making their decision:

1. The nature of the land use with regard to the number of employees, nature and extent of truck shipments to and from the site, hours of operation, use of hazardous substances, and other operational characteristics.
2. The nature and extent of anticipated positive and negative impacts on properties in the surrounding area.
3. Actions the applicant will undertake to mitigate the negative effects, if any, of the proposed land use.
4. Availability of adequate parking to meet the needs of employees and customers.
5. Adequacy of street access.
6. Proximity to residential neighborhoods and the potential for disturbing and disrupting residential uses.
7. Any other factor that relates to the purposes of this Chapter or as allowed by State law.

(e) Imposition of conditions. In approving a plan of operation, the Plan Commission may impose one or more conditions deemed necessary to further the intent and purposes of this Chapter. Such conditions, for example, may relate to operational characteristics of the land use, including hours of operation and processes or activities related to the land use.

(f) Amendment to Existing Plan of Operation. An amendment to an existing plan of operation requires approval by the Plan Commission if a business or institution substantially increases the amount of employees, changes the nature of the product or service, or extends the hours of operation beyond those shown on the existing plan of operation. An amendment to an existing plan of operation may be approved by the Zoning Administrator, upon a changed limited to property ownership, business ownership, or operator name; this approved changed shall be reported to the Plan Commission at the next available Plan Commission meeting.

(g) Denial by Plan Commission.

- a. If the application for a plan of operation is denied, the Plan Commission should provide a motion clearly stating that the plan is denied and provide specific reasons for denial.
- b. An aggrieved person may appeal a final decision made by filing an appeal with the Town Board within 30 calendar days of the final decision. The appeal shall be submitted to the Town Clerk in writing.

## **(11) Development Review Process**

- (a) Purpose. The purpose of this Section is to specify the requirements and procedures for the development review process for new development projects, including additions and expansions.
- (b) Applicability. Development review and approval shall be required for all new buildings, including accessory structures, or additions as outlined in this Section including redevelopment and expansion. Architectural plan changes, exterior alterations, and site plan changes (not involving new buildings or additions) shall be reviewed in accordance with the requirements of §17.03(12) and §17.03(13).
  1. The Zoning Administrator shall review the development plans for all new development in the A-1 Agricultural District, and the RS-1, RS-2, RS-3, RS-4, and RD-1 Residential Districts and can administratively approve the development if it meets the requirements set forth in this Section.



- a. The Zoning Administrator may refer site plans to the Plan Commission or architectural plans to the Architectural Review Committee when a question arises concerning generally accepted community standards or when a development is substantially different from Town norms. The Town Board shall review the recommendation provided by the appropriate reviewing entity and grant final decision.
2. The development review process for new developments in all other zoning districts shall occur as outlined below. The Plan Commission is responsible for reviewing and providing a recommendation to the Town Board for site plan approval, landscaping, preliminary signage, exterior lighting, and any applicable standards listed in §17.03(12). The Architectural Review Committee's review and recommendation shall be solely focused on architectural components, preliminary signage, preliminary lighting and any applicable standards listed in §17.03(13). The Town Board shall consider the recommendations from each reviewing entity and decide whether to approve, deny, table for more information, or refer the item back for further review.
  - a. Development Review Process
    - i. Conceptual Review by Town Staff and Review Team. The first step in the review process is review by Town staff and other reviewing entities to determine whether the proposed development meets code requirements and to offer feedback prior to moving forward. The applicant may request to have a conceptual architectural review or conceptual site plan meeting with the Architectural Review Committee, Plan Commission, and/or Town Board to gather initial feedback regarding the proposed project.
    - ii. Site Plan Review. After conceptual review, the applicant shall submit a site plan application meeting the requirements of §17.03(12)(d) and §17.03(12)(e). The Zoning Administrator shall review the submitted application for completion and forward the application to the Plan Commission for review. The Zoning Administrator shall not forward the application to the Plan Commission until the Zoning Administrator determines that the application meets the application requirements set forth in this chapter.
      - (i) The Plan Commission shall review the plans and provide a recommendation to the Town Board.
      - (ii) The Plan Commission may review and comment on the proposed architectural review materials, but the Architectural Review Committee will provide final architectural recommendation to the Town Board.
      - (iii) The Plan of Operation review process for new developments will generally run concurrent with this site plan review process.
      - (iv) The site plan recommendation by Plan Commission shall expire within 12 months unless the final development plans are presented to the Town Board.
    - iii. Architectural Review. After site plan review, the applicant shall submit architectural plans, preliminary signage renderings, and preliminary lighting plans for review and recommendation by the Architectural Review Committee.
      - (i) The Architectural Review Committee provides a recommendation to the Town Board regarding these items. See §17.03(13) for Architectural Review Standards and requirements.
      - (ii) The Architectural Review Committee may defer any proposed development plan back to Plan Commission for additional review.

**Commented [BH7]:** Should this occur after site plan review or prior?

- (iii) The architectural recommendation by the Architectural Review Committee shall expire within 12 months unless the final development plans are presented to the Town Board.
  - iv. Final Approval. The purpose of final project review shall be to determine that this chapter and other Town ordinances have been fully complied with, and to authorize the issuance of a building permit, subject to the developer receiving approval of the Wisconsin Department of Safety and Professional Services (SPS) of the building plans, if required. The Town Board may require appropriate sureties to guarantee the completion of grading, landscaping, and construction and paving of parking and loading areas within an approved time schedule. Final approval granted by the Town Board shall expire within 12 months unless necessary building permits have been applied for and issued.
    - (i) The Town Board shall consider the recommendations from the Architectural Review Committee and Plan Commission and shall approve, deny, table, or refer the development project back to either reviewing entity.
    - (ii) If proposed development is denied, the Town Board should provide a motion clearly stating that the development is denied and provide specific reasons for denial.
    - (iii) Any person or persons aggrieved by any decisions of the Town Board related to the development review may appeal the decision to the Zoning Board of Appeals. Such appeal shall be filed with the Town Administrator within 30 days after filing of the decision.
    - (iv) The applicant is responsible for securing all other necessary permits required by a state, federal, or county agency.

**(12) Site Plan Review**

- (a) Purpose. The purpose of this Section is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this Section are designed to ensure that proposed land uses and development activity complies with the requirements of this Chapter. For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure without first obtaining the approval of detailed site plan.
- (b) Applicability. Site plan review and approval shall be required for all new buildings and for changes to site characteristics as outlined in this section.
  - 1. The Zoning Administrator shall review the site plan for all new development or site plan changes in the A-1 Agricultural District, and the RS-1, RS-2, RS-3, RS-4, and RD-1 Residential Districts and can administratively approve the development if it meets the requirements set forth in this Section.
    - a. The Zoning Administrator may refer site plans to the Plan Commission when a question arises concerning generally accepted community standards or when a development is substantially different from Town norms. The Town Board shall review the recommendation provided by the Plan Commission and grant final decision.
  - 2. The site plan review process for new developments, additions, or site plan changes in all other zoning districts shall occur as outlined in this section. The Plan Commission is responsible for reviewing and providing a recommendation to the Town Board for site plan approval, landscaping, preliminary signage, and lighting approval.

- a. Site plan amendments. The following are exempt from this review: minor amendments to the site plan such as small additions to structures and parking areas that are 1,200 square feet or less, relocating the location of structures or parking areas a short distance.
- (c) Pre-application conference. Prior to the formal submittal of a site plan application, the applicant shall confer with the Zoning Administrator in order to establish a mutual understanding as to the basic concept proposed and to ensure proper compliance with technical requirements and procedures for processing the site plan application. An estimated timeframe for project review may also be discussed at this time.
- (d) Application. A site plan application may be considered complete if it contains all of the following, unless specific application requirements are waived by the Zoning Administrator. Maps depicting the following information shall be prepared.
  - 1. Written description of the intended use describing in reasonable detail the following:
    - a. Existing zoning district(s) and proposed zoning district(s) (if applicable).
    - b. Existing and proposed land uses.
    - c. Projected number of residents, employees, and/or daily customers or visitors.
    - d. Proposed number of dwelling units and density.
    - e. Demonstration of compliance with the applicable standards and requirements of this Chapter.
    - f. Demonstration of compliance with the Town's subdivision code requirements.
    - g. Demonstration of consistency with the Town's Comprehensive Plan.
    - h. Fencing materials, if necessary.
    - i. Any other relevant information pertinent to adequate understanding by the Zoning Administrator and/or Plan Commission of the intended use and its relation to nearby properties.
  - 2. Location map showing the subject property and illustrating its relationship to the nearest street intersection.
  - 3. Pre-development site information.
    - a. Legal description of the subject property.
    - b. Existing property lines and setback lines from all principal and accessory structures and/or uses.
    - c. Existing structures and paved areas.
    - d. Existing right of way lines with bearings and dimensions clearly labeled.
    - e. Existing easements and utilities
    - f. Existing and proposed topography with a maximum contour interval of 2 feet, except where existing ground is on a slope of less than 2 percent where one-foot contours shall be shown.
    - g. The outer edges of all natural resource areas, including but not limited to, floodplains, shorelands, wetlands, drainageways, woodlands, steep slopes etc.)
  - 4. Proposed post-development site information.
    - a. Property lines and setback lines from all principal and accessory structures and/or uses.
    - b. Location of all proposed structures and use areas, including paved areas, building entrances, sidewalks and walking paths, drives, decks and patios, fences, utility poles or other utility infrastructure, and drainage facilities.
    - c. Proposed right-of-way lines with bearings and dimensions clearly labeled.
    - d. Proposed access points on public streets and access drives on the subject property.

**Commented [BH8]:** Discuss what is required at the conceptual phase.

- e. Location and dimension of all on-site parking areas and a summary and/or table showing the number of parking stalls provided and demonstrating all parking requirements will be met.
  - f. Location and configuration of all visibility triangles proposed on the subject property.
  - g. Location and dimensions of all loading and service areas on the subject property.
  - h. Location of all outdoor storage or activity areas and the design of all screening devices.
  - i. Location and type of all stormwater facilities and management approach to be employed.
  - j. Proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose.
  - k. Location, type, height, size, and lighting of all proposed signage on the subject property.
  - l. In the legend, include the following data for the subject property: lot area, floor area ratio, impervious surface area/ratio, and building heights.
5. Detailed Landscaping Plan. If required, a landscape plan depicting the location, type, and size at time of planting and maturity of all landscaping features as required by this Chapter. Shall provide detailed information demonstrating that the proposed landscaping meets all landscape requirements of this Chapter.
6. Grading, Drainage, and Erosion Control Plan(s). This plan shall accurately depict existing and proposed grades, including all retention walls and related devices, and erosion control measures per the approval of the Town Engineer. This plan should include existing and proposed contours at a maximum of two-foot intervals. Existing features, such as swales, ponds, ditches, storm sewers, inlets, etc., shall be shown with size and type of pipe labeled. Proposed features to promote proper drainage, including curbing, berms, swales, inlets and extensions to storm sewers, shall also be shown and clearly labeled. The plan is subject to final review and approval by the Town Engineer.
7. Traffic Impact Analysis. A traffic impact analysis may be required by the town engineer if he determines after reviewing the plan of operation or site plan application that the development is likely to exceed the safe capacity of existing transportation facilities or will endanger property or public health and safety. The Plan Commission and/or Town Board may also require this analysis prior to making their decision to approve/deny.
8. Elevation Drawings.
- a. Elevations of proposed building or proposed remodeling of existing buildings showing finished exterior treatment.
  - b. Depict exterior materials, texture, color, and overall appearance.
  - c. Perspective renderings of the proposed project and/or photos of similar structures may also be submitted, but not in lieu of drawings showing the actual intended appearance of the building(s).
  - d. Provide detailed information demonstrating that the architectural standards listed §XX-XX are met.
9. Photometric Plan & Lighting Fixture Schedule.
- a. Location, type, height, design, illumination power, and orientation of all exterior lighting on the subject property.
  - b. Impact of lighting across the entire property to the property lines rounding to the nearest .10 foot candles.
  - c. A lighting fixture schedule shall be provided for all proposed exterior lighting.
  - d. See §XX-XX for required information.
10. Plan of Operation.
- a. See §XX-XX for required information.

11. **Proposed Signage Packet**
  - a. **See §XX-XX for required information.**
- (e) General Site Design Principles.
  1. Applicable for development in all zoning districts, unless specifically stated otherwise. The Plan Commission may deny a proposed site plan, regardless of whether a use is permitted, if the Commission deems that one or more requirements listed below cannot be met.
    - a. A building shall be arranged on the site so as to not impede traffic accessibility and circulation to or from adjacent streets and adjoining sites developed with similar non-residential uses.
    - b. All principal structures shall be located on a lot; and only one principal structure shall be located, erected, or moved onto a lot in single-family and two-family residential districts. The Plan Commission may permit more than one structure per lot in other districts where more than one structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements, or parking requirements, or require a minimum separation distance between principal structures.
    - c. No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
    - d. The front elevation of the building shall be generally parallel to the street or a public area.
    - e. Cross accesses shall be provided between adjoining commercial parcels, when feasible.
    - f. A docking or loading area for a commercial, institutional, or industrial building shall be easily accessible to service vehicles, separated from the site's parking area, and designed to serve multiple tenants, when feasible.
    - g. Existing natural resources and topographic features on the site shall be preserved to the greatest extent possible while affording a reasonable use of the property.
    - h. The project shall not intentionally create any hazard and shall be designed to avoid existing hazards whether manmade or natural. No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the public health, safety, prosperity, aesthetics, and general welfare of this community. If avoidance is not possible, the project shall mitigate the effects of the hazard to a satisfactory level necessary to protect the public health, safety, prosperity, aesthetics, and general welfare of this community.
    - i. All lots shall abut upon a public street and each lot shall have a minimum frontage at the road right-of-way of 50 feet. Plan Commission and Town Board may allow for lots to be created when only abutting to a private road access on a case-by-case basis.
    - j. Parking areas and pedestrian routes located on the site shall be designed to promote safety and efficient traffic flow.
    - k. Street yard and offset areas shall be landscaped and kept clean and free from the accumulation of debris and refuse and shall not be used for the storage or display of equipment, products, vehicles, or other materials.
    - l. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Town.
    - m. All required regulations listed under the specific land use type in §17.05 shall apply.
  - (f) Review by the Zoning Administrator.

1. The Zoning Administrator shall determine whether the site plan application is complete and fulfills the requirements of this Chapter. If the application is determined to be incomplete, the Zoning Administrator shall notify the applicant and work with the applicant to ensure compliance.
  - a. Proposed site plans regulated by Section 17.03(12)(b)1.
    - i. The Zoning Administrator shall review the application and determine whether to approve, deny, or require additional information.
  - b. Proposed site plans regulated by Section 17.03(12)(b)2.
    - i. The Zoning Administrator shall schedule a review with the appropriate town staff and the Plan Commission, as outlined in subsection 11(b)ii) below, once the application is considered complete.
- (g) Staff Report.
  1. The zoning administrator may prepare a written staff report prior to any meeting in which the site plan is reviewed.
  2. The staff report should generally contain the following:
    - a. A description of the proposed project.
    - b. Preliminary findings for the decision criteria listed in this Section.
    - c. A recommendation to approve the application, approve the application with conditions, defer to the discretion of the reviewing board, table the item to require new information, or deny the application.
    - d. A preliminary list of conditions, if any, whether the staff recommendation is for approval or denial.
    - e. Any other information deemed necessary.
  3. Failure to provide any of the items listed above does not invalidate any decision made by the reviewing board.
- (h) Plan Commission Site Plan Review.
  1. The Plan Commission shall review the proposed site plan and shall make a motion to recommend to approve the proposed site plan as presented, approve with conditions, or deny the site plan.
    - a. This constitutes as Plan Commission's final decision regarding the site plan.
  2. Basis of decision. The Plan Commission shall consider the following factors in making their decision:
    - a. Traffic volume and safety impacts, both on-site and off-site.
    - b. Impacts on the natural environment.
    - c. Impacts on surrounding properties.
    - d. Compliance with general provisions of this Zoning Code.
  3. Imposition of conditions
    - a. In approving a site plan, the Plan Commission may impose one or more conditions deemed necessary to further the intent and purposes of this Chapter. Such conditions, for example, may relate to landscaping and screening, outdoor lighting, revisions to the site design, and agreements between the Town and applicant.
  4. Approval by Plan Commission.
    - a. If the application for site plan is approved, the Plan Commission shall provide a motion clearly stating that the site plan is approved.
    - b. If approved with conditions, the Plan Commission should clearly state the conditions during the motion to approve.

- c. The approval of the site plan shall run with the land and is binding on all subsequent property owners.
  - d. Expiration of an approval.
    - i. An approval of a site plan shall automatically expire 12 months after the date of issuance unless the development project receives final approval by the Town Board. Upon petition and with cause, the zoning administrator may grant a one-time extension not to exceed 12 months provided the permit holder requests the extension prior to the expiration of the permit, the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and the project complies with this chapter in effect at the time the extension is granted.
  - e. Amendment of an approval.
    - i. Following approval of a site plan, the Plan Commission shall review all proposed changes to the approval and provide a recommendation to the Town Board.
5. Denial by Plan Commission.
- a. If the application for site plan is denied, the Plan Commission should provide a motion clearly stating that the site plan is denied and provide reasons for denial.
  - b. The denial of a site plan by Plan Commission results in the project not moving forward to final approval by the Town Board.
  - c. An aggrieved person may appeal a final decision made by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.
- (i) Town Board's Final Approval.
- 1. Town Board's final review and approval process occurs after the architectural review committee approves the architectural plan and the Plan Commission approves the site plan. The Town Board may modify the basis of decision or conditions as deemed necessary when approving the site plan elements of the development project.
  - 2. Town Board shall review Plan Commission's recommendations for site plan amendments and make a final decision.

**Commented [BH9]:** This is where I would like to have some thresholds for what constitutes minor changes. For example, additions under 2,000sf can be administratively approved or addition of 5% of parking stalls can be administratively approved.

### (13) Architectural Review

- (a) Purpose. The purpose of this Section is to specify the requirements and procedures for architectural review of new and additions to existing development. Architectural review is intended to ensure that buildings fit in to the context in which they occur.
- (b) Applicability. Architectural review shall be provided by the Architectural Review Committee for the following:
  - 1. New non-residential buildings and mixed-use development, including non-residential accessory buildings.
  - 2. Multi-family residential buildings and accessory buildings on properties with multi-family residential units.
  - 3. Any additions or exterior alterations to the buildings listed above. Exterior alterations may include but are not limited to changes in siding, paint, masonry, windows, lighting, roofing materials or color, and other exterior changes to the appearance of the building. Site changes such as landscaping, parking lot layout, concrete expansion etc. are not to be reviewed by the Committee.
- (c) Application.

**Commented [BH10]:** Ask Town Board about landscaping review by ARC and PC.

1. The application submittal shall include an application form as may be used by the Town and a set of architectural plans prepared at an appropriate scale. The plan set should include preliminary signage and lighting plans, unless waived by the Zoning Administrator.
2. The Zoning Administrator shall review the submittal to ensure that adequate plans are provided to forward to the Architectural Review Committee.
3. The Zoning Administrator shall schedule a review with the Architectural Review Committee once the application is considered complete.

(d) Architectural Standards

1. Buildings subject to review under this Section shall comply with the following architectural standards:
  - a. The scale of the building shall be compatible with the overall massing and the individual parts of adjacent buildings.
  - b. No building shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards. The Architectural Review Committee shall make necessary interpretations as to the substance of community standards.
  - c. No building shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness. The Architectural Review Committee shall make necessary interpretations as to what is monotonous or drab in the Town of Brookfield.
  - d. Windows, doors, and other openings must form a unified composition in proportion to the building elevation.
  - e. On any new building constructed for business or manufacturing use, all building exteriors facing a street, whether public or private, shall have 50 percent of the street face constructed with brick, decorative masonry, glass panel, or other appropriate similar finished façade, as approved by the Committee. Such brick, masonry, glass, or other decorative facing shall extend for a distance of at least 25 feet along the sides of the structure or at least 25 percent of that side wall distance, whichever is greater.
  - f. Principal buildings with a front elevation of more than 750 square feet in area shall be divided into distinct planes of 500 square feet or less. The following features may be used to meet this requirement:
    - i. Canopies or awnings.
    - ii. Arcades. An arcade is a set of contiguous arches that are all supported with columns or piers.
    - iii. Porches or balconies.
    - iv. Vertical wall offsets with a minimum depth of 8 inches and a minimum width of 10 feet.
    - v. Horizontal offsets with a minimum depth of 2 feet.
    - vi. Pilasters with a minimum depth of 8 inches, a minimum width of 12 inches, and a minimum height of 80 percent of the wall height. A pilaster is a rectangular, vertical wall protrusion that resembles a flat column or half pier.
    - vii. Recessed areas for entryways and the like having a minimum depth of 8 inches.
    - viii. Other suitable multidimensional design features, as determined by the Committee.
  - g. Building entrances must be clearly recognizable from parking lots and pedestrian circulation routes.



- h. The appearance of a side or rear elevation of a commercial or institutional building shall be the same as or similar to the front elevation of such building when it is readily available visible from a public street or an abutting property in a commercial or institutional zoning district or a planned development that allows commercial, institutional, and/or residential uses.
  - i. Rooftop mechanical equipment shall be positioned so it is not readily visible from a public street or an abutting property. Rooftop mechanical equipment may be placed in an enclosure or screened from view provided such enclosure or screening is incorporated as an element of the building's architecture.
  - j. Exterior building materials of an accessory building shall be the same as or similar to those used on the principal building.
  - k. Overhead doors or loading docks shall not face a public street, unless an exception is granted by the Plan Commission. The Architectural Review Committee may recommend an exception to this requirement during the architectural review to the Plan Commission prior to their site plan review. Contingent on a positive recommendation from the Architectural Review Committee, the Plan Commission may permit overhead doors or loading docks facing a public street, but only when it has made a finding that there are no feasible alternative locations for such doors.
  - l. Any HVAC equipment shall be screened from view.
- (e) Architectural Review Commission - Architectural Review.
- 1. The Architectural Review Committee shall review the proposed architectural plans and determine whether to approve as proposed, approve with conditions, or deny the architectural plans.
  - 2. Imposition of conditions
    - a. In approving an architectural plan, the Architectural Review Committee may impose one or more conditions deemed necessary to further the intent and purposes of this Chapter.
  - 3. Approval by the Architectural Review Committee.
    - a. If the application for the architectural plan is approved, the Architectural Review Committee should provide a motion clearly stating that the architectural plan is approved.
    - b. If approved with conditions, the Committee should clearly state the conditions during the motion to approve.
    - c. The approval of the architectural plan shall run with the land and is binding on all subsequent property owners.
    - d. Upon approval, the project can move onto the final review process as outlined in Section 17.03(XX).
    - i. If the approval is for exterior alterations to an existing building, does not need to follow the site plan review process or final approval by the Town Board, unless otherwise required by the Architectural Review Committee.
  - e. Expiration of an approval.
    - i. An approval of an architectural plan shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion or the Town Board is in the process of reviewing the development final approval. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided the permit holder requests the extension prior to the expiration of the permit, the permit holder clearly demonstrates that circumstances beyond his or her control prevented

the start of construction and the continuation of the same, and the project complies with this chapter in effect at the time the extension is granted.

- f. Amendment of an approval.
  - i. The review procedure in effect at the time of submittal shall be followed.
- 4. Denial by Architectural Review Committee.
  - a. If the application for an architectural plan is denied, the Committee should provide a motion clearly stating that the architectural plan is denied and provide reasons for denial.
  - b. An aggrieved person may appeal a final decision made by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.
- (f) Town Board's Final Approval.
  - 1. Town Board's final review and approval process occurs after the architectural review committee approves the architectural plan and the Plan Commission approves the site plan. The Town Board may modify the basis of decision or conditions as deemed necessary when approving the architectural plan elements of the development project.
  - 2. Amendments to Architectural Plans do not require final approval by the Town Board, unless required by the Architectural Review Committee.

Commented [BH11]: Or could/should this go before TB?

**~~(14) Building, Foundation, and Occupancy Permits (probably better for Ch 14 Building code)~~**

Commented [BH12]: Move to Chapter 14 - Building Code

- ~~(a) Uses not requiring a building permit. No building permit shall be required for any of the following cases:~~
  - ~~1. For building an accessory building less than 120 square feet in area.~~
  - ~~2. For any improvement or alteration to an existing building less than 120 square feet in area which does not structurally alter or effect a change in use to an existing building.~~
  - ~~3. For repairs that do not alter the size or position of an existing structure on a lot, subject to the conditions of the original project approval, if required under Section XX-XX. Such repairs shall not include the replacement or alteration of bearing walls.~~
  - ~~4. For ordinary maintenance, such as painting, or the replacement of roofing, roof gutters, or siding subject to the conditions of the original project approval, if required under Section XX-XX.~~
  - ~~5. However, any work that does qualify for an exemption under this section shall be required to comply with the applicable setback, yard, height, and other requirements set forth in this Chapter.~~
- ~~(b) Foundation Survey.~~
  - ~~1. Any person erecting, moving, enlarging or reconstructing a structure, which under this chapter requires a building permit, shall, prior to the completion of the construction of footings, concrete slab, or other foundation, submit to the Zoning Administrator a survey prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations and size of the following: all structures and their relation to the lot line. The Zoning Administrator shall compare the location of all new or extended foundations with the location of all proposed construction activity reported on the building permit application. No further construction may commence unless the Zoning Administrator finds that the foundation location is as certified by the surveyor and is consistent with the permit as issued.~~
- ~~(c) Occupancy Permit.~~
  - ~~1. No vacant land shall be occupied or used; and no building or premises shall be erected, altered or moved, or create change in use; and no nonconforming use shall be maintained, renewed, changes, or extended until a certificate of compliance shall have been issued by the Zoning Administrator and/or Building Inspector. Such certificate shall show that the building~~

~~or premises or part thereof is in compliance with the provisions of this Chapter. Such certificate shall be applied for at the time of occupancy of any land and/or building.~~

- ~~2. No building located in a business or industrial zone and used for business or industrial purposes shall be occupied by a new tenant or a new owner or shall have the use changed without the issuance of a new certificate of compliance by the Zoning Administrator. Plan of operation approval, as required under Section XX-XX, shall be required for any change in tenancy which accounts for an excess of 25% of the floor area of the entire structure. Such certificate shall show that the building or premises or part thereof is in compliance with the provisions of this Chapter, Uniform Dwelling Code, Electrical Code, Fire Prevention Code, and the Plumbing Code of the Town of Brookfield and State of Wisconsin. Such occupancy permit for the occupation of a previously existing building by a new tenant or use shall be applied for at the time of any remodeling of the building or prior to the occupancy for the new use or by the new owner. Application for an occupancy permit shall be made in the same manner as for a building permit pursuant to Section XX-XX of this Chapter.~~

~~(d) Special Occupancy Permit~~

**(14) Conditional Use Permit Procedure**

- (a) Purpose. The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses.
- (b) Applicability. There are certain uses, which because of their unique characteristics make impractical the predetermination of permissibility. In these cases, specific standards, regulations, or conditions may be established.
- (c) Limited Conditional Use. Limited conditional uses are those in which the Town Board has found that any of the following should be of lesser permanence than regular conditional uses, and the duration of or term of existence may be established until time certain or be limited to a future happening or event at which time the same shall terminate:
  - 1. Their particularly specialized nature.
  - 2. Their particular locations within a district.
  - 3. The peculiar unique relationships or needed compatibility of uses to involved individuals.
  - 4. Any other reason(s) the Town Board deems specially relevant and material to delimit the scope thereof.
- (d) Initiation of Request. Proceedings for approval of a conditional use may be initiated by an application of the owner(s) or authorized representative of the subject property.
- (e) Application. An application for a conditional use permit shall contain the following:
  - 1. Names and addresses of the applicant, property owner, architect, professional engineer, and contractor.
  - 2. A plat of survey of the subject property to scale depicting:
    - a. All lands for which the conditional use is proposed and all other lands within 100 feet of the boundaries of the subject property.
    - b. Names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Waukesha County.
    - c. Current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control.
    - d. All lot dimensions of the subject property.
    - e. A graphic scale and a north arrow.
  - 3. Written description of the proposed conditional use including the type of activities, buildings, structures, and off-street parking proposed for the subject property and their general locations.

The Zoning Administrator and/or Plan Commission may require additional information to be submitted on a case-by-case basis.

- a. For conditional uses in floodland, such description shall also include information that is necessary to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.
  4. A site plan of the subject property showing existing and proposed uses, including all lot dimensions and setbacks.
  5. Written justification for the proposed conditional use, including evidence that the application is consistent with the Town's Comprehensive Plan.
- (f) Review by Zoning Administrator.
1. The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the application is determined to be incomplete, the Zoning Administrator shall notify the applicant.
  2. The Zoning Administrator may coordinate review with the City's Development Review Team.
  3. The Zoning Administrator shall review the complete application and evaluate whether the proposed amendment:
    - a. Is in harmony with the recommendations of the Comprehensive Plan.
    - b. Will result in result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future.
    - c. Maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
    - d. The conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.
    - e. The potential public benefits outweigh any and all potential adverse impacts of the proposed conditional use, after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts.
  4. The Zoning Administrator shall prepare a written report addressing **items 1-5 directly above**, to be forwarded to the Plan Commission for the Commission's review and use in making its recommendation to the Town Board. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the Comprehensive Plan, the Zoning Administrator shall note this determination in the report.
- (g) Public Hearing. Within 50 days of filing a complete application, the Plan Commission shall hold a public hearing in compliance with **Section XX-XX (Public Hearing Section)** to consider the request.
- (h) Review and Recommendation by the Plan Commission.
1. The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation

- and circulation, drainage, sewerage and water systems, and the proposed plan of operation. Conditions such as landscaping, architectural design, dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter.
2. Within 60 days after the public hearing, the Plan Commission may make a written report to the Town Board, and/or may state in the minutes its recommendations regarding the application. Said report and/or minutes may include a formal finding of facts developed and approved by the Plan Commission concerning the requirements of **items 14, f), iii), 1-5 above**.
  3. If the Plan Commission fails to make a report within 60 days after the filing of a complete application, the Common Council may hold a public hearing within 30 days after the expiration of said 60 day period. Failure to receive said written report from the Plan Commission shall not invalidate the proceedings or actions of the Town Board. If a public hearing is necessary, the Town Board shall provide notice per the requirements so Section **XX-XX (Public Hearing Section)**.
- (i) Review and Action by Town Board.
    1. The Town Board shall consider the recommendation of the Plan Commission regarding the proposed conditional use. The Town Board may request further information and/or additional reports from the Plan Commission, Zoning Administrator, applicant, and/or from any other reasonable source.
    2. The Town Board may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications, or may deny approval of the proposed conditional use.
      - a. Any requirements or conditions imposed by the Town Board must be reasonable, and to the extent practicable, measurable. Any condition imposed must relate to the purpose of the ordinance and be based on substantial evidence.
        - i. Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.
      - b. Any denial must include finding of facts that demonstrate substantial evidence for denial.
    3. If the Town Board fails to make a decision within 90 days of the public hearing, the application shall be considered approved, unless an extension is granted in writing by both the Applicant and the Town.
  - (j) Effect of Denial. No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.
  - (k) Revocation of an Approved Conditional Use Permit. If the holder of a conditional use permit, fails to comply with the conditions of the permit issued or if the use, or characteristics of the use change without prior approval of the Plan Commission and Town Board, the conditional use permit may be revoked. The process for revoking a permit shall generally follow the same procedures as those required for granting a conditional use permit.
  - (l) Time Limits on the Development of Conditional Use. Unless extended as a conditional of approval, the start of construction of any and all conditional uses shall be initiated within 365 days of their approval by the Town Board and shall be operational within 730 days of said

approval. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this Section, "operation" shall be defined as the granting of a certificate of occupancy for the conditional use. Prior to such a revocation, the applicant may request an extension of this period. Said request shall require formal approval by the Town Board and shall be based upon a showing of acceptable justification, as determined by the Town Board. However, as a condition of approval, the 365 and/or 730 day time limits may be extended for any specific period of time including no time limit to accommodate phased or multi-stage development.

- (m) Discontinuing an Approved Conditional Use. Any and all conditional uses which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operation during this period.
- (n) Change of Ownership. All requirements of the approved conditional use shall be continued regardless of ownership of the subject property; however, a conditional use permit shall be granted exclusively to the applicant who has applied for the conditional use. This permit is non-transferable and shall not be assigned to any other party, except as explicitly stated in the conditional use agreement.
- (o) Amendments. Modification, alteration, or expansion of a previously approved conditional use shall require a public hearing, review by Plan Commission, and approval by the Town Board unless otherwise stated within the Chapter. The following are exempt from this requirement:
  - 1. A modification, alteration, or expansion which has been approved as part of a prior valid conditional use does not require a new conditional use approval.
  - 2. Minor amendments to the site plan, such as small additions to structures and parking areas that are 1,200 square feet or less, new accessory structures that are 1,200 square feet or less, moving the location of structures or parking areas a short distance, and changes to the outdoor display area, outdoor storage areas and uses, and landscape or lighting plans, may be approved administratively, provided the conditions of the conditional use permit and the regulations for the underlying zoning district are met. If the changes are determined to be significant or have the potential to adversely impact adjacent properties, the Zoning Administrator may require the conditional use permit to be amended following the procedures of this Section.
- (p) Recording of Conditional Use Requirements. Except for conditional use approvals for temporary uses, a certified copy of the authorizing resolution, containing identifying description and any specific requirements of approval, shall be recorded by the Town with the Register of Deeds for the subject property.
- (q) Formerly Approved Conditional Use Permits. A use which was approved as a conditional use, prior to the effective date of this Chapter, shall be considered as a legal, conforming land use. Any modification of the previously approved conditions of use or site plan shall be reviewed under this Section.
- (r) Review of Approved Conditional Uses. A review of all approved conditional use permits shall be made at least every five years.

#### ~~(16)~~(15) **Temporary Use Permit Procedure**

- (a) Purpose. The purpose of this Section is to provide regulations that govern temporary uses. All temporary uses are required to meet the general requirements of this Chapter and the requirements of the zoning district in which the subject property is located.
- (b) Review and Approval by Zoning Administrator. Temporary uses have the potential to create undesirable impacts on nearby properties that cannot be determined except on a case-by-case

basis. In order to address unforeseen circumstances, the Zoning Administrator may require an applicant to submit materials including:

1. A map of the subject property to scale that depicts the following:
    - a. All lands for which the temporary use is proposed and all other lands within 100 feet of the boundaries of the subject property.
    - b. Current zoning of the subject property and all other lands within 100 feet of the boundaries of the subject property.
    - c. All lot dimensions of the subject property.
    - d. A north arrow and graphic scale.
  2. A written description of the proposed temporary use describing the type of activities, buildings, and structures proposed for the subject property and their general locations.
  3. A site plan of the subject property.
  4. Any additional information as may be required by the zoning administrator.
- (c) Plan Commission. The Zoning Administrator may request that the Plan Commission review and determine whether a specific temporary use is to be allowed in a subject property if the Zoning Administrator determines that the temporary use may adversely impact the surrounding properties or if the Zoning Administrator is unable to determine if the temporary use is allowed in a specific district.

~~(17)~~(16) **Zoning Map (Rezoning) Amendment**

- (a) Purpose. The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed amendments to provisions of the zoning map, or otherwise described as rezonings.
- (b) Initiation of Request. Proceedings for amendment of the zoning map may be initiated by an application of the owner(s) of the subject property or an authorized representative of the owner with owner signature; a recommendation from town staff or Plan Commission; or by action of the Town Board.
- (c) Application. An application to amend the zoning map shall contain the following:
  1. A map of the subject property to scale depicting the following:
    - a. All lands for which the zoning is proposed to be amended and all other lands within 300 feet of the boundaries of the subject property.
    - b. Owner's names and addresses of the owners of all properties lying within 300 feet of the area proposed to be rezoned.
    - c. Current zoning of the subject property and all properties lying within 300 feet of the area proposed to be rezoned.
    - d. All lot dimensions of the subject property.
    - e. A graphic scale and north arrow.
  2. Legal description of the subject property.
  3. Written justification for the proposed zoning map amendment, including evidence that the request is consistent with the Town's Comprehensive Plan.
  4. Any additional information required by the Town Plan Commission or Town Board.
- (d) Review by Zoning Administrator.
  1. The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Section. If the application is determined to be incomplete, the Zoning Administrator shall notify the applicant.
  2. The Zoning Administrator shall review the complete application and evaluate whether the proposed amendment:
    - a. Is in harmony with the recommendations of the Town Comprehensive Plan.

- b. Maintains the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts.
- c. Addresses any of the following factors that may not be properly addressed on the current zoning map:
  - i. The designations of the zoning map are not in conformance with the Comprehensive Plan.
  - ii. A mapping mistake was made.
  - iii. Factors have changed (such as new data, infrastructure, market conditions, development patterns, or other zoning changes), making the subject property more appropriate for a different zoning district.
- 3. The Zoning Administrator may prepare a written report addressing items above and forward said report to the Plan Commission for the Commission's review and use in making its recommendation to the Town Board. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of this Chapter or the Comprehensive Plan, the Zoning Administrator shall note this determination in the report.
- (e) Public Hearing. The Plan Commission and Town Board shall hold a public hearing upon each petition giving public notice thereof as specified in **Section 17-XX**. The Town Clerk shall also give at least 10 days' prior written notice to the Clerk of any municipality within 1,000 feet of any land to be affected by the zoning map amendment.
- (f) Review and Recommendation by the Plan Commission.
  - 1. Within 60 days of the public hearing, the Plan Commission may make a written report to the Town Board and/or state in the minutes its recommendations regarding the petition. Said report and/or minutes may include a formal finding of facts developed and approved by the Plan Commission concerning the requirements of **Subsection 17-XXX** and whether the public benefits outweigh any and all potential adverse impacts of the proposed amendment.
  - 2. Failure to receive said written report from the Plan Commission shall not invalidate the proceedings or actions of the Town Board.
- (g) Review and Action by the Town Board.
  - 1. The Town Board shall consider the recommendation of the Plan Commission regarding the proposed amendment. The Town Board may request further information and/or additional reports from the Plan Commission, Zoning Administrator, and/or the applicant.
  - 2. The Town Board may take action by ordinance on the application and may approved the amendment as originally proposed, approve with modifications, or may deny proposed amendment.
- (h) County Board Approval. No zoning map amendment shall be effective until approved by the Waukesha County Board. The Town Clerk shall transmit three signed and attested copies of any change adopted by the Town Board to the Waukesha County Clerk for County Board approval.
- (i) Effect of Denial. No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

**~~(18)(17)~~ Zoning Ordinance Amendment**

- (a) Purpose. The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed amendments to the provisions of this Chapter.
- (b) Initiation of Request. Proceedings for amendment of this Chapter may be initiated by: an application by any member of the general public; a recommendation by Town staff or Plan Commission to the Town Board; or by action of the Town Board.



- (c) Application Requirements. An application to amend the regulations of this Chapter shall contain the following:
1. A copy of the portion of the current provisions of this Chapter which are proposed to be amended.
  2. A copy of the text which is proposed to replace the current text.
  3. If initiated by a member of the general public, a written justification for the proposed text amendment is required and shall consist of the reasons why the applicant believes the proposed text amendment is in harmony with the Comprehensive Plan.
  4. Any further information which may be required by the Plan Commission to facilitate the making of a comprehensive report to the Town Board.
- (d) Review by the Zoning Administrator.
1. The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the application is determined to be incomplete, the Zoning Administrator shall notify the applicant.
  2. The Zoning Administrator shall review the complete application and evaluate whether the proposed amendment:
    - a. Advances the purposes of this Chapter.
    - b. Advances the purposes of the general section in which the proposed amendment is to be located.
    - c. Is in harmony, or is in not in conflict with, the recommendations of the Comprehensive Plan.
    - d. Addresses any of the following factors that may not be addressed in the current zoning text:
      - i. A change in the land market, or other factors which require a new form of development, a new type of land use, or a new procedure to meet said change(s).
      - ii. New methods or terminology of development or zoning references.
      - iii. Errors, omissions, corrections, and clarification of regulations.
    - e. The Zoning Administrator may prepare a written report addressing items listed above, and forward said report to the Plan Commission for the Commission's review and use in making its recommendation to the Common Town Board. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of this Chapter or the Comprehensive Plan, the Zoning Administrator shall note this determination in the report.
- (e) Public Hearing. The Plan Commission and Town Board shall hold a public hearing upon each petition giving public notice thereof as specified in **Section 17-XX**. The Town Clerk shall also give at least 10 days' prior written notice to the Clerk of any municipality within 1,000 feet of any land to be affected by the zoning code amendment.
- (f) Review and Recommendation by the Plan Commission.
1. Within 60 days of the public hearing, the Plan Commission may make a written report to the Town Board and/or state in the minutes its recommendations regarding the petition. Said report and/or minutes may include a formal finding of facts developed and approved by the Plan Commission concerning the requirements of **Subsection 17-XXX** and whether the public benefits outweigh any and all potential adverse impacts of the proposed amendment.
  2. Failure to receive said written report from the Plan Commission shall not invalidate the proceedings or actions of the Town Board.
- (g) Review and Action by the Town Board.

1. The Town Board shall consider the recommendation of the Plan Commission regarding the proposed amendment. The Town Board may request further information and/or additional reports from the Plan Commission, Zoning Administrator, and/or the applicant.
  2. The Town Board may take action by ordinance on the application and may approved the amendment as originally proposed, approve with modifications, or may deny proposed amendment.
- (h) County Board Approval. No zoning code amendment shall be effective until approved by the Waukesha County Board. The Town Clerk shall transmit three signed and attested copies of any change adopted by the Town Board to the Waukesha County Clerk for County Board approval.
- (i) Effect of Denial. No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

~~(19)~~(18) **Variance Procedure**

- (a) Purpose. The purpose of this Section is to provide regulations which enable the Town to hear and decide requests for permitted variation from the terms of this Chapter as will not be contrary to the public interest; where owing to special factors, a literal enforcement of the regulations of this Chapter would result in practical difficulty or unnecessary hardship, so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done; as provided for by Wisconsin Statutes 62.23(7)(e)(7).
- (b) Initiation of Request. The owner of the subject property, or their authorized representative, shall initiate the request.
- (c) Application. Variance applications shall contain the following:
1. A map of the subject property depicting:
    - a. All lands for which the variance is proposed and all other lands within 300 feet of the boundaries of said property.
    - b. Names and addresses of the owners of all lands on said map as they appear on the current records of the Register of Deeds of Waukesha County.
    - c. Current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control.
    - d. All lot dimensions of the subject property.
    - e. A graphic scale and a north arrow.
  2. A site plan of the subject property as proposed for development.
  3. Detailed written description of the proposed variance, including the type of specific requirements of the variance proposed for the subject property and evidence that the application is consistent with the Comprehensive Plan.
- (d) Review by Zoning Administrator.
1. The Zoning Administrator shall review the submitted application and materials and determine whether the application complete and fulfills the requirements of this Chapter. If the application is determined to be incomplete, the Zoning Administrator shall notify the applicant.
  2. The Zoning Administrator shall review the application and prepare a written report including the following:
    - a. Evaluate whether the request is in harmony with the recommendations of the Comprehensive Plan.
    - b. Evaluate the request based upon the criteria used by the Zoning Board of Appeals in their review.

- (e) Public Hearing. Within 60 days of filing of a complete application, the Zoning Board of Appeals shall hold a public hearing to consider the request and must provide a Class II notice.
- (f) Review and Action by the Zoning Board of Appeals.
  - 1. Within 30 days after the holding of the public hearing, the Zoning Board of Appeals shall make its findings per the following based on Wisconsin Statutes 62.23(7)(e)(7):
    - a. The variance will not be contrary to the public interest.
    - b. Substantial justice will be done by granting the variance.
    - c. The variance is needed so that the spirit of the ordinance is observed.
    - d. Due to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship.
  - 2. The Zoning Board of Appeals may request further information and/or additional reports from the Zoning Administrator and/or the applicant. The Zoning Board of Appeals may take final action on said request for approval of the requested variance at time of its initial meeting or said proceedings may be continued from time-to-time for further consideration.
  - 3. The Zoning Board of Appeals may impose such conditions and restrictions as may be necessary to grant approval. The Zoning Board of Appeals may also extend the approval expiration date through the approval process.
  - 4. If the Zoning Board of Appeals fails to make a determination within 30 days after said public hearing, then the request shall be considered denied.
- (g) Effect of Denial. No application for a variance which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.
- (h) Limited Effect of a Variance. Where the Zoning Board of Appeals has granted a variance, such approval shall neither change the use classification of the building or premises, nor give it any status as a non-conforming use other than that which it has as a result of the variance. Granting of a variance shall be considered as unique to the variance granted, and shall not be construed as precedent for any other proposed variance.
- (i) Approval Expiration. A variance shall automatically expire 12 months after the issuance date unless substantial work has commenced under the permit and continues in good faith to completion. Upon applicant petition and with just cause, the zoning administrator may grant a one-time extension not to exceed 12 months provided the permit holder requests the extension prior to the expiration of the permit, the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and the project complies with this chapter in effect at the time the extension is granted.
- (j) Appeal. An aggrieved person may appeal a final decision by the Zoning Board of Appeal by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

~~(20)~~**(19) Interpretations**

- (a) Interpretations concerning whether specific uses are permitted and concerning the precise location of zoning district boundaries shall be made initially by the Zoning Administrator. The Zoning Administrator may forward an interpretation to the Plan Commission to be corroborated or modified. Persons aggrieved by an interpretation of the Zoning Administrator or Plan Commission may appeal such interpretation to the Zoning Board of Appeals as forth **Section 17.XX.**

~~(21)~~**(20) Modifications**

- (a) General. The Town Building Inspector and/or Zoning Administrator, in reviewing building permits, may grant modifications to the terms of this chapter as provided herein.

- (b) Height. The district height limitations stipulated elsewhere in this chapter may be exceeded, but such modification shall be in accord with the following:
1. Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this chapter.
  2. Special structures, such as elevator penthouses, grain elevators, radio and television receiving antennas, satellite dish antennas when mounted on the roof of a principal structure, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this chapter.
  3. Essential services, utilities, water towers, and electric power and communication transmission lines are exempt from the height limitations of this chapter.
  4. Communication structures, such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height their distance from the nearest lot line.
  5. Agricultural structures, such as barns and silos, shall not exceed in height their distance from the nearest lot line.
  6. Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries and governmental offices and stations, may be erected to a height of 60 feet, provided all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.
- (c) Yards. The yard requirements stipulated elsewhere in this chapter may be modified as follows:
1. Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments, may project into any required yard, but such projection shall not exceed two feet.
  2. Accessory structures used for decorating may be placed in the required street yard and side yards. Permitted structures include flagpoles, basketball goals, ornamental light standards, lawn furniture, sundials, and birdbaths or other similar structures as determined by the Zoning Administrator.
  3. Landscaping and vegetation are exempt from the yard requirements of this chapter, but shall comply with the traffic visibility requirements in [§ 17.06\(1\)](#).
  4. Essential services, utilities, and electric power and communication transmission lines are exempt from the yard requirements of this chapter.
- (d) Additions. Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.
- (e) Average street yards. The required street yard or setback may be decreased in any residential district to the average of the existing street yards as measured from the existing principal structures on each side if they are closer than the required street yard, but such modified street yard shall in no case be less than 40 feet.
- (f) Corner lots. Structures shall provide a street yard setback as required by this chapter on each street that the structure abuts as established by the zoning district regulations.
- (g) Double frontage lot. Lots abutting two opposite streets shall provide the street yard setback required by the district in which the lot is located from each street upon which the lot abuts.
- (h) Existing substandard lots.
1. A lot which does not contain sufficient area to conform to the dimensional requirements of this chapter but which is at least 75 feet wide and 10,000 square feet in area may be used as a single-family building site if the use is permitted in the zoning district, the lot is of record in the County Register of Deeds Office prior to the effective date of this chapter and the lot is in separate ownership from abutting lands.

2. If two or more substandard lots with continuous frontage have the same ownership as of the effective date of this chapter, the lots involved shall be considered to be an individual parcel for the purpose of this chapter.
3. Substandard lots granted permits under this section shall be required to meet the setback and other yard requirements of this chapter. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance by the Board of Appeals. A variance shall not be granted if the lot at any time was conveyed to another owner where the common ownership of adjoining lots existed unless a variance was granted for the conveyance.

#### § 17.04 Zoning districts.

- (1) Established. For the purposes of this chapter, the Town is divided into zoning districts of such number as necessary to achieve compatibility of land uses within each district~~17 basic zoning districts and one overlay district~~ as further described in this section. [Amended 12-7-2021 by Ord. No. 2021-004]. The boundaries of the districts enumerated in this section are shown on the map entitled "Zoning Map - Town of Brookfield, Wisconsin," dated December 20, 1988, which map is made a part of this chapter by reference. Any future changes in such maps or later zoning maps that may be adopted by ordinance of the Town Board are also adopted herein by reference. Unless otherwise noted on the Zoning Map, such boundaries shall be construed to follow corporate limits, U.S. Public Land Survey lines, lot or property lines, center lines of streets, highways, alleys, easements and railroad rights-of-way or such lines extended. A certified copy of the Zoning Map shall be adopted and approved with the text as part of this chapter, shall bear upon its face the attestation of the Town Chairperson and Town Clerk and be available to the public in the office of the Town Clerk. Changes thereafter to the general zoning districts shall not become effective until adopted by the Town Board, approved by the Waukesha County Board of Supervisors and entered and attested on the certified copy.

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- (2) Zoning Districts. The following zoning districts are hereby established in the Town of Brookfield:

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<u><b>Agricultural District</b></u>	
<u><b>A-1 Agricultural District</b></u>	<u>Intended to provide for the continuation of general farming and related uses in those areas of the Town that are not yet committed to urban development. It is further the intent of this district to protect lands contained herein from urban development until their orderly transition into urban-oriented districts is required.</u>
<u><b>Residential Districts</b></u>	
<u><b>RS-1 Single-Family Residential District</b></u>	<u>Intended to provide for single-family residential development at densities not to exceed 1.1 dwelling units per net acre.</u>
<u><b>RS-2 Single-Family Residential District</b></u>	<u>Intended to provide for single-family residential development at densities not to exceed 1.5 dwelling units per net acre.</u>
<u><b>RS-3 Single-Family Residential District</b></u>	<u>Intended to provide for single-family residential development at densities not to exceed 2.2 dwelling units per net acre.</u>

<b><u>District</u></b>	
<b><u>RS-4 Single-Family Residential District</u></b>	<u>Intended to provide for single-family residential development at densities not to exceed 2.9 dwelling units per net acre, served by centralized sewer and water facilities.</u>
<b><u>RD-1 Two-Family Residential District</u></b>	<u>Intended to provide for two-family residential development at densities not exceeding 4.4 dwelling units per net acre, served by municipal sewer and water facilities.</u>
<b><u>RM-1 Multifamily Residential District</u></b>	<u>Intended to provide for multifamily residential development at densities not exceeding 4.4 dwelling units per net acre, served by municipal sewer and water facilities.</u>
<b><u>RM-2 Multifamily Residential District</u></b>	<u>Intended to provide for multifamily residential development at densities not exceeding 7.3 dwelling units per net acre. The RM-2 Residential District is intended for use in more intensely developed areas, particularly in areas adjacent to business and manufacturing areas. It is not intended that the RM-2 Residential District be located directly adjacent to single-family residential development in the Town. All RM-2 residential developments should be served by municipal sewer and water facilities.</u>
<b><u>Business/Commercial Districts</u></b>	
<b><u>B-1 Neighborhood Business District</u></b>	<u>Intended for individual and small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood. The character, appearance, and operation of a neighborhood business area should be compatible with surrounding residential areas. No such district shall be less than two acres in area.</u>
<b><u>B-2 Limited General Business District</u></b>	<u>Intended to provide for the orderly and attractive grouping at appropriate locations of businesses offering a wider range of retail products and services than are provided in neighborhood business districts. Many such businesses are related to and dependent upon highway traffic or are specifically designed to serve the need of such traffic.</u>
<b><u>B-3 Office and Professional</u></b>	<u>Intended for individual or small groups of buildings limited to office, professional and special service uses where the office use would be compatible with other neighborhood uses and</u>

<b><u>Business District</u></b>	<u>not exhibit the intense activity of other business districts.</u>
<b><u>Industrial Districts</u></b>	
<b><u>M-1 Limited Manufacturing District</u></b>	<u>Intended to provide for manufacturing, industrial and related uses of a limited nature and size, which on the basis of actual physical and operational characteristics would not be detrimental to the surrounding area or to the Town as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance or other similar factors.</u>
<b><u>M-2 General Manufacturing District</u></b>	<u>Intended for manufacturing and industrial development of a more general and less restrictive nature than the M-1 Limited Manufacturing District in those areas where the relationship to surrounding land use would create fewer problems of compatibility. The M-2 District should not normally abut directly upon residential districts.</u>
<b><u>M-3 Quarrying District</u></b>	<u>Intended to provide for the orderly continuation of existing quarries and related operations and to provide for new operations that provide maximum protection to the natural environment. This district further provides for the restoration of quarries in a manner that will not deteriorate the natural environment of the Town.</u>
<b><u>Public/Semi-Public Districts</u></b>	
<b><u>I-1 Institutional District</u></b>	<u>Intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use for public purpose is anticipated to be permanent.</u>
<b><u>P-1 Park District</u></b>	<u>Intended to provide for areas where the open space and recreational needs, both public and private, of the citizens of the Town can be met without undue disturbance of natural resources and adjacent uses.</u>
<b><u>C-1 Conservancy District</u></b>	<u>Intended to preserve, protect and enhance the ponds, streams and wetland areas of the Town. Preservation, protection and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control stormwater runoff, protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of</u>



	<u>structures on soils which are generally not suitable for use and protect the water-based recreation resources of the Town.</u>
<b><u>Mixed-Use District</u></b>	
<b><u>MU-1 Mixed-Use District</u></b>	<u>Intended to encourage mixed-use development that promotes a range of compatible land uses through appropriate site design. Development is allowed at a higher density than other zoning districts in the Town. The District provides for coordinated development of a variety of uses, such as office, commercial, institutional and residential, and their necessary support functions in the vicinity of key highway intersection and transit corridors. Residential developments within the MU-1 zoning district shall not exceed a density of 24 units per acre. The District is designed to facilitate lively, people-oriented environments that offer a variety of activities that have peak use times throughout the day in order to efficiently utilize infrastructure and keep the area continuously active. The uses may be located in the same building or in separate buildings. The intent is to encourage efficient land use by facilitating compact development and by minimizing the amount of land needed for surface parking. [Added 10-6-2009; amended 6-1-2010; 7-5-2011] Multi-story structures are strongly encouraged to achieve the actual and apparent densities believed necessary to promote a lively, people-oriented environment. Achieving those dynamics is also possible with creative site design, including courts, outdoor dining areas, etcetera. Fake multistory facades are discouraged. A creative use of green building strategies are strongly encouraged in both the building and site design, including green roofs, rain gardens and solar design. Structured parking is strongly encouraged. Additional standards for the MU-1 zoning district are identified in §17-04(7).</u>

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(3) Permitted Land Uses in Zoning Districts. All permitted uses for each zoning district are identified in the Land Use Matrix. This includes uses permitted by right, permitted by conditional use, accessory uses, and temporary uses. The specific land use definition and regulations are identified in § 17-05. If a specific use is not identified, or the Zoning Administrator and/or Plan Commission determines that there is not a similar land uses which is permitted, the use is considered prohibited in the zoning district.

(4) Prohibited Uses. The following uses are considered to be incompatible with the

residential characteristics of the Town and surrounding area and are specifically prohibited in all districts:

(a) Manufacturing, processing or storage of acid, ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives (except as permitted for small arms ammunition), fertilizer, glue, grease, gypsum, insecticides, lampblack, lime, offal, plaster of paris, poison, pulp, pyroxylin and radioactive materials.

(b) Storage of flammable gases or liquids and hazardous chemicals in excess of 50,000 gallons.

(c) Forges, foundries, animal reduction, slaughterhouses, smelters, stockyards, and tanneries.

(2) Zoning District Standards. See the Zoning District Standards Matrix in § 17-XX for zoning district standards for each individual zoning district. This matrix describes the allowable setbacks, height, lot coverage, lot width and size, and other applicable regulations for each district.

(5) Buffer yard required.

(a) Business Zoning Districts.

1. Any business use which abuts a residential district shall provide a ten-foot-minimum buffer yard between the business use and the residential district to screen the business activity from the residential environment in such a manner that:

a. If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height and contain sufficient plant species as to provide dense visual screening within two years and during all seasons of the year.

b. Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side. Any wall or fence shall not be less than four nor more than six feet in height.

c. Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare.

d. All landscaping shall be maintained by the owner or operator to the satisfaction of the Plan Commission.

e. No lighting shall be permitted on or in any part of the buffer yard and no lighting installed elsewhere on the parcel shall throw any rays onto adjacent residential properties.

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i. No signs shall be permitted on or in any part of the buffer yard.

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(b) Manufacturing or Industrial Zoning Districts.

1. Any manufacturing or industrial use which abuts a residential district shall provide a twenty-five-foot-minimum buffer yard between the industrial use and residential district to screen the industrial activity from the residential environment in such a manner that:

a. If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height, and contain sufficient plant species as to provide dense visual screening within two years and during all seasons of the year.

b. Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side. Any wall or fence shall not be less than four feet nor more than six feet in height.

c. Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare.

d. All landscaping shall be maintained by the owner or operator to the satisfaction of the Plan Commission.

e. No lighting shall be permitted on or in any part of the buffer yard and no lighting installed elsewhere on the parcel shall throw any rays onto adjacent residential properties.

i. No signs shall be permitted on or in any part of the buffer yard.

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(7) Additional Standards for the MU-1 Mixed-Use Zoning District.

(a) Lot area and width.

1. Minimum lot area: 20,000 square feet.
2. Minimum lot width: 120 feet.

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(b) Building height and area.

1. Maximum principal building and accessory structure height: 100 feet but does not include rooftop mechanicals or HVAC systems and any screening of such systems.
2. Minimum total floor area of the principal building and all accessory buildings: 50% of the lot area.
4. Maximum total floor area of the principal building and all accessory buildings:

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400% of the lot area. Parking structures shall not be included in the calculation.

5. Minimum usable open space: 15% of the lot area.

- (c) Exceptions to height and area limits. Exceptions to the height and area limitations may be granted under the procedures stated in this section. In no event shall an exception exceed 130 feet in height, excluding rooftop mechanicals or HVAC systems and any screening of such systems, or permit the maximum total floor area of the principal building and all accessory buildings to exceed 500% of the lot area.

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1. The following standards must be met before the Plan Commission and Town Board may consider granting an exception to height and area limits:

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- a. Exceptions shall not be granted to single-use buildings ~~s, such as buildings that only contain office uses~~ Goods and services that are only available to tenants and/or guests of a building shall not be considered separate from the main use, such as an office cafeteria or a condominium exercise facility.
- b. If office uses are included in the project the developer must submit a workable and binding Transportation Demand Management (TDM) plan that will result in at least a 15% reduction in car traffic to the proposed office uses through implementation of such things as carpooling, transit, remote/hybrid work options, shared ride programs, paid parking, etc.
- c. If residential units are included in the project, the Town may require the inclusion of affordable units for people making less than 80% of the county median income for a family size appropriate to unit. The inclusion of affordable units shall weigh into the decision regarding any exceptions to height or area limits, should they be requested by the developer. Affordable unit size and finish shall be roughly comparable to equivalent market-rate units. The mix of affordable unit layouts (studio, one-bedroom, two-bedroom, three-bedroom) shall be at a ratio comparable to the market-rate unit layouts.

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2. An applicant may, at their discretion, request feedback from the Plan Commission and Town Board during conceptual review and under § 17.02(7)(a), Conceptual approval regarding, on the potential for granting an exception. Favorable feedback regarding the potential of an exception by the Plan Commission and/or the Town Board does not grant any rights to the developer or ~~property, and~~ property and shall not be interpreted as guaranteeing final approval to an exception. A request for an exception shall be made as part of the plan review process under section § 17.03(11)(b)2.a.iv, 04(21)(h). The Plan Commission shall forward its recommendation for approval or denial of the request, with accompanying reasons for approval or denial, to the Town Board during Site Plan Review process. Following Plan Commission review, consideration of the request shall be placed upon the next Town Board meeting agenda, and shall be acted upon by the Town Board at said meeting.

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- (d) Setback and yards.

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1. Minimum street setback: 102 feet.

2. Maximum street setback: 70 feet.

3. Minimum side and rear setback: 10 feet, unless otherwise established by the Town Board.

4. Buildings that abut a residential district shall be set back a distance that is greater than 50% of their height. If a building steps back, such that floors terminate at different heights, each level shall be treated as a separate building for the purposes of measuring the appropriate setback in relation to height. All buildings and accessory structures shall have a minimum setback of 20 feet from adjoining residential parcels.

~~(ch)~~ Required Plans and Specifications, to be submitted to the Plan Commission. To encourage a mixed-use environment that is pedestrian-oriented and well-integrated with its surroundings, building permits for permitted uses in the MU Mixed-Use District shall not be issued without review and approval of the development plans, and a proposed Plan of operation, as outlined in Section 17.03 by the Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization, building design and materials, and pedestrian and bicycle facilities and mobility. Building plans shall be prepared by a registered architect or engineer and are subject to Wisconsin Department of Commerce (COMM) approval prior to the issuance of a building permit. Buildings and site plans for areas within the MU Mixed-Use District shall comply with the standards in this subsection ~~§ 17.04(21)(e)~~, in addition to the standards in ~~§ 17.03(126)~~ and 17.03(13). In the event that any standards are found contradictory between those two sections, ~~§ 17.04(21)(e)~~ this subsection shall govern. Projects proposed for the area included in the Redevelopment Plan for the Bluemound Road Corridor, adopted on July 1, 2008 by the Town Board, shall comply with the provisions in that plan. These standards identify the desired height, density and design characteristics of redevelopment projects within this area. The Planning Commission will review and approve all zoning and land use applications, as necessary, for compliance with this chapter and the Redevelopment Plan referenced above. In addition to the standards contained in ~~§ 17.03(126)~~ and 17.03(13), site plans and architectural plans in this district will be reviewed for compliance with the design standards below. In cases where standards identified within the Bluemound Road Corridor Redevelopment Plan are more stringent than this chapter, the plan shall supersede the minimum requirements established by this chapter.

1. Building orientation and access.

a. Principal buildings within the district shall be oriented toward streets, courtyards or plazas so as to promote a pedestrian-oriented environment. Site design shall accommodate access by auto and pedestrian traffic. Broad parking fields between the building and streets are discouraged.

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b. The design shall utilize a variety of compatible exterior materials, building styles, massing, composition, articulations, and/or prominent architectural features. The street-facing portion of an interior oriented building cannot be built as a solid wall facing the street.

c. Development that includes a commercial component shall have:

- i. Storefront windows that provide transparency to the building at the pedestrian level. The design shall provide a traditional urban retail streetscape aesthetic. Glass is to be clear or tinted, not reflective.
- ii. A prominent location relative to the existing commercial uses located in the surrounding area in order to provide a continuity of the commercial presence in the community.
- iii. Direct and visible access noticeable from the street to uses (residential or commercial) located above ground level.
- iv. Built-in flexibility so as to allow conversion from one commercial use to another and to ensure that commercial space that is adequate for retail is also adequate for a variety of other uses.
- v. Food and drink establishments are encouraged to incorporate outdoor dining opportunities into their plans.

d. Single-use residential buildings shall be situated so as to not disrupt the continuity of a commercial district or corridor.

2. Pedestrian-oriented design.

- a. Development should be connected to adjacent development with direct, convenient and attractive sidewalks and/or pathways.
- b. Development should provide internal and/or public pedestrian connections that are direct, convenient and pleasant with appropriate amenities (e.g., attractive sidewalks and benches).
- c. Outdoor seating for restaurants is encouraged, and may extend into rights-of-way or access easements of streets or public ways if a minimum sidewalk clearance and/or distance to curbline of five feet is maintained.
- d. Development should incorporate the following criteria listed below, as appropriate:
  - i. Main building entrances that open directly to the outside;
  - ii. A variety of paving colors and textures to encourage way-finding throughout the site;

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- iii. At least one entrance per building that does not require passage through a parking lot or garage to gain access to the building;
  - iv. Corner buildings shall have corner entrances whenever possible;
  - v. Sidewalks and/or plazas with weather protection (e.g., awnings/canopies) and appropriate pedestrian amenities (e.g., street tree grates, outdoor seating, trash cans, mailboxes, sidewalk displays, public art, etc.).
  - vi. Streets and drive-aisles with traffic calming elements such as bulbouts and raised or textured pedestrian crosswalks.
3. Parking, loading and access. Development within mixed-use districts shall follow § 17.076 of these ordinances. The design of parking in mixed-use districts shall be subject to the following additional standards.
- a. Minimum parking standards ~~for land uses in § 17.06(3)(b)~~ may be waived by the Plan Commission if the applicant provides a shared parking plan that complies with the criteria below. The amount of parking spaces required shall be based on shared parking criteria, listed below, that is met by the proposed project. In no case shall minimum parking requirements be reduced where, based on substantial evidence, there is insufficient off-street parking to meet the needs of the development.
    - i. Parking spaces proposed for shared parking arrangements shall be within a reasonable distance of all uses they are to serve.
    - ii. The applicant shall submit sufficient data to indicate that the peak hours of operation of uses or activities proposed for shared parking arrangements do not substantially coincide or overlap with each other.
    - iii. Transit alternatives are available as part of the development or within 1,000 feet of the development's boundary.
    - iv. No more than 50% of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use.
    - v. If more than one parcel is involved, the property owner(s) involved in the shared use of off-street parking facilities shall submit a legal agreement approved by the Town Attorney as to form and content guaranteeing that said required parking spaces shall be maintained so long as the use requiring parking is in existence or unless the required parking is provided elsewhere in accordance with the provisions of this article. Such instrument, when approved as conforming to the provisions of this section, shall be recorded by the property owner in the office of the Waukesha County Register of Deeds and a copy thereof filed with the Zoning Administrator.
  - b. Shared access/cross-access shall be provided wherever possible. Within

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existing and planned retail centers and adjacent properties, provision to preserve future shared access is required if not provided immediately. Easements are required to provide and preserve shared access and shall be recorded in the office of the Waukesha County Register of Deeds.

- c. If surface parking is located to the side of a building, the parking shall be screened by a decorative fence or hedge.
- d. Facilities to lock bicycles shall be provided for each building larger than 5,000 square feet. A structured/covered parking area for bicycles shall be provided if structured parking is provided for automobiles.

- 4. Open space. Developments should provide usable open space, enhance the vitality of existing commercial activity, and recognize and respond appropriately to adjacent existing or planned public spaces (e.g., civic buildings, sidewalks, plazas, and similar spaces.) A shared and interconnected open space network is encouraged between developments to avoid small, unconnected spaces that have the potential of being underutilized. Shared and interconnected spaces could be in the form of pedestrian ways (galleries), courts or plazas.

(f) Buffer yard required. A minimum twenty-foot buffer yard is required between structures within the MU district and adjoining residential districts to screen activities. Buffer yards shall meet the following requirements:

- 1. If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height and contain sufficient plant species so as to provide dense visual screening within two years and during all seasons of the year.
- 2. Where architectural walls or fences are used, sufficient landscaping shall be used with such wall or fence to create an attractive view from the residential side. No wall or fence shall be less than four feet, nor more than six feet in height.
- 3. Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare. The screening requirement shall be effective prior to occupancy.
- 4. All landscaping shall be maintained by the property owner or operator to the satisfaction of the Plan Commission.

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## Section 17.05 Land Use Regulations

- (1) Purpose. The purpose of this Section is to indicate which land uses may locate in each zoning district and under what requirements; and which land uses may not locate therein. Certain land uses may locate in a given district as a matter of right upon compliance with special regulations for such a land use. A further distinction is made for land uses which may locate in a given district only upon obtaining a conditional use or temporary use permit.
- (2) Regulation of Allowable Uses. The allowable land uses for each zoning district are established in the Land Use Matrix in §17-05(5). Detailed descriptions and regulations for uses are found in §17.05(4)a. thru §17.05(4)p. Even if a land use may be indicated as permitted by right or requiring a conditional use in a particular district, such a land use may not necessarily be permitted or permissible on any or every property in such district. No land use is permitted or permissible on a property unless it can be located on it or implemented in full compliance with all of the applicable standards and regulations of this Section or unless an appropriate variance has been granted pursuant to §17.03(19). For land uses not specifically listed, the Zoning Administrator shall make an interpretation to determine if there is a similar land use, may forward to Plan Commission for corroboration, or may determine that an amendment to this Chapter is necessary.
  - (a) Principal Land Uses Permitted by Right. Principal land uses listed as permitted by right (designated by the letter “P” in the Land Use Matrix) are permitted per the general land use requirements of this Section; per the zoning district standards of the specific zoning district in which they are located; per any additional requirements imposed by applicable overlay districts; per all other applicable requirements of this Section; and per any and all other applicable City, county, state, and federal regulations. In some instances, permitted uses may be considered accessory uses as determined by the Zoning Administrator.
  - (b) Principal Land Uses Permitted by Conditional Use. Principal land uses allowed only with a conditional use permit (designated by the letter “C” in the Land Use Matrix) may be permitted subject to all the requirements applicable to uses permitted by right as listed in Subsection (a), above, plus any additional requirements applicable to that particular land use imposed as part of the conditional use permit process established in Section 17.03(15). Each application for, and instance of, a conditional use shall be considered a unique situation and shall not be construed as precedence for similar requests. Except for uses approved under a planned unit development, all uses requiring a conditional use permit shall comply with the procedural requirements of Section 17.03(15).
  - (c) Accessory Land Uses. Accessory land uses are allowed subject to all the requirements and exemptions applicable to principal land uses permitted by right as listed in Subsection (a), above. Accessory land uses allowed only with a conditional use permit are subject to all the requirements and exemptions applicable to principal land uses requiring a conditional use permit as listed in Subsection (b), above. Accessory land uses shall also comply with the regulations listed in Section 17-05(xx). No accessory use shall be established on any lot prior to the establishment of an allowable principal use, unless

otherwise stated in this Chapter. Town parks are exempt from this requirement. In no instance shall an accessory building, cellar, basement, tent, or recreational trailer to be used as a residence

- (d) Temporary Land Uses. Temporary land uses permitted by right (designated by the letter “P” in the Land Use Matrix) are permitted on a temporary basis subject to permitting requirements of Section 17-XX. Temporary land uses permitted only with a conditional use permit (designated by the letter “C” in the Table of Land Uses) may be permitted subject to temporary use and conditional use permitting requirements of Sections 17-XX.

1. The following are permitted as temporary uses without complying with the permit requirements of this section.
  - a. Temporary uses and structures needed as the result of a natural disaster or other health and safety emergencies during the period of the emergency.
  - b. Temporary events or activities occurring within, or upon the grounds of, a private residence or upon the common areas of a multiunit residential development.
  - c. Temporary uses conducted on public property, provided such uses have been approved by the Town Board or other duly authorized Town official.

- (3) Regulations Applicable to All Land Uses. All uses of land initiated within the jurisdiction of this Section on, or following, the effective date of this Section shall comply with all of the provisions of this Section, unless otherwise stated.

- (4) Detailed Land Use Descriptions and Regulations

- (a) Agricultural Land Uses

1. Cultivation -

- a. Operations primarily oriented to the on-site, outdoor raising of plants for commercial purposes. Cultivation includes the raising of trees as a crop to be replaced with more trees after harvesting, such as in nursery or Christmas tree operations. The raising of plants for consumption by farm animals is considered Cultivation if said plants are consumed by animals which are located off-site. This land use excludes Community Garden and Market Garden
- b. Regulations:
  - i. *None.*

2. Husbandry

- a. Operations primarily oriented to the on-site raising and/or use of animals. This includes the raising and/or use of horses, cattle, sheep, goats, llamas, deer, antelope, swine, fowl, aquatic species, bees, and any animals typically hunted or trapped. This excludes animals typically kept as pets and commonly available at commercial pet stores (e.g., domestic dogs and cats, fish, small rodents, reptiles, amphibians, tropical/exotic birds).
- b. Regulations:

- i. *Animal Enclosures - Indoor*: Any building housing animals shall be located a minimum of 300 feet from any residentially zoned property and 100 feet from all other lot lines.
    - ii. *Animal Enclosures – Outdoor*: All outdoor animal containments, which generally include pastures and pens, shall be located a minimum of 50 feet from any residentially zoned property.
  - 3. Community Garden
    - a. Areas intended for cultivation and related activities divided into one or more plots to be cultivated by more than one operator or member. These areas may be on public or private lands and may be considered principal or accessory uses.
    - b. Regulations:
      - i. *Setbacks*: All garden activity areas and structures shall be located a minimum of 15 feet from lot line.
      - ii. *Permitted Structures*: Structures permitted: tool sheds, pavilions or other structures intended for providing shade, restrooms, barns, planting preparation houses, benches, picnic tables, compost bins, bike racks, raised/accessible planting beds, artwork, and rain barrels or other stormwater features.
  - 4. Greenhouse
    - a. A place where fruit, vegetables, flowers, and other types of plants are grown within an enclosed building for commercial purposes, whether using sunlight or artificial lighting. Plants grown on site may be sold at retail along with other related merchandise provided the sale of such merchandise is clearly subordinate to the sale of plants.
    - b. Regulations:
      - i. *Parking*: 1 space for each employee on largest work shift.
- (b) Residential Land Uses
- 1. Single-Family
    - a. A building containing one dwelling unit that is located on one lot and is not attached to any other dwelling unit by any means.
    - b. Regulations:
      - i. *Parking*: 2 spaces for each dwelling unit.
      - ii. *Number of Principal Structures*: No more than one principal residential building shall occupy any single parcel of land except as allowed otherwise under this chapter.
      - iii. *Occupancy*: A dwelling unit shall be occupied by no more than one family.
      - iv. *Building Code*: The dwelling must be attached to a finished, permanent foundation, such as a poured concrete slab or basement meeting State of Wisconsin Uniform Dwelling Code (UDC) requirements.
  - 2. Two-Family
    - a. A building containing two dwelling units located on one lot.
    - b. Regulations:

- i. *Parking*: 1.5 spaces for each dwelling unit.
  - ii. *Number of Principal Structures*: No more than one two-family building shall occupy any single parcel of land except as allowed otherwise under this chapter.
  - iii. *Occupancy*: A dwelling unit shall be occupied by no more than one family.
  - iv. *Building Code*: The dwelling must be attached to a finished, permanent foundation, such as a poured concrete slab or basement meeting State of Wisconsin Uniform Dwelling Code (UDC) requirements.
- 3. Townhouse (3-8 units)
  - a. A building containing 3 to 8 units that are separated by a party wall that extends from the ground to the roof and each of the units are located on a separate lot and have a separate entrance. This use is also referred to as single-family attached or rowhouse.
  - b. Regulations:
    - i. *Parking*: 1.5 space for each dwelling unit.
    - ii. *Utilities*: Each dwelling unit shall have independent service connections to all utilities, including water, sewer, and electricity.
    - iii. *Addition of Dwelling Units*: This dwelling unit type shall not be split into additional residences.
    - iv. *Driveway*: When more than one garage is located in the front of a townhouse, a common driveway shall be used when accessing public right-of-way.
    - v. *Vertical Offset*: Any building including 5 or more townhouse dwelling units shall provide a vertical offset of at least 2 feet between each adjoining dwelling unit.
    - vi. *Front Elevation*: The front entrance to each dwelling unit shall be clearly visible from the public street on which it fronts and accentuated by a porch or other architectural feature.
- 4. Multi-Family (3-8 units)
  - a. A building containing 3-8 units that are situated on one other than a townhouse.
  - b. Regulations:
    - i. *Parking*: 1.5 space per dwelling unit.
    - ii. *Principal Buildings Per Lot*: More than one multi-family building may be located on one lot, provided the overall density is maintained and subject to Plan Commission approval.
    - iii. *Amenities*: Plan Commission may require additional site design features to be provided such as underground parking, architectural elements, landscaping, and on-site recreational facilities.
- 5. Multi-Family (9-15 units)
  - a. A building containing 9-15 units that are situated on one lot.
  - b. Regulations:
    - i. *Parking*: 1.5 space per dwelling unit.

- ii. *Principal Buildings Per Lot*: More than one multi-family building may be located on one lot, provided the overall density is maintained and subject to Plan Commission approval.
  - iii. *Amenities*: Plan Commission may require additional site design features to be provided such as underground parking, architectural elements, landscaping, and on-site recreational facilities.
- 6. Multi-Family (15+ units)
  - a. A building containing 9-15 units that are situated on one lot.
  - b. Regulations:
    - i. *Parking*: 1.5 space per dwelling unit.
    - ii. *Principal Buildings Per Lot*: More than one multi-family building may be located on one lot, provided the overall density is maintained and subject to Plan Commission approval.
    - iii. *Amenities*: Plan Commission may require additional site design features to be provided such as underground parking, architectural elements, landscaping, and on-site recreational facilities.
- 7. Mixed-Use Housing
  - a. One or more dwelling units located in a building, commonly on the second floor, that also houses a commercial, office, or institutional land use, such as a retail use or professional office.
  - b. Regulations:
    - i. *Parking*: 1 space for each dwelling unit.
    - ii. *Stairs*: Any dwelling unit located on the second floor or higher shall be served by stairs located within the building (i.e., exterior stairs are not permitted).
- 8. Community Living Arrangements (8 persons or less)
  - a. Facilities including community living arrangements for adults (per Wisconsin Statutes 46.03(22)), community living arrangements for children (per Wisconsin Statutes 48.743), and community based residential facilities (per Wisconsin Statutes 50.01(1g)). Community Living Arrangement Facilities are do not include Commercial Day Care Centers, nursing homes, hospitals, prisons, or jails. Community Living Arrangement facilities are regulated depending upon their capacity as provided for in Wisconsin Statutes 62.23(7)(i), provided any such regulations do not violate federal or state housing or anti-discrimination laws.
  - b. Regulations:
    - i. *Distance*: No Community Living Arrangement shall be established within 2,000 feet of any other such facility regardless of capacity.
    - ii. *Parking*: 1 space per employee on largest shift; plus 1 space per every 3 beds.
    - iii. *Foster Homes*: Foster homes housing 4 or fewer children and licensed under Wisconsin Statutes 48.62 shall not be subject to regulations listed above.
    - iv. *Exceptions to Additional Regulations*: The Plan Commission may grant exceptions to any of these regulations by issuance of a conditional use permit.
- 9. Community Living Arrangements (9-15 persons)

- a. Facilities including community living arrangements for adults (per Wisconsin Statutes 46.03(22)), community living arrangements for children (per Wisconsin Statutes 48.743), and community based residential facilities (per Wisconsin Statutes 50.01(1g)). Community Living Arrangement Facilities are do not include Commercial Day Care Centers, nursing homes, hospitals, prisons, or jails. Community Living Arrangement facilities are regulated depending upon their capacity as provided for in Wisconsin Statutes 62.23(7)(i), provided any such regulations do not violate federal or state housing or anti-discrimination laws.
  - b. Regulations:
    - i. *Distance*: No Community Living Arrangement shall be established within 2,000 feet of any other such facility regardless of capacity.
    - ii. *Parking*: 1 space per employee on largest shift; plus 1 space per every 3 beds.
    - iii. *Foster Homes*: Foster homes housing 4 or fewer children and licensed under Wisconsin Statutes 48.62 shall not be subject to regulations listed above.
    - iv. *Exceptions to Additional Regulations*: The Plan Commission may grant exceptions to any of these regulations by issuance of a conditional use permit.
10. Community Living Arrangements (16 persons or more)
- a. Facilities including community living arrangements for adults (per Wisconsin Statutes 46.03(22)), community living arrangements for children (per Wisconsin Statutes 48.743), and community based residential facilities (per Wisconsin Statutes 50.01(1g)). Community Living Arrangement Facilities are do not include Commercial Day Care Centers, nursing homes, hospitals, prisons, or jails. Community Living Arrangement facilities are regulated depending upon their capacity as provided for in Wisconsin Statutes 62.23(7)(i), provided any such regulations do not violate federal or state housing or anti-discrimination laws.
  - b. Regulations:
  - c. *Distance*: No Community Living Arrangement shall be established within 2,000 feet of any other such facility regardless of capacity.
  - d. *Parking*: 1 space per employee on largest shift; plus 1 space per every 3 beds.
  - e. *Exceptions to Additional Regulations*: The Plan Commission may grant exceptions to any of these regulations by issuance of a conditional use permit.
- (c) Commercial Land Uses
1. Office
- a. Indoor offices where the primary function is the handling of information or administrative services. Office uses do not typically provide services directly to customers on a walk-in basis. This use includes data processing centers, customer service centers, architectural and engineering firms, and other similar uses.
  - b. Regulations:
    - i. *Parking*: 1 space per 350 square feet of gross floor area.
    - ii. *Offices in M-1 or M-2*. Office land uses are only permitted in existing buildings and the Plan Commission shall review the plan of operation to

determine if the specific office use is appropriate in the M-1 or M-2 zoning district.

Commented [BH1]: Ask MVK if this is even possible.

## 2. Financial Service

- a. A place where financial and banking services are offered. This use includes banks, saving and loans institutions, insurance agency, other lending institutions, title loan businesses, and payday loan businesses.

### b. Regulations:

- i. *Parking*: 1 space per 300 square feet of gross floor area.
- ii. *Drive-Through Services*:
  - (i) *Conditional Use Permit Required*: A conditional use permit is required for any financial service drive-through.
  - (ii) *Restriction*: Drive-through services are not permitted in the B-1 zoning district.
  - (iii) *Traffic Circulation*: The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
  - (iv) *Public Safety*: In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if this land use is permitted in the zoning district.
  - (v) *Interior Curbs*: Interior curbs shall be used to separate driving areas from exterior fixtures such as menu boards, canopy supports, and landscaped islands. Said curbs shall be a minimum of 6 inches high and shall be of a non-mountable design.
  - (vi) *Stacking Length*: Each drive-through land shall have a minimum stacking length of 100 feet behind the pass through window and 40 feet beyond the pass through window. This requirement may be waived by the Plan Commission.
  - (vii) *Digital Menu Boards*: Digital Menu Boards may be permitted upon approval by the Plan Commission. The Plan Commission may require additional landscaping or screening to be provided to screen the menu board from surrounding properties or road right-of-ways. The Plan Commission may also place restrictions on the brightness, timing, and size of the digital menu board.
- iii. *Spacing requirements for payday lenders*:
  - (i) The payday lender must be located at least 1,500 feet from another payday lender.
  - (ii) The payday lender must be located at least 150 feet from any single-family or two-family residential zoning district or planned unit development with single-family or two-family residential uses.
  - (iii) *Exceptions to the Location Requirement*. If a payday lender that is doing business on January 1, 2011, from a location that does not comply with the space requirements in this section, the payday lender may continue to operate from that location.

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3. Personal Service
  - a. Indoor service land uses where the primary function is the provision of services directly to an individual on a walk-in or appointment basis. Examples of such uses include establishments where customers make an appointment, such as barber shops, beauty shops, massage therapy, tattoo parlors, and related land uses including ancillary on-site production of items used in the provision of such services.
  - b. Regulations:
    - i. *Parking*: 1 space per 350 square feet of gross floor area.
    - ii. *Licensing*: Massage therapists must obtain a license from the Town.
4. Professional Service
  - a. A place where services involving predominantly professional, clerical, or similar operations are performed and where customers may or could come on a regular basis. This term includes law offices, real estate offices, insurance offices, and travel agencies.
  - b. Regulations:
    - i. *Parking*: 1 space per 350 square feet of gross floor area.
5. Artisan Studio and Store
  - a. A building or portion of a building used for the preparation, display and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items. This use is more intended for retail space and over half of the space is dedicated to retail area or open to the public.
  - b. Regulations:
    - i. *Parking*: 1 space per 350 square feet of gross floor area.
6. Indoor Sales or Service
  - a. The sale and/or display of merchandise or equipment or non-personal or non-professional services, entirely within an enclosed building. Includes general merchandise stores, grocery stores, butcher shops, sporting goods stores, antique stores, hardware and building supply (indoors), gift shops, laundromats, bakeries, pawn shops, and a number of similar uses that meet this definition. The Plan Commission may determine whether a proposed use meets this definition during the business plan of operation approval process.
  - b. Regulations:
    - i. *Parking*: 1 space per 300 square feet of retail floor area.
    - ii. *Access*: The primary access to a retail sales operation shall be located off of a street classified as a collector or higher classification as determined by the Wisconsin Department of Transportation.
7. Restaurant
  - a. An establishment where food and beverages are offered for retail sale for on-site or off-site consumption, and where the on-site consumption of fermented malt beverages, wine, or liquor, if any, is clearly secondary and subordinate to the sale



of food and nonalcoholic beverages. A restaurant may also prepare food as part of a catering business. This term does not include a grocery store with a food service option.

b. Regulations:

- i. *Parking*: 1 space per every 3 patron seats or 1 space for each 300 feet of gross floor area devoted to patron service, whichever is greater; plus 1 space for each employee on the largest shift.
- ii. *Customer Entrance Setback*: Any customer entrances facing abutting property zoned Single-Family Residential shall be located at least 100 feet from said abutting property line. The Plan Commission may grant exceptions to this requirement.
- iii. *Outdoor Dining*: Outdoor dining areas associated with an indoor restaurant may be approved by the Plan Commission. Plan Commission may provide additional requirements such as, but not limited to, allowable hours of operation, amplified sound restrictions, additional barriers between dining area and parking area or sidewalks, and restrictions on serving alcohol.

8. Drive-Through Restaurant

- a. An establishment used for the sale, dispensing, or serving of food, refreshments, or beverages in or on disposable plates and cups, including those establishments where customers may serve themselves and may eat and drink on or off the premises. Contemporary drive-in or fast-food restaurants often offer drive-through service. "Drive-through restaurant" shall not include an establishment that serves food, refreshments, or beverages in or on disposable plates and cups, and is located in a shopping center with three or more attached business/retail establishments, and does not provide drive-through service.

i. Regulations:

- (i) *Parking*: Any restaurant that only provides drive-thru service shall provide at least 1 parking space per employee on the largest work shift. Any restaurant that provides both internal and drive-thru food service at any time must provide 1 space per every 3 patron seats or 1 space for each 300 feet of gross floor area devoted to patron service, whichever is greater; plus 1 space for each employee on the largest shift.
- (ii) *Internal Pedestrian Crosswalks*: Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the drive-through lane.
- (iii) *Traffic Circulation*: The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
- (iv) *Public Safety*: In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if this land use is permitted in the zoning district.

- (v) *Interior Curbs*: Interior curbs shall be used to separate driving areas from exterior fixtures such as menu boards, canopy supports, and landscaped islands. Said curbs shall be a minimum of 6 inches high and shall be of a non-mountable design.
- (vi) *Stacking Length*: Each drive-through land shall have a minimum stacking length of 100 feet behind the pass through window and 40 feet beyond the pass through window. This requirement may be waived by the Plan Commission.
- (vii) *Digital Menu Boards*: Digital Menu Boards may be permitted upon approval by the Plan Commission. The Plan Commission may require additional landscaping or screening to be provided to screen the menu board from surrounding properties or road right-of-ways. The Plan Commission may also place restrictions on the brightness, timing, and size of the digital menu board.
- (viii) *Customer Entrance Setback*: Any customer entrances facing abutting property zoned Single-Family Residential shall be located at least 100 feet from said abutting property line. The Plan Commission may grant exceptions to this requirement by issuance of a conditional use permit.
- (ix) *Outdoor Dining*: Outdoor dining areas associated with an indoor restaurant may be approved as an accessory use by the Plan Commission. Plan Commission may provide additional requirements such as, but not limited to, allowable hours of operation, amplified sound restrictions, additional barriers between dining area and parking area or sidewalks, and restrictions on serving alcohol.

#### 9. Tavern

- a. A place where fermented malt beverages, wine, or liquor are offered for retail sale for on-site consumption and where food consumption, if any, is clearly secondary and subordinate to the sale of alcoholic beverages. This term includes bars, drinking establishments, sports bars, and lounges.
- b. Regulations:
  - i. *Parking*: 1 space per every 3 patron seats or 1 space for each 300 feet of gross floor area devoted to patron service, whichever is greater; plus 1 space for each employee on the largest shift.
  - ii. *Customer Entrance Setback*: Any customer entrances facing abutting property zoned Single-Family Residential shall be located at least 100 feet from said abutting property line. The Plan Commission may grant exceptions to this requirement by issuance of a conditional use permit.

#### 10. Brewpub

- a. A place where fermented malt beverages are manufactured and those beverages, along with other beverages and food, are offered for retail sale and on-site consumption.
- b. Additional Regulations:

- i. *Parking*: 1 space per every 3 patron seats or 1 space for each 300 feet of gross floor area devoted to patron service, whichever is greater; plus 1 space for each employee on the largest shift.
- ii. *Customer Entrance Setback*: Any customer entrances facing abutting property zoned Single-Family Residential shall be located at least 100 feet from said abutting property line. The Plan Commission may grant exceptions to this requirement by issuance of a conditional use permit.
- iii. *Beverage Production*: No more than 40% of the floor area shall be devoted to the production of fermented malt beverages, including storage of raw materials and finished products. Not more than 10,000 barrels (310,000 gallons) of fermented malt beverages may be manufactured in a calendar year.

#### 11. Indoor Entertainment

- a. Land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours that extend later than other commercial land uses. Examples of this land use include, but are not limited to, movie theaters, dance halls, and theaters for performing arts. This term does not include adult-oriented establishments.
- b. Regulations:
  - i. *Parking*: 1 space per 3 patron seats plus 1 space for each employee on the largest work shift.
  - ii. *Customer Entrance Setback*: Any customer entrances facing abutting property zoned Single-Family Residential shall be located at least 100 feet from said abutting property line. The Plan Commission may grant exceptions to this requirement by issuance of a conditional use permit.

#### 12. Indoor Recreation

- a. Land uses which provide recreational activities entirely within an enclosed building. Such activities often have operating hours that extend later than other commercial land uses. Examples of this land use include, but are not limited to, health and fitness centers or studios, bowling alleys, skating rinks, billiard and pool halls, arcades, golf simulators, and ax throwing.
- b. Regulations:
  - i. *Parking*: 1 space per 3 patron seats plus 1 space for each employee on the largest work shift.
  - ii. *Customer Entrance Setback*: Any customer entrances facing abutting property zoned Single-Family Residential shall be located at least 100 feet from said abutting property line. The Plan Commission may grant exceptions to this requirement by issuance of a conditional use permit.

#### 13. Outdoor Recreation

- a. A place where outdoor recreational activities are offered. This term includes, mini-golf courses, batting cages, stadiums, drive-in theaters, golf courses, outdoor

golf simulator with driving range, water parks, and amusement parks. This term does not include practice driving ranges or parks.

b. Regulations:

- i. *Parking*: 1 space per 4 patrons at design capacity; plus 1 space per employee on the largest work shift.
- ii. *Hours of operation*: The Plan Commission may establish hours of operation during the business plan of operation or conditional use permit approval.
- iii. *Bufferyard*: Facilities using night lighting and abutting a residentially zoned property shall install and continually maintain a 50 foot bufferyard with landscaping and a fence and/or berm, to the satisfaction of the Plan Commission and Town Board, along the property line abutting said residentially zoned property.
- iv. *Activity Areas*: Any activity areas shall be located at least 300 feet from any residentially zoned property.

14. Practice Driving Range

- a. A place where golfers practice driving golf balls from a fixed central location. This use may include one or more buildings and other structures directly related to the operation of this use, such as an office, snack bar, and buildings for housing maintenance equipment, supplies, and related materials.
- b. Regulations:
  - i. *Parking*: 1 space per driving station.
  - ii. *Fencing*: The Plan Commission may require the business to install fencing when deemed necessary to protect the public health, safety, and welfare.

15. General Veterinary Clinic

- a. A place where medical services for small and large animals are offered. This use may include office space, medical labs, appurtenant facilities, and indoor and outdoor enclosures for animals under the immediate medical care of a veterinarian.
- b. Regulations:
  - i. *Parking*: 1 space per 350 square feet of gross floor area.
  - ii. *Setbacks*: Any building used to house animals shall be at least 100 feet.

16. Commercial Indoor Lodging

- a. Facilities where overnight housing in individual rooms or suites of rooms is provided, with each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens and may also provide indoor recreational facilities for the exclusive use of their customers.
- b. Regulations:
  - i. *Parking*: 1 space per bedroom, plus 1 space per employee.
  - ii. *Customer Entrance Setback*: Any customer entrances facing abutting property zoned Single Family Residential shall be located at least 100 feet from said abutting property line. The Plan Commission may grant exceptions to this requirement by issuance of a conditional use permit.

- iii. *Swimming Pools.* Outdoor swimming pools shall be reviewed and approved by the Plan Commission as a part of the site plan review.

17. Animal Boarding

- a. Facilities where short-term and/or long-term boarding is provided, including commercial kennels and animal shelters. Exercise yards, fields, training areas, and trails associated with such land use is considered accessory to the animal boarding land use.
- b. Regulations:
  - i. *Parking:* 1 space per 500 square feet plus 1 per employee on the largest work shift.
  - ii. *Indoor Containment Area:* Each animal shall be provided with an indoor containment area.
  - iii. *Additional Setbacks:* All principal structures, principal uses, and exterior activities areas shall be located at least 100 feet from any residentially zoned property.

18. General Repair

- a. A place where consumer goods such as shoes, bicycles, appliances, computers, and business equipment are repaired. This term does not include repair of motor vehicles or industrial equipment.
- b. Regulations:
  - i. *Parking:* 1 space per 400 square feet of gross floor area.
  - ii. *Exterior Use:* All activities related to this use shall occur within an enclosed building. Uses located in the M-1 or M-2 zoning districts may be allowed to include exterior activities if the Plan Commission approves as a part of the Business Plan of Operation Approval.

19. Funeral Homes

- a. A place where the deceased may be prepared for burial or cremation and people may gather for visitation or funeral ceremonies. The indoor display of funeral equipment may also occur.
- b. Regulations:
  - i. *Parking:* 1 space for each 3 patron seats at the maximum capacity; plus 1 space per employee on the largest shift.
  - ii. *Distance:* All structures and parking areas, not including driveways and drive access, shall be located at least 25 feet from any lot line.

20. Large Equipment Rental

- a. A place where large equipment that is normally stored outdoors is offered for rent or lease. Typical items may include modular buildings, trucks and trailers, vertical lifts, skid loaders, forklifts, backhoes, excavators, and other types of heavy equipment.
- b. Regulations:

- i. *Parking*: 1 space for each 8,000 square feet of outdoor display area; plus 1 space for each employee on the largest work shift.
- ii. *Outdoor Areas*: Outdoor display and storage areas and other activity areas shall comply with the principal building setback requirements for the zoning district in which the use is located.
- iii. *Exterior Storage*: No storage area shall be located between the principal structure and road right-of-way.

21. Small Equipment Rental

- a. A place where equipment is offered for rent and related supplies are offered for retail sale or rent. Items for rent or sale are predominantly stored indoors and may include hand tools, party equipment, and lawn and yard equipment.
- b. Regulations:
  - i. *Parking*: 1 space for each 300 square feet of gross floor area; plus 1 space for each employee on the largest work shift.
  - ii. *Outdoor Areas*: Plan Commission may allow outdoor display of items if approved as a part of the approved Business Plan of Operation.

22. Landscape Business

- a. A place where a landscape contractor may establish a base of operation, which may include one or more the following: office space; retail sale of plant and landscape materials; indoor and outdoor storage of materials, equipment, and machinery, such as trucks and heavy equipment; and shops for repair and machinery and equipment owned by the business.
- b. Regulations:
  - i. *Parking*: 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site.
  - ii. *Outdoor Areas*: Plan Commission may allow outdoor working areas, storage areas, or the display of items if approved as a part of the approved Business Plan of Operation and shall not be located within the principal building setbacks established in the zoning district in which the use is located.

23. Instructional Services

- a. A place where instruction or training is offered in such areas as gymnastics, dance, art, music, and martial arts.
- b. Regulations:
  - i. *Parking*: 1 space per student during largest period of attendance; plus 1 space per employee on largest work shift.

24. Commercial Day Care Centers

- a. A child care center licensed by the state under § 48.65, Wis. Stats., where care and supervision is provided for four or more children under the age of seven for less than 24 hours a day, or an adult day care center licensed by the state under 49.45(47), Wis. Stats., that provides services for part of a day in a group setting to adults who need an enriched health-supportive or social experience and who may need

assistance with activities of daily living, supervision or protection. A family child care home is not a commercial daycare center.

b. Regulation:

- i. *Parking*: 1 space per 5 patrons, plus 1 space per employee on the largest work shift.
- ii. *Building Use Restriction*: Only one childcare center and one adult day care center are allowed per building.

(d) Automotive Land Uses

1. Vehicle Fuel Station

- a. A place where cars, motorcycles, and light trucks can purchase the retail sale of fuel. Ancillary uses are limited to the retail sale of food and beverages, on-site car washes, and light maintenance activities, such as engine tune-ups, lubrication, and minor repairs.

b. Regulations:

- i. *Parking*: 1 space per 300 square feet of gross floor area, including any ancillary use.
- ii. *Restrooms*: If provided, any restroom door shall be accessed from the interior of the principal building.
- iii. *Public Safety*: In no instance shall a vehicle fuel station be permitted to operate which the Plan Commission determines that there is a potential endangerment to public safety, even if such land use has been permitted under the provisions of this section.
- iv. *Pump Island Canopies*: A pump canopy shall not exceed 25 feet in height; shall not be located at least 100 feet from a residentially zoned property; shall not be located at least 50 feet from a non-residentially zoned property; and shall be located at least 20 feet from all property lines, including any street right-of-way.
- v. *Ancillary Use Setbacks*: Any ancillary use shall meet the principal structure setback requirements. This may include, but are not limited to, on-site car washes, electric charging stations, vacuums, and tire pump stations. The Plan Commission may approve a setback reduction or require increased setbacks.
- vi. *Interior Curbs*: Interior curbs shall be used to separate driving areas from exterior fixtures such as fuel pumps, vacuums, menu boards, canopy supports, and landscaped islands. Said curbs shall be a minimum of 6 inches high and shall be of a non-mountable design.
- vii. *Drive-Through Restaurants*: Any restaurant or drive through restaurants associated with the gas station shall follow the requirements of said land use types, except the parking requirement.
- viii. *Surface*: All vehicle use areas shall be concrete or bituminous material capable of supporting a 4-ton axle load.
- ix. *Distance Requirement*: Only 2 Automotive Land Uses of any kind are permitted within a mile radius.

2. Vehicle Service Shop

- a. A place where motor vehicles, such as cars, motorcycles, and light trucks, are serviced while the owner waits and typically are not left overnight. Examples include quick lube/oil change facilities, tire stores, car washes, and vehicle detailing.
- b. Regulations:
  - i. *Parking*: 1 space per service bay; plus 1 space per employee on the largest work shift.
  - ii. *Outdoor Service Prohibited*: No services or repairs may occur outside.
  - iii. *Drive-Through Car Wash or Oil Change Requirements*:
    - (i) *Traffic Circulation*: The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
    - (ii) *Public Safety*: In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if this land use is permitted in the zoning district.
    - (iii) *Interior Curbs*: Interior curbs shall be used to separate driving areas from exterior fixtures such as menu boards, canopy supports, and landscaped islands. Said curbs shall be a minimum of 6 inches high and shall be of a non-mountable design.
    - (iv) *Stacking Length*: Each drive-through land shall have a minimum stacking length of 100 feet behind the pass through window and 40 feet beyond the pass through window. This requirement may be waived by the Plan Commission.
    - (v) *Digital Menu Boards*: Digital Menu Boards may be permitted upon approval by the Plan Commission. The Plan Commission may require additional landscaping or screening to be provided to screen the menu board from surrounding properties or road right-of-ways. The Plan Commission may also place restrictions on the brightness, timing, and size of the digital menu board.
  - iv. *Distance Requirement*: Only 2 Automotive Land Uses of any kind are permitted within a mile radius. Vehicle service shops associated with a vehicle fuel station are exempt from this requirement.

3. Vehicle Sales

- a. A place where motor vehicles, such as cars, motorcycles, mopeds, snowmobiles, and all-terrain vehicles are offered for rent, sale, lease, or exchange. This land use may also include an ancillary repair shop associated with the vehicle sales business, subject to Plan Commission approval.
- b. Regulations:
  - c. *Parking*: 1 space per 300 feet of gross floor area, plus 1 space per employee on the largest work shift.



- d. *Licensing*: Prior to the establishment of this use, the operator shall obtain a motor vehicle dealer license from the Wisconsin Department of Transportation and maintain such license for the life of the use or until the state no longer requires such license
- e. *Display Area Setback*: Any display area or other activity area shall be located at least 50 feet from any residentially zoned property and 10 feet from any non-residentially zoned property.
- f. *Distance Requirement*: Only 2 Automotive Land Uses of any kind are permitted within a mile radius.
- g. *Junk Vehicles*: Any inoperable vehicle shall not be kept outdoors.

#### 4. Vehicle Repair

- a. A facility where vehicle repair is provided entirely within an enclosed building, including unlicensed or inoperable vehicles used for spare parts. Typical services include transmission repair, body work and painting, towing, vehicle upholstery, engine repair and overhauls, and similar activities.
- b. Regulations:
  - i. *Parking*: 2 space per service bay; plus 1 per employee on the largest work shift.
  - ii. *Outdoor Activities Prohibited*. Motor vehicles shall not be serviced or repaired outside of the principal structure.
  - iii. *Tow Truck Parking*: Tow trucks may be parked outside if the land use is located in the M-1 or M-2 zoning district.
  - iv. *Vehicle Storage*: Limited to 10 motor vehicles stored outdoors and unlicensed or inoperable vehicles are not permitted to be stored outdoors for a period of more than 24 consecutive hours. Plan Commission may allow additional vehicle storage through the conditional use permit approval.
  - v. *Distance Requirement*: Only 2 Automotive Land Uses of any kind are permitted within a mile radius.

#### (e) Medical Land Uses

##### 1. Health Care Center

- a. A place where medical treatment, or nursing, rehabilitative, or preventative care is offered. The term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, and rehabilitation facilities.
- b. Regulations:
  - i. *Parking*: 1 space per 1.5 patient beds; plus 1 space per employee on the largest work shift; plus 1 space per doctor on the largest work shift.
  - ii. *Access*: The primary access to a health care center shall be located off of a street classified as an major or minor arterial road as designated on the Town

of Brookfield Area Road Functional Classification Map (Figure 7 in the Town of Brookfield Comprehensive Plan).

2. Health Care Clinic

- a. A place where medical services are offered and patients do not stay overnight. This term may include medical offices, dental clinics, sports medicine facilities, chiropractic offices, acupuncture centers, and similar uses. This term does not include those uses as classified as a health care center.
- b. Regulations:
  - i. *Parking*: 1 space for each examination room; plus 1 space for each 300 square feet of gross floor area not devoted to examinations.

(f) Institutional Land Uses

1. Administrative Government Center

- a. A place where government employees perform administrative functions on behalf of the public. This term includes administrative offices, post offices, and courthouses.
- b. Regulations:
  - i. *Parking*: 1 space per 350 square feet of gross floor area.

2. Community Center

- a. A place where short-term and intermittent meetings or gatherings of individuals are held for purposes of sharing information, entertainment, social service, or similar activities. The term includes senior centers; neighborhood recreation centers; fraternal, social, or civic clubs; lodges; and union halls.
- b. Regulations:
  - i. *Parking*: 1 space for each 250 square feet of gross floor area or 1 space for each 4 patrons at design capacity, whichever is greater; plus 1 space for each employee on the largest work shift.
  - ii. *Access*: The primary drive access to a community center with 500 seats or more shall be located off of a street classified as a minor or major arterial as designated on the Town of Brookfield Area Road Functional Classification Map (Figure 7 in the Town of Brookfield Comprehensive Plan).

3. Community Cultural Facility

- a. Place where people may gather for studying, reading, personal education, cultural facility or viewing the visual arts. The term includes libraries, museums, art galleries, and observatories. The term does not include performing arts.
- b. Regulations:
  - i. *Parking*: 1 space per 300 square feet of gross floor area or 1 space per 4 patrons at maximum capacity; plus 1 space per employee on the largest work shift.
  - ii. *Access*: The primary access to a community cultural facility with 500 seats or more shall be located off of a street classified as a minor or major arterial as

designated on the Town of Brookfield Area Road Functional Classification Map (Figure 7 in the Town of Brookfield Comprehensive Plan).

4. Worship Facility

- a. A place where people regularly assemble for religious worship and associated activities and which is operated by an entity with tax-exempt status. This term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, and rectories. On-site daycare centers, community recreation facilities, private educational facilities, and emergency shelters may be considered an ancillary use if associated with the worship facility.
- b. Regulations:
  - i. *Parking*: 1 space per 4 patrons at design capacity; plus 1 space per employee on largest work shift.
  - ii. *Green Space*: If a worship facility is located adjacent to a residentially zoned property, at least 30% of the parcel shall remain undeveloped or landscaped.
  - iii. *Access*: The primary access to a worship facility with 500 seats or more shall be located off of a street classified as a minor or major arterial as designated on the Town of Brookfield Area Road Functional Classification Map (Figure 7 in the Town of Brookfield Comprehensive Plan).
  - iv. *B-3 District Restrictions*: Worship Facilities are considered a conditional use in the B-3 district provided that the lot area is not less than two acres and that all church related uses are not less than 100 feet from any lot line zoned or used for residential purposes. Before granting a conditional use, the Plan Commission shall approve a site plan and plan of operation which shall include estimates of occupancy during normal or special uses, required parking and traffic control related issues, any and all exterior accessory uses incidental to the operation of the church, the hours of operation, the length and terms of any lease if the church is to be located on property leased, rather than owned, and such information as may be required in the discretion of the Plan Commission so as to ensure that the granting of the conditional use will be consistent with the spirit and intent of the zoning code.

5. Public Safety Facility

- a. A place where public safety services are offered. The term includes ambulance services, fire stations, police stations, and jails. This term does not include correctional facilities.
- b. Regulations:
  - i. *Parking*: 1 space per 400 gross square feet of office area; 1 space per employee on the largest shift; plus 1 space per vehicle normally parked on the premises.

6. Post-Secondary Educational Facility

- a. A place where post-secondary educational opportunities are offered. The term includes colleges, universities, community colleges, and vocational schools.
  - b. Regulations:
    - i. *Parking*: .5 spaces per student during the largest class attendance period; plus 1 space per employee on the largest work shift.
    - ii. *Access*: The primary access shall be off of a street classified as a minor or major arterial as designated on the Town of Brookfield Area Road Functional Classification Map (Figure 7 in the Town of Brookfield Comprehensive Plan).
    - iii. *Conditional Use*. Any such facility that requires a conditional use shall be located on a lot larger than 2 acres and all principal structures and uses shall be located at least 100 feet from all property lines.
7. Pre-K through Grade 12 Educational Facility
- a. A place where primary and secondary educational opportunities are offered. The term includes preschools, elementary schools, junior high schools, and high schools.
  - b. Regulations:
    - i. *Parking*: .5 spaces per K-8 classroom; 1 space per 8 students (Grades 9-12) at design capacity; plus 1 space per employee on the largest work shift.
    - ii. *Lot Area and Setbacks*: Any such facility that requires a conditional use shall be located on a lot larger than 2 acres and all principal structures and uses shall be located at least 100 feet from all property lines.
8. Animal Shelter
- a. A place where stray or unwanted household pets are temporarily housed.
  - b. Regulations:
    - i. *Parking*: 1 space per 500 square feet of gross floor area; plus 1 space per employee on the largest work shift.
    - ii. *Confinement*: All animals shall be continuously confined within an enclosed building except as provided in this section. In an industrial zoning district, an animal shelter may have a fenced exercise area provided:
      - (i) The exercise area is located at least 200 feet from a property in a residential zoning district or a mixed-use zoning district.
      - (ii) No animal shall be allowed in the exercise area between sunset and sunrise.
    - iii. *Noise*: The building shall be designed and operated so that noise from the animals at the facility cannot be heard beyond the property boundary line.
9. Cemetery
- a. A place where human remains may be buried or interned. Accessory uses may include columbariums, mausoleums, crematories, and mortuaries when operated in conjunction with and within the boundaries of such area. The sale of cemetery merchandise, including monuments, markers, nameplates, vases and urns, and any

services that are associated with supplying or delivering those goods or with the burial of human remains is allowed when accessory to the principal use.

b. Regulations:

- i. *Parking*: 1 space per employee on the largest work shift.
- ii. *Minimum Size*: A cemetery shall be at least 10 acres without a public mausoleum or at least 20 acres with a public mausoleum.
- iii. *Location of Burial Plots*: Burial plots shall not be located within 20 feet of any property line or within 75 feet of a wetland area.
- iv. *Location of Mausoleums*: Mausoleums shall be located at least 20 feet from any property line.
- v. *Compliance with State Law*: A cemetery shall comply with all requirements set forth in subchapter II of Ch. 157, Wisconsin State Statutes.
- vi. *Columbarium Requirements*: Any columbarium that is established and used by a religious association and is not subject to the requirements of Subchapter II, Chapter 157, Wis. Stats., as the result of the exemption granted by § 157.123(2) Wis. Stats, in the I-1 Institutional District for the purpose of promoting compatible use of residential property and stability of property values, any conditional use granted under this section shall require the submission of a plan of operation and a site plan. The Plan Commission shall review the proposed location of the columbarium, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, loading and unloading or other special needs accommodations, highway access, landscaping and open space, and such other matters as the Plan Commission deems appropriate to achieve the purposes described in this section. No conditional use authorized under this section may permit the construction and maintenance of any columbarium located within the street yard, offset or setback dimensions or restrictions as established by the underlying zoning classification.

10. Passive Outdoor Recreation

- a. Recreational land uses which involve passive recreational activities, such as arboretums, natural areas, wildlife areas, hiking trails, bike trails, cross country ski trails, horse trails, picnic areas or shelters, botanical gardens, fishing areas, and similar land uses.
- b. *Regulations*:
  - i. *Parking*: Town Engineer shall recommend parking requirements to the Plan Commission based on specific uses and needs. The Plan Commission shall determine the number of required parking spaces.
  - ii. *Conservancy District Requirements*: Any passive outdoor recreation use located in the C-1 Conservancy District shall meet the following requirements:
    - (i) *Any private recreation or wildlife habitat area must be exclusively used for that purpose.*
    - (ii) *No filling is permitted.*

- (iii) *Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife areas, but only for the purpose of improving wildlife habitat or to otherwise enhance the value of a wetland or other natural resource.*

#### 11. Active Outdoor Recreation

- a. Recreational land uses which involves active recreational activities such as tennis or pickleball courts, basketball courts, ball diamonds, football or soccer fields, neighborhood parks, playgrounds and tot lots, outdoor swimming pools or beach areas, fitness courses, public golf courses, and similar land uses. Sport courts (such as tennis courts, basketball courts etc.) that are an accessory use to a residential use are considered to be a Private Sport Court.
- b. Regulations:
  - i. *Parking:* Town Engineer shall recommend parking requirements to the Plan Commission based on specific uses and needs. The Plan Commission shall determine the number of required parking spaces.
  - ii. *Night Lighting:* Facilities using recreational facility night lighting and abutting a residentially zoned property shall install and continuously maintain a bufferyard of 50 feet with landscaping or fencing provided, to the satisfaction of the Plan Commission.
  - iii. *Location:* All structure or designated activity areas shall be located a minimum of 50 feet from any residentially zoned property.

#### 12. Institutional Residential

- a. Residential development designed to accommodate institutional residential land uses, such as senior housing, retirement homes, assisted living facilities, nursing homes, hospices, dormitories, limited care facilities, and similar land uses not considered to be Community Living Arrangements.
- b. Regulations:
  - i. *Parking:*
    - (i) *Senior housing or retirement home:* .5 space per dwelling unit.
    - (ii) *Assisted living facility or limited care facility:* .5 space per dwelling unit.
    - (iii) *Dormitory:* One space per 6 residents plus 1 space per employee at largest shift.
    - (iv) *Nursing home or hospice:* 1 space per 4 patient beds, plus 1 space per employee on the largest work shift.

#### (g) Industrial and Manufacturing Land Uses

##### 1. Artisan Workshop

- a. A place where handmade craft items or works of art are made on a small-scale and offered for retail sale. Examples of such items may include paintings, textiles, weaving, photography, sculptures, pottery, leather products, handmade paper, jewelry, hand-blown glass, small wooden items, candles, soaps, and lotions. This use is more intended to utilized as a worker space for the artisan with less than half of the space is dedicated to retail area or open to the public.

**Commented [BH3]:** Discuss these because most of these would be Town owned lands and we are planning on exempting town owned lands from the zoning requirements

- b. Regulations:
  - i. *Parking*: 1 space per 350 square foot of display area plus 1 space per employee on the largest workshop.
  - ii. *Restriction on Activity Area*: All materials and activities shall be conducted entirely within an enclosed building.
  - iii. *Demonstrations and Workshops*: The operate may conduct demonstrations and workshops within the confines of the building provided attendance at the event or function does not create a demand for parking spaces that is greater than the number provided on site, as determined by the zoning administrator.
- 2. Light Industrial and Light Manufacturing
  - a. A place where product manufacturing, assembly, printing and packaging, and other relatable activities occur and may coincide with another permitted use, such as an office. All operations, with the exception of loading, are conducted within an enclosed building and such land uses are not associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line and do not pose a significant safety hazard (such as danger of explosion). Generally, this land use is less intensive than general manufacturing uses.
  - b. Regulations:
    - i. *Parking*: 1 space per employee on the largest work shift.
    - ii. *Restriction on Activity Area*: All industrial or manufacturing activities, excluding loading and unloading, shall be conducted entirely within the confines of the building.
    - iii. *Outdoor Storage*: Any outdoor storage area must be approved by the Plan Commission through the site plan and business plan of operation approval and shall be located at least 100 feet from any residentially zoned property.
- 3. General Manufacturing
  - a. A place where products or parts are manufactured at a large scale, including processing, fabrication, assembly, treatment, packaging, incidental storage, and administrative offices. The term includes a tool and die maker, large scale furniture production, metal fabrication, apparel manufacturing, large scale printing and publishing.
  - b. Regulations:
    - i. *Parking*: 1 space per employee on the largest work shift.
    - ii. *Restriction on Activity Area*: All industrial or manufacturing activities, excluding loading and unloading, shall be conducted entirely within the confines of the building.
    - iii. *Outdoor Storage*: Any outdoor storage area must be approved by the Plan Commission through the site plan and business plan of operation approval and shall be located at least 100 feet from any residentially zoned property.
    - iv. *Prohibited Land Uses*: The following uses are considered to be incompatible with the residential characteristics of the Town and surrounding area and are herewith prohibited:

- (i) Manufacturing, processing or storage of acid, ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives (except as permitted for small arms ammunition in the M-2 District), fertilizer, glue, grease, gypsum, insecticides, lampblack, lime, offal, plaster of paris, poison, pulp, pyroxylin, and radioactive materials.
  - (ii) Storage of flammable gases or liquids and hazardous chemicals in the M-1 District or in excess of 50,000 gallons in the M-2 district.
  - (iii) Forges, foundries, animal reduction, slaughterhouses, smelters, stockyards, and tanneries.
- 4. Research and Development Facility
  - a. Spaces dedicated to the development of new products or technologies, often including laboratories and testing areas. All activities shall be conducted entirely indoors.
  - b. Regulations:
    - i. *Parking*: 1 space per employee on the largest work shift.
    - ii. *Noise and Emissions*: Shall comply with local noise and air quality regulations.
- (h) Storage Land Uses
  - 1. Warehouse
    - a. A place where goods, merchandise, and other materials are temporarily stored for eventual shipment. This term includes moving and storage facilities. The term does not include bulk fuel storage.
    - b. Regulations:
      - i. *Parking*: 1 space per employee on the largest work shift plus 1 space per fleet vehicle parked on site.
      - ii. *Outdoor Storage Setback*: Outdoor storage areas and other activity areas shall be located at least 100 feet from any property located in a residential zoning district.
      - iii. *Access*: A warehouse shall have legal and physical access to a street designated as a truck route.
  - 2. Truck Terminal and Distribution Center
    - a. A place where goods carried by motor transport are received and temporarily stored until transferred to another truck for delivery.
    - b. Regulations:
      - i. *Parking*: 1 space per employee on the largest work shift plus 1 space per fleet vehicle parked on site.
      - ii. *Outdoor Storage Setback*: Outdoor storage areas and other activity areas shall be located at least 100 feet from any property located in a residential zoning district.
      - iii. *Access*: A warehouse shall have legal and physical access to a street designated as a truck route.
  - 3. Personal Storage Facility



- a. A place where individual storage units are offered for rent, lease, sale or other arrangement. This term includes a property used to storage motor vehicles and watercraft indoors.
  - b. Regulations:
    - i. *Parking*: 1 space per employee on the largest shift.
    - ii. *Minimum Lot Area*: 2 acres.
    - iii. *Access*: Access to a storage cubicle shall not open directly onto a public road right-of-way.
    - iv. *Prohibited Substances*: No cubicle shall be used to store explosives, toxic substances, hazardous materials, or radioactive materials.
    - v. *Uses*: Only used that are accessory to storage shall occur. Human habitation, fabrication, repair, sales of any type including garage sales, and any similar uses are prohibited.
    - vi. *Outdoor Storage*: Outdoor storage is prohibited.
- (i) Transportation Land Uses
- 1. Airport
    - a. A transportation facility providing takeoff, landing, servicing, storing, and other services to any type of air transportation. The operation of any type of air vehicle (including ultralight aircraft, hang gliders, parasails, and related equipment) within the jurisdiction of this Chapter shall occur only in conjunction with an approved airport.
    - b. Regulations:
      - i. *Parking*: Determined by the Plan Commission on a case-by-case basis.
      - ii. *Compliance*: The airport shall be constructed, operated, and maintained in accordance with the rules and regulations of the Federal Aviation Administration (FAA) and State.
      - iii. *Setback*: All buildings, outdoor airplane or helicopter storage areas, and other activity areas shall be located at least 100 feet from the perimeter of the airport property.
      - iv. *Area*: The lot shall be at least 20 acres.
  - 2. Heliport
    - a. An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance loading and unloading, storage, fueling, or terminal facilities.
    - b. Regulations:
      - i. *Parking*: Determined by the Plan Commission on a case-by-case basis.
      - ii. *Setback*: The heliport shall be located at least 200 feet from an residential zoning district, measured in a straight line from the closest point of the takeoff and landing area to the property line of the closest residentially zoned property.

- iii. *Compliance*: The airport shall be constructed, operated, and maintained in accordance with the rules and regulations of the Federal Aviation Administration (FAA) and State.

3. Transit Center

- a. A building, structure, and/or area designed and used for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another. Examples include, but are not limited to, bus stations, train stations, and park and ride stations.
- b. Regulations:
  - i. *Parking*: Determined by the Plan Commission on a case-by-case basis.
  - ii. *Access*: The primary access to a transit center shall be located on a street classified as a major or minor arterial road as designated on the Town of Brookfield Area Road Functional Classification Map (Figure 7 in the Town of Brookfield Comprehensive Plan).

4. Bus Storage Facility

- a. A place where buses are parked when not in use and may include administrative offices and a building for the storage, care, and maintenance of buses in the fleet.
- b. Regulations:
  - i. *Parking*: 1 space per employee on the largest work shift.
  - ii. *Outdoor Storage*: Outdoor storage areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district and 25 feet from a commercial or mixed-use zoning district.

5. Off-Site Parking

- a. Parking lots used for the temporary parking of vehicles which are fully registered, licensed, and operable. It may be available to the public or reserved to accommodate parking for a specific purpose.

(j) Waste Facilities Land Uses

1. Composting Facility

- a. A place devoted to the collection, storage, processing, and/or disposal of vegetation. A composting facility, if not properly designed and operated, has the potential to cause negative impacts to the natural environment, including water resources, and be harmful to the safety and general welfare of the Town and its citizens. The regulations listed below are therefore intended to define basic requirements necessary to protect the public while providing waste alternatives and promoting sustainability within the community.
- b. Regulations:
  - i. *Parking*: 1 space per employee on the largest shift.
  - ii. *Compliance*: In addition to meeting the requirements in this section, a composting facility shall comply with all county, state, and federal regulations that may apply.

- iii. *Bufferyard*: Facilities abutting a non-agriculturally or non-industrially zoned property shall install and continually maintain a 50 foot bufferyard with landscaping and a fence and/or berm, to the satisfaction of the Plan Commission and Town Board, along the property line abutting said property.
  - iv. *Distance Requirement*: A composting facility shall not be located within 500 feet of any residential zoning district, educational facility, worship facility, or any other place where the public regularly congregates.
  - v. *Setbacks*: All buildings, structures, and activity areas shall be located a minimum of 100 feet from all lot lines, wetlands, or floodplains.
  - vi. *Prohibited Materials*: No food scraps or other vermin-attracting materials shall be processed, stored, or disposed of on-site. Operations shall not involve the on-site holding, storage, or disposal of hazardous wastes as defined by State Statutes in any manner.
2. Recycling and Solid Waste Transfer
- a. Recycling facilities not involving the on-site storage of salvage materials. Solid waste transfer facilities are a place where solid waste may be temporarily stored prior to transport to a processing plant or to final disposal.
  - b. Regulations:
    - i. *Parking*: 1 space per employee on the largest work shift.
    - ii. *Compliance*: Must comply with all county, state, and federal regulations.
    - iii. *Bufferyard*: Facilities shall install and continually maintain a 50 foot bufferyard with landscaping and a fence and/or berm, to the satisfaction of the Plan Commission and Town Board, along all borders of the property. Access drives are permitted within the bufferyard.
    - iv. *Setbacks*: All buildings, structures, and activity areas shall be located a minimum of 100 feet from all lot lines.
    - v. *Hazardous Materials*: Any on-site holding, storage, or disposal of hazardous materials shall meet all local, state, and federal requirements and the business shall acquire and maintain all necessary permits, licenses, and registrations.
- (k) Extraction Land Uses
1. General Extraction
- a. Land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, or other material in excess of that required for approved on-site development or agricultural activities. Mineral extraction operations, including washing, crushing, or other processing, and processing and storage of cement products may be permitted.
  - b. Regulations:
    - i. *Parking*: 1 space per employee on the largest work shift.
    - ii. *County Approval*: The facility shall receive approval from the County prior to action by the Town.
    - iii. *Compliance*: The facility shall comply with all county, state, and federal regulations and provide copies of all approved county, state, and federal permits.

- iv. *Bufferyard*: Facilities shall install and continually maintain a 50-foot bufferyard with landscaping and a fence and/or berm, to the satisfaction of the Plan Commission and Town Board, along all borders of the property. Access drives are permitted within the bufferyard.
  - v. *Setbacks*: All buildings, structures, and activity areas shall be located at least 300 feet from all lot lines.
  - vi. *Application*: The application for the conditional use permit shall include a detailed description of the operation; list of equipment, machinery, and structures to be used; a topographic map of the site showing contours with minimum vertical contour interval of 5 feet, proposed and existing excavations; and a restoration plan.
  - vii. *Restoration Plan*: The restoration plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, and restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the Town's inspection and administrative costs and the necessary sureties which will enable the Town to perform the planned restoration of the site in event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the Town Engineer, and the form and type of such sureties shall be approved by the Town Attorney.
  - viii. *Conditional Use Permit Duration*: The conditional use permit shall be in effect for a period of not to exceed two years and may be renewed upon application for a period not to exceed two years. Modifications or additional conditions may be imposed upon application for renewal.
  - ix. *Fencing*. All extraction sites shall be entirely enclosed by a 6' security fence.
  - x. *Additional Considerations*: The Town Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality and shall also consider the practicality of the proposed restoration of the site.
- (l) Conservancy Land Uses (Located in C-1 Zoning District Only)
- 1. Permitted Activities in Conservancy District
    - a. The following uses are permitted uses in the C-1 Zoning District:
      - i. Hiking, fishing, trapping, swimming and boating, unless otherwise prohibited.
      - ii. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops and does not involve filling, flooding, draining, dredging, ditching, tiling or excavating.
      - iii. Silviculture, including the planting, thinning and harvesting of timber, provided no filling, flooding, draining, dredging, ditching, tiling or excavating is done except for temporary water level stabilization measures to alleviate

abnormally wet or dry conditions which would have an adverse impact on silvicultural activities if not corrected.

- iv. Construction and maintenance of fences.
  - v. Existing agricultural uses that do not involve extension of cultivated areas, extension of or creation of new drainage systems and do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
  - vi. Ditching, tiling, dredging, excavating or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
  - vii. The construction and maintenance of piers, docks and walkways, including those built on pilings.
  - viii. The maintenance, repair, replacement and reconstruction of existing streets, roads and bridges.
2. Conservancy Road
- a. The construction of streets which are necessary for the conduct of agricultural cultivation or to a silvicultural activity, or necessary for the provision of essential utility and public safety services, or necessary to provide access to permitted open space uses, provided that:
    - i. The street cannot, as a practical manner, be located outside the Conservancy District;
    - ii. The street is designed and constructed to minimize the adverse impact upon the natural functions of the Conservancy District;
    - iii. The street is designed and constructed with the minimum cross section practical to serve the intended use;
    - iv. The street construction activities are carried out in the immediate area of the roadbed only; and
    - v. Any filling, flooding, draining, dredging, ditching, tilling, or excavating that is done must be necessary for the construction or maintenance of the street.
3. Conservancy Non-Residential Building
- a. The construction and maintenance of non-residential buildings used solely in conjunction with raising of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose which is compatible with natural resource preservation, provided that:
    - i. The building cannot, as a practical matter, be located outside the Conservancy District;
    - ii. The building is not designed for human habitation and does not exceed 500 square feet in area; and
    - iii. Only limited filling or excavating necessary to provide structural support is conducted.
4. Conservancy Utilities
- a. The construction and maintenance of electric, gas, telephone, water, and sewer transmission and distribution lines, and related facilities, by public utilities and

cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to members, provided that:

- i. The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the Conservancy District; and
- ii. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the utility, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the Conservancy Area.

5. Conservancy Railroad

- a. The construction and maintenance of railroad lines provided that:
  - i. The railroad lines cannot, as a practical matter, be located outside the Conservancy District;
  - ii. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the railroad, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the Conservancy Area.

(m) Energy Production Land Uses

1. Small Wind Energy System

- a. A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics which will be used primarily to reduce on-site consumption of utility power. A small wind energy system shall not exceed a rated capacity of 60 kW.
- b. Regulations:
  - i. *Permitted Locations.* A small wind energy system is permitted as a conditional use in any zoning district as an accessory structure.
  - ii. *Total Height.* For property sizes up to 2 acres, the total height shall not exceed 60 feet. For property sizes between 2 and 5 acres, the total height shall not exceed 100 feet. For property sizes greater than 5 acres, the total height shall not exceed 150 feet.
  - iii. *Location.* No small wind energy system shall be located in any street or side yard.
  - iv. *Setbacks.*
    - (i) *Property Lines.* A small wind energy system shall be set back from the nearest property line, public road right of way and communication and electrical line not less than 1.1 times its total height.
    - (ii) *Inhabited Structures.* A small wind energy system shall be set back from the nearest inhabited building other than the owner's not less than 1.5 times its total height.
  - v. *Design Standards.*
    - (i) *Monopole or Freestanding Design.* The design of the small wind energy system shall be of a monopole or freestanding design without guy wires.

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- (ii) *Minimum Blade Height.* The minimum height of the lowest extent of a turbine blade shall be 30 feet above the ground or 30 feet above any structure or obstacle within 100 feet from the tower.
- (iii) *Access.* No tower shall have a climbing apparatus within 12 feet of the ground. All access doors or access ways to towers and electrical equipment shall be lockable.
- (iv) *Noise.* No small wind energy system shall exceed 80 dBA as measured at the property line or 50 dBA as measured at the nearest neighboring inhabitable building.
- (v) *Visual Appearance.* Small wind energy systems shall be finished in a rust-resistant, nonobtrusive finish and color that is non-reflective. No small wind energy system shall be lighted unless required by the FAA. No advertising signs of any kind or nature whatsoever shall be permitted on any small wind energy system.
- (vi) *Electrical Interconnections.* All electrical connections shall be underground and comply with all applicable codes; public utility requirements; Chapter PSC 119 "Rules for Interconnecting Distributed Generation Facilities;" PSC Forms 6027 and 6028 "Standard Distributed Generation Application Form;" and PSC Forms 6029 and 6030, "Distributed Generation Interconnection Agreement."
- (vii) *Shadowing/Flicker.* Wind energy systems shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant impact on neighboring or adjacent uses either through siting or mitigation.
- (viii) *Signs.* All signs, both temporary and permanent, are prohibited on the wind energy system, except that the manufacturer's identification and appropriate warning signs are allowed.
- (ix) *Clearing.* Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.
- (x) *Signal Interference.* Efforts shall be made to site small wind energy systems to reduce the likelihood of blocking or reflecting television and other communication signals. If signal interference occurs, both the small wind energy system owner and individual receiving interference shall make reasonable efforts to resolve the problem. No small wind energy system shall cause permanent and material interference with television or other communication signals.

(xi) *Overspeed Controls*. Every small wind energy system shall be equipped with both manual and automatic overspeed controls.

vi. *Conditional Use Permit Application Requirements*. Conditional use applications for a small wind energy system shall include the following information:

- (i) Site plan to scale showing the location of the proposed wind energy system and the locations of all existing buildings, structures, public right of ways and property lines along with distances. The extent of the site plan shall include the area included in the minimum setbacks in Subsection (d).
- (ii) Elevations of the site to scale showing the height, design and configuration of the wind energy system and the height and distance to all existing structures, buildings and electrical lines in relation to property lines.
- (iii) Standard drawings and an engineering analysis of the systems tower including weight capacity.
- (iv) A standard foundation design along with soil conditions and specifications for the soil conditions at the site.
- (v) Specific information on the type, size, rotor material, rated power output, performance, safety and noise characteristics of the system including the name and address of the manufacturer, model and serial number.
- (vi) Emergency and normal shutdown procedures.
- (vii) A drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes.
- (viii) Evidence that the provider of electrical service of the property has been notified of the intent to install an interconnected electricity generator unless the system will not be connected to the electricity grid.
- (ix) A building permit shall be required and if necessary an electrical permit for the installation or modification of a wind energy system. Such system shall be installed and functioning within a period of 12 months from date of building permit issuance otherwise the conditional use permit shall be null and void and the applicant must start over on the conditional use process.
- (x) Sound level analysis prepared by the wind turbine manufacturer or qualified engineer.
- (xi) Estimated cost to physically remove the wind energy system to comply with surety requirements.
- (xii) Evidence of compliance with or non-applicability with Federal Aviation Administration requirements.
- (xiii) Liability insurance coverage in the amount of \$1,000,000 of which the Town shall be the certificate holder.



vii. *Abandonment.*

- (i) At such time that a wind energy system is scheduled to be abandoned or discontinued operation, the applicant will notify the Zoning Administrator by certified U.S. mail of the proposed date of abandonment or discontinuance of operation.
- (ii) The owner shall physically remove the wind energy system within 120 days of abandonment or discontinuance of operation. This period may be extended at the request of the owner and the discretion of the Zoning Administrator. Physically remove shall mean: Removal of the wind turbine, tower and related above grade structures and restoration of the location of the wind energy system to its natural condition, except that any landscaping, grading or below grade foundation may remain in the after conditions.
- (iii) In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out of service for a continuous period of 120 days. After the 120 days of inoperability, the Zoning Administrator may issue a Notice of Abandonment to the owner of the wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from notice receipt date. The Zoning Administrator shall withdraw such notice if the owner provides information that demonstrates the wind energy system has not been abandoned.
- (iv) If the owner fails to respond to the Notice of Abandonment or if after review by the Zoning Administrator it is determined that the wind energy system has been abandoned or discontinued, the owner of the wind energy system shall remove the wind turbine, tower and related above grade structures at the owner's expense within 90 days of receipt of the Notice of Abandonment. If the owner fails to physically remove the wind energy system after the Notice of Abandonment procedure, the Town or their designee shall have the authority to enter the subject property and physically remove the wind energy system.
- (v) The Plan Commission shall have the authority to require the applicant to provide a form of surety (i.e., post a bond, letter of credit or establish an escrow account or by other means) at the time of construction to cover costs associated with the removal in the event the Town must remove the wind energy system. The applicant shall submit a fully inclusive estimate of the costs associated with the removal, prepared by a qualified engineer. The amount shall include a mechanism to accommodate the rate of inflation over 15 years.

- viii. *Violation.* It is unlawful for any person to construct, install, or operate a wind energy system that is not in compliance with this ordinance or with any condition contained in the conditional use site plan review issued pursuant to this ordinance.
  - ix. *Penalties.* Any person who fails to comply with any provisions of this ordinance, conditional use permit or building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by this Municipal Code.
  - x. *Waivers.* During the conditional use process, the Town Board may waive any portion of this ordinance in such cases where, in the opinion of the Plan Commission, strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of this ordinance.
2. Solar Energy System
- a. An energy system which converts solar energy to usable thermal, mechanical, chemical, or electrical energy.
  - b. Regulations:
    - i. *Electrical Permit.* A valid electrical permit shall be obtained by the applicant prior to installation of any solar energy system.
    - ii. *Rooftop Solar Energy Systems.*
      - (i) Permitted by right in all zoning districts.
      - (ii) Limited to the height restriction for principal buildings in the underlying zoning district.
    - iii. *Building-Mounted Solar Energy Systems.*
      - (i) Building-mounted solar energy systems that meet the setbacks for accessory structures are permitted by right in all zoning districts.
      - (ii) Building-mounted solar energy systems are limited to 20 feet in height or the height of the principal structure, whichever is greater.
    - iv. *Freestanding Solar Energy Systems.*
      - (i) Freestanding solar energy systems shall comply with the height limits for accessory buildings.
      - (ii) Freestanding solar energy systems shall adhere to the following setbacks:
        - 1. Side and Rear: 5 feet.
        - 2. Street Yard: 50 feet.
        - 3. Freestanding solar energy solar systems that do not meet the setbacks above shall require a conditional use.
    - v. *Obstruction.* No person in control of property shall allow a tree or shrub to be placed or grow so as to cast a shadow between the hours of 9:00 a.m. and 3:00 p.m. Central Daylight Saving Time, upon a solar collector energy system capable of generating more than 1,000,000 British thermal units per year, and

which supplies a part of the energy requirements for improvements on the property where the solar energy system is permanently located. The provisions of this Subsection shall not require the removal of existing vegetation.

(n) Utilities Land Uses

1. Essential Services

- a. The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies, of underground and overhead lines and pipes for gas, electric, telephone, communications, cable television, steam, public water supply, sanitary sewage collection, stormwater conveyance, or other comparable utilities. Essential Services include such above-surface facilities as poles, guide wires, fire alarm boxes, water hydrants, pump houses, well houses, lift stations, utility posts, police call boxes, and standpipes. Essential Services do not include larger utility facilities such as electric substations, wastewater treatment plants, and water towers. Essential services are exempt from regulations listed in the specific zoning district.

2. Major Utility Installation

- a. A place, building and/or structure, or portion thereof, whether public (excluding Town owned land) or private, used or is intended for providing basic infrastructure or utility services and which could potentially have a moderate to high impact on neighboring properties. This term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, electric transmission lines with a design capacity of 110kV or more, underground pipelines, and hydroelectric facilities.
- b. Regulations:
  - i. *Parking*: 1 space per each on-site employee on the largest work shift.
  - ii. *Distance*: All principal structures or uses shall be located at least 50 feet from any residential district lot line.
  - iii. *Architectural Features*: If a major utility installation involves a building of any type and is located in or adjacent to a residential zoning district, such building shall be compatible with residential buildings in regard to design and exterior materials.

3. Minor Utility Installation

- a. A utility installation generally having low impact on neighboring property. This term includes public water system wells without a tower; below ground sewer lift stations; and stormwater pumping stations. The term does not include utility cabinets.
- b. Regulations:
  - i. *Parking*: None.
  - ii. *Distance*: All principal structures or uses shall be located at least 50 feet from any residential district lot line.
  - iii. *Setbacks*. Minor utility installations do not need to meet setbacks.

4. Utility Maintenance Yard

- a. A place where a public (excluding Town owned land) or private entity maintains administrative offices, equipment, and supplies necessary for maintaining the infrastructure it provides.
- b. Regulations:
  - i. *Parking*: 1 space per employee on the largest work shift.
  - ii. *Outdoor Storage*: Outdoor storage areas and other activity areas shall be located at least 100 feet from any residentially zoned property and at least 50 feet from any commercial zoning district.

5. Stormwater Management Facility

- a. A natural or manmade feature that collects, conveys, channels, holds, inhibits, or diverts the movement of stormwater.
- b. Regulations:
  - i. *Parking*: Not required.
  - ii. *Location*: Stormwater management facilities intended to serve more than one property may cross property boundary lines and do not have a setback requirement. A stormwater management agreement and any easements must be approved by the Town Board.

(o) Temporary Land Uses

1. Contractor's Office

- a. A portable building or enclosed trailer temporarily placed on a construction site for use by the contractor as a field office.
- b. Regulations:
  - i. *Use*: Generally, a contractor's office may be established for commercial, industrial projects, institutional, and for multi-family residential projects.
  - ii. *Duration of Use*: A contractor's office shall be removed within 10 days after the date of issuance of the last occupancy permit for the building under construction.
  - iii. *Location*: A contractor's office shall be placed in a location with the least impact to adjoining property owners.
  - iv. *Use Limitation*: A contractor's office shall not be used for sales activity and shall be limited to construction management activities related to the construction project on the parcel of land on which it is located.
  - v. *Conditional Use*: Projects requiring land use to be in place for more than 365 days shall require a conditional use permit.

2. Temporary On-Site Real Estate Sales Office

- a. Any building which serves as an on-site sales office for a development project.
- b. Regulations:
  - i. *Size*: Structure shall not exceed 5,000 square feet in gross floor area.
  - ii. *Duration*: Structure shall be removed or converted to a permitted land use within 10 days of the completion of sales activity.

3. Temporary On-Site Construction Storage

- a. Includes any structure or outdoor storage area designed for the on-site storage of construction equipment and/or materials for an active construction project.
  - b. Regulations:
    - i. *Duration of Use*: The structure(s) or outdoor storage areas shall be removed within 10 days of issuance of occupancy permit.
    - ii. *Conditional Use*: Projects requiring land use to be in place for more than 365 days shall require a conditional use permit.
4. Earth Materials Stockpile
- a. A place where an earth materials (e.g., topsoil or gravel) is piled and temporarily stored. The earth material must be derived from an on-site land development project and/or be used on site.
  - b. Regulations:
    - i. *Hours of Operation*: When the earth materials stockpile is located within or next to a residential zoning district or a planned development district that allows residential uses, equipment used to load, move, or process materials shall only be used between the hours of 7:00 a.m. and 7:00 p.m.
    - ii. *Duration of Use*: As a part of the site plan/operation plan review, the Town Board may establish the maximum length of time this use may operate.
5. Farmer's Market
- a. The temporary or occasional outdoor retail sales of farm produce, plants and flowers, bakery good, and/or crafts from vehicles or temporary stands located within a private parking lot.
  - b. Regulations:
    - i. *Parking*: 1 space per vendor.
    - ii. *Hours of Operation*: The display of products and sales shall only occur between the hours of 7:00am and 30 minutes past sunset.
    - iii. *Clean Up and Removal*: All features solely associated with the farmers market shall be removed and all trash and debris shall be removed within 24 hours of the farmer's market closing time.
    - iv. *Plan Commission Review*: The Plan Commission shall review the proposed farmer's market and may place reasonable conditions, such as but not limited to, location of the farmer's market and number of events allowed per year. Renewal of Plan Commission approval will be required each calendar year.
6. Off-Site Construction Yard
- a. A place where construction materials and equipment may be stored, prepped, or staged for an off-site construction project (e.g., highway reconstruction project or construction of an electric transmission line or pipeline).
  - b. Regulations:
    - i. *Setbacks*: Outdoor storage areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district or a planned development district that allows residential uses and 20 feet from a property in a commercial zoning district.

- ii. **Site Restoration:** As part of the review process, the applicant shall prepare and submit a restoration plan and obtain approval from the Town Board. This restoration plan shall identify those areas of the parcel that will be disturbed and how those areas will be restored following the cessation of this temporary use.
  - iii. **Financial Guarantee:** Prior to the establishment of an off-site construction yard, the property owner shall submit a financial guarantee to the Town in an amount equal to 110 percent of the estimated cost of site restoration identified in the restoration plan that is approved for the project.
- 7. **Party Tent**
  - a. A non-permanent tent that is associated with a temporary event that is permitted under this Chapter.
  - b. **Regulations:**
    - i. *Duration:* Shall not be erected for more than 7 continuous days. This requirement may be waived by the Plan Commission.
- 8. **Temporary Storage Container**
  - a. An enclosed portable storage container designed and used primarily for the temporary storage of household goods and other such materials for use on a limited basis on residential property.
  - b. **Regulations:**
    - i. *Duration:* A temporary storage container shall not be located on a parcel of land for more than 60 days during any 9-month period. A 30-day extension may be granted by the Plan Commission with proof of a valid building permit.
    - ii. *Location:* Shall not be located in the street yard or side yard setback, except when placed on a driveway. The container cannot encroach on the public right-of-way or adjoining property.
    - iii. *Surface:* The container must be placed on asphalt, concrete, gravel, or other hard-paved surface.
    - iv. *Size:* The container shall not exceed outside dimensions of 16 feet in length, 8 feet in width, and 9 feet in height.
- 9. **Seasonal Product Sales**
  - a. An outdoor area where merchandise typically associated with a seasonal product sales holiday or festival is displayed and offered for sale at retail immediately before the event. Examples of such merchandise include Christmas trees and wreaths for Christmas and pumpkins for Halloween.
  - b. **Regulations:**
    - i. *Duration:* Merchandise shall not be sold any sooner than 45 days prior to the date of the seasonal event. Cleanup and removal of all related items shall be completed within 2 days following the date of the seasonal event.

- ii. *Property Owner Approval:* Vendor must obtain property owner approval to use property for seasonal product sales and may be required to submit property owner approval to the zoning administrator.

10. Temporary Outdoor Sales

- a. The display and sale of any items outside the confines of a building, which is not otherwise permitted as permitted or conditional use, or a special event otherwise regulated by the Municipal Code. Examples of this land use include, but are not limited to, seasonal garden shops, pop-up book sales, or tent sales.
- b. Regulations:
  - i. *Duration:* Limited to 30 days in a calendar year. Cleanup and removal of all related items shall be completed within 2 days of the final sale date.
  - ii. *Property Owner Approval:* Vendor must obtain property owner approval to use property for seasonal product sales and may be required to submit property owner approval to the zoning administrator.
  - iii. *Prohibited Use:* Firework sales facilities are prohibited within the Town of Brookfield.

11. Garage or Estate Sale (Auction)

- a. Includes the sale or offering for sale of miscellaneous used items commonly associated with residential use.
- b. Regulations:
  - i. *Principal Use:* A garage or estate sale shall only occur with a principal residential use or with a governmental or institutional use, such as a worship facility, library, or school.
  - ii. *Duration:* A yard sale shall not be operated for more than 4 consecutive days or more than a total of 12 days in a calendar year.
  - iii. *Hours:* Sales shall occur only during daylight hours.

12. Temporary Outdoor Assembly

- a. Includes any organized temporary outdoor assembly such as outdoor weddings, wedding receptions, tent meetings, or public gatherings.
- b. Regulations:
  - i. *Circulation:* Activities shall not obstruct pedestrian or vehicular circulation, including vehicular sight lines.
  - ii. *Hours:* Activities shall cease at 10:00pm unless a noise variance is granted by the Town Board.
  - iii. *Crowd Control:* Adequate provisions for crowd control shall be made and shall be described within the temporary use application.
  - iv. *Provision of Adequate Facilities:* Adequate parking, drinking water, and toilet facilities shall be provided, and shall be described in the temporary use application.
  - v. *Clean Up and Removal:* All features and temporary structures solely associated with the temporary outdoor assembly use shall be removed and all trash and debris shall be removed within 48 hours of the events closing time.

### 13. Pop-Up Retail

- a. A temporary retail space that operates for a short duration, typically in vacant or underutilized commercial spaces, to sell goods or services.
- b. Regulations:
  - i. *Location*: Pop-up retail establishments may be located in business or mixed-use districts. They must not obstruct pedestrian pathways or access to building entrances.
  - ii. *Duration*: Pop-up retail operations are permitted for a maximum of 90 days within a calendar year at any single location.
  - iii. *Signage*: Temporary signage for pop-up retail establishments must comply with local sign ordinances. All signage must be removed within 24 hours of the conclusion of the pop-up retail operation.

### 14. Mobile Food Trucks

- a. A motorized vehicle or trailer equipped to prepare, cook, and sell food and beverages to the public
- b. Regulations:
  - i. *Location*: Mobile food trucks are permitted to operate in business, manufacturing, and mixed-use districts. They must not obstruct pedestrian pathways, driveways, or access to building entrances.
  - ii. *Operating Hours*: Mobile food trucks may operate between the hours of 7:00 AM and 10:00 PM, unless otherwise specified by local ordinances.
  - iii. *Parking*: Mobile food trucks must park in designated areas or obtain permission from property owners to park on private property. They must comply with all local parking regulations.
  - iv. *Health and Safety*: Mobile food trucks must comply with all local health and safety regulations, including obtaining necessary permits from the health department. Trucks must be equipped with fire extinguishers and other safety equipment as required.
  - v. *Waste Management*: Operators must provide adequate waste receptacles for customers and ensure that the area around the truck is kept clean and free of litter. All waste must be properly disposed of at the end of each day.
  - vi. *Noise*: The operation of mobile food trucks must comply with local noise ordinances. Generators and other equipment should be used in a manner that minimizes noise.
  - vii. *Signage*: Temporary signage for mobile food trucks must comply with local sign ordinances. All signage must be removed when the truck is not in operation.
  - viii. *Duration*: No mobile food truck shall be located on the same property for greater than 30 times in a calendar year.

### 15. Undefined Temporary Use



- a. The zoning administrator may refer any proposed or existing temporary use that does not currently fit another temporary land use category to the Plan Commission for review and approval of use. The Plan Commission may require reasonable conditions to regulate the following:
  - i. Duration
  - ii. Location
  - iii. Noise
  - iv. Hours of Operation
  - v. Parking
  - vi. Lighting
  - vii. Any other conditions deemed necessary to protect life, health, safety, and welfare of the Town.

(p) Accessory Land Uses

1. Accessory Building, Residential

- a. A subordinate building located on the same lot as the principal structure, used for purposes incidental to the main use of the property such as a detached garage, shed, workshop, or greenhouse.
- b. Regulations:
  - i. *Location.* Accessory buildings shall be located in the side or rear yard of the property and must maintain a minimum setback of 5 feet from all property lines and 10 feet from the principal residence structure.
  - ii. *Size.* The total floor area of all accessory buildings on a lot shall not exceed 30% of the side or rear yard area or 625 square feet, whichever is less.
  - iii. *Height.* Accessory buildings shall not exceed 15 feet in height or the height of the principal residential structure, whichever is lower.
  - iv. *Design and Materials.* Accessory buildings should be constructed with materials and design elements that are compatible with the principal residential structure to maintain aesthetic harmony.
  - v. *Use.* Shall not be for commercial purposes or as a dwelling unit. They may be used for storage, hobbies, home offices, or similar uses incidental to the residential use of the property.
  - vi. *Concrete Pad.* All accessory buildings shall be located on a pad of concrete.

2. Accessory Building, Non-Residential

- a. A subordinate building located on the same lot as the principal non-residential structure, used for purposes incidental to the main use of the property, such as storage sheds, maintenance buildings, or utility structures.
- b. Regulations:
  - i. *Location:* Accessory buildings shall be located in the rear or side yard of the property and must maintain a minimum setback of 10 feet from all property lines and 15 feet from the principal non-residential structure.

- ii. *Size*: The total floor area of all accessory buildings on a lot shall not exceed 20% of the lot area or 1,000 square feet, whichever is less.
  - iii. *Height*: Accessory buildings shall not exceed 20 feet in height or the height of the principal non-residential structure, whichever is lower.
  - iv. *Design and Materials*: Accessory buildings should be constructed with materials and design elements that are compatible with the principal non-residential structure to maintain aesthetic harmony.
  - v. *Use*: Accessory buildings shall not be used for residential purposes. They may be used for storage, maintenance, utility functions, or similar uses incidental to the non-residential use of the property.
  - vi. *Review and Approval*. See process listed in the Site Plan Review section ([Section 17.03\(XX\)](#)).
  - vii. *Concrete Pad*. All accessory buildings shall be located on a pad of concrete.
3. Minor Home Occupation
- a. Economic activities performed within a residence. Examples include personal and professional services. Minor Home Occupations are intended to provide a means to accommodate a small home-based family or professional business without the necessity of a Conditional Use Permit or rezoning from a residential zoning district to a business district. Minor Home Occupations are limited to low intensity service-oriented businesses and businesses with a minimal number of short customer visits.
  - b. Regulations:
    - i. *Parking*: No additional parking required.
    - ii. *Location*: The Minor Home Occupation shall be conducted only within the enclosed area of the dwelling unit or attached garage. The use of the residential dwelling for the home occupation shall be clearly incidental and subordinate to the residential use and shall not occupy more than 25% of the total floor area of the dwelling unit. Detached accessory buildings may only be used for storage and is not counted against the 25% allowance.
    - iii. *Exterior Appearance*: There shall be no exterior evidence of the Minor Home Occupation, no exterior alterations which change the character of the structure as a single family dwelling unit, and no signage identifying the Home Occupation.
    - iv. *Owner*: Minor Home Occupations shall be carried out only by members of the immediate family residing on the premises.
    - v. *Nuisances*: There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, vibration, electrical interference, traffic congestion, or other nuisances resulting from the Home Occupation.
    - vi. *Outdoor Storage*: No outdoor storage of equipment or product shall be permitted.

vii. *Public Health and Safety*: No Minor Home Occupation shall endanger the public health and safety and shall not interfere with other parcels in the neighborhood.

4. Conditional Home Occupation

a. Conditional Home Occupations are intended to provide greater flexibility than Minor Home Occupations in terms of number of employees, number of customer visits, and allowable occupations. For example, retail trade may be conducted in a Conditional Home Occupation, whereas Minor Home Occupations are limited to service-oriented businesses and businesses that do not generate customer visits. Some examples of Conditional Home Occupations include product assembly, mass mailing, multi-tiered marketing, gunsmithing or licensed firearm sales, furniture and cabinetry woodworking, furniture upholstery and refinishing, route sales, schools or classes (not exceeding four students in one interval), studios, animal grooming (with no overnight boarding) and salons.

b. Regulations:

i. *Parking*: Minimum required parking shall be reviewed and determined at the time of conditional use permit review.

ii. *Location*: The Minor Home Occupation shall be conducted only within the enclosed area of the dwelling unit or attached garage. The use of the residential dwelling for the home occupation shall be clearly incidental and subordinate to the residential use and shall not occupy more than 25% of the total floor area of the dwelling unit. Detached accessory buildings may only be used for storage and is not counted against the 25% allowance.

iii. *Exterior Appearance*: There shall be no exterior evidence of the Conditional Home Occupation, no exterior alterations which change the character of the structure as a single-family dwelling unit, and no signage identifying the Home Occupation, unless approved during the conditional use permit process.

iv. *Owner*: Minor Home Occupations shall be carried out only by members of the immediate family residing on the premises.

v. *Nuisances*: There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, vibration, electrical interference, traffic congestion, or other nuisances resulting from the Home Occupation.

vi. *Outdoor Storage*: No outdoor storage of equipment or product shall be permitted.

vii. *Public Health and Safety*: No Minor Home Occupation shall endanger the public health and safety and shall not interfere with other parcels in the neighborhood.

viii. *Retail Sales*: Retail sale of merchandise that is assembled, produced, or fabricated on the premises is permitted. Such items, however, shall not be displayed outdoors or in any window. Retail sale of merchandise that is not assembled, produced, or fabricated on the premises is prohibited.

5. Play Structure
  - a. A playhouse and recreational equipment, such as swings, slides, and jungle gyms, normally found in a residential setting.
  - b. Regulations:
    - i. *Setbacks and Location*: A play structure shall be located at least 5 feet from the side and rear property lines. No play structures shall be located in the street yard, except for a basketball hoop located adjacent or on driveway.
6. Deck
  - a. A structure that has no roof or walls and is considered part of a building or structure. Setbacks shall be measured from the post of the deck.
  - b. Regulations:
    - i. *Setbacks*: Shall conform to the offset and setback requirements established in the zoning district.
7. Patio
  - a. A paved outdoor area adjoining a house or building, typically used for dining or recreation.
  - b. Regulations:
    - i. *No Building Permit*. No building permit is required.
    - ii. *Location*. Shall be located at least 3 feet from any property line.
    - iii. *Review and Approval*. The Plan Commission shall review and approve any proposed patio area for a non-residential use.
8. Landscaping Feature
  - a. This land use includes features such as little libraries, ponds, gazebos, pergolas, retaining walls, and other manmade lawn and landscaping elements.
  - b. Regulations:
    - i. *Setbacks*: All landscape features shall be setback a minimum of 3 feet from the property line, except for retaining walls, which may be located up to the property line.
    - ii. *Stormwater Ponds*: Ponds intended to serve as a stormwater pond are considered to be a Stormwater Management Facility land use.
9. Residential Kennel
  - a. An enclosed structure designed for the keeping of dogs and/or cats that is clearly accessory to a residential use.
  - b. Regulations:
    - i. *Setbacks and Location*: Kennels shall be placed in the rear yard and shall be setback at least 15 feet from a lot line.
    - ii. *Hardsurface Requirement*: Kennel shall be placed on a pad of concrete or asphalt.
    - iii. *Fence*: Kennel shall be enclosed by a fence not less than four feet nor more than six feet in height. A fence permit is not required when the fence is intended to enclose a kennel.

- iv. *Allowable Size*: No pet kennel shall exceed 150 square feet in area.
- v. *Landscaping*: Pet kennel area shall be screened from all abutting properties with landscaping.

10. Private Sport Court

- a. An outdoor or indoor facility designed for recreational sports activities such as basketball, tennis, pickleball, and similar uses, which is accessory to a residential use.
- b. Regulations:
  - i. *Location*: Shall be located in the rear yard of the property and shall maintain a setback of at least 10 feet from all property lines. However, a single basketball hoop in a driveway is permitted.
  - ii. *Size*. The total area of the sport court shall not exceed 25% of the rear yard area.
  - iii. *Fencing*. Any fencing or netting around the sport court shall not exceed 10 feet in height and Plan Commission must review and approve the proposed fencing.
  - iv. *Lighting*. Any lighting installed for the sport court must be directed downward and shielded to prevent light spillover onto adjacent properties. Lighting shall be turned off by 10:00 PM.
  - v. *Surface Material*. The surface of the sport court shall be constructed of materials that minimize noise and glare, such as asphalt, concrete, or synthetic materials designed for sports use.
  - vi. *Drainage*. Proper drainage must be provided to prevent water runoff onto adjacent properties.
  - vii. *Permit Required*. A building permit is required for the construction of any private sport court. The application must include a site plan showing the location, dimensions, and materials of the proposed court.
  - viii. *Inspection*. The sport court must be inspected by the Building Inspector upon completion to ensure compliance with all applicable regulations.
  - ix. *Maintenance*. The property owner is responsible for maintaining the sport court in a safe and aesthetically pleasing condition. This includes regular cleaning, repair of any damage, and ensuring that all fencing, netting, and lighting are in good working order.

11. Screening Enclosure

- a. An enclosed area intended to screen equipment and dumpsters from the right-of-way.
- b. Regulations:
  - i. *Setbacks and Location*: Generally, screening enclosures should be located in the side or rear yards and be screened from any streets. Plan Commission may allow screening enclosures in the street yard if the Commission determines

that there is no other feasible location and that the screening enclosure does not negatively impact the aesthetics of the property and surrounding area.

- ii. *Hardsurface Requirement*: A dumpster shall be placed on a pad of concrete or asphalt.
- iii. *Materials*: The enclosure shall consist of brick, textured concrete masonry units, wood fencing, or vinyl fencing. The Plan Commission may approve other proposed materials if the Commission deems material to be appropriate.
- iv. *Approval Process*: Screening enclosures are generally reviewed and approved in conjunction with the original site plan review of the development. For new enclosures or modified enclosures, the Plan Commission shall review and approve the proposed enclosure. A site plan and rendering of the enclosure shall be required for this review.

**Commented [BH5]:** Should TB review as site plan amendment?

## 12. Fences

- a. A structure serving as an enclosure, barrier, or boundary, typically made of posts, boards, wire, or rails, and used to delineate property lines, provide privacy, security, or containment, and enhance the aesthetic appeal of a property.
- b. Regulations:
  - i. *Permitted*. Fences may be permitted as an accessory use in any district upon the issuance of a permit and compliance with the regulations listed below.
  - ii. *Finished Side*. All fences shall be constructed in such a manner that the finished side faces the neighboring property and all fence posts are on the side of the fence facing the subject property.
  - iii. *Survey Required*. Prior to permit approval, any person proposing a solid or open fence that will be located within five feet of a lot line shall submit a plat of survey depicting the location of the proposed fence and stake the corners of the property.
  - iv. *Residential Districts*. All fences constructed in a residential district after January 1, 2024 shall comply with the following requirements.
    - (i) *Open Fences*. Permitted up to the lot line in the side and rear yards but shall not extend into the street yard or exceed a height of four feet. Unless approved by a conditional use permit, chain link and barbed wire fences are prohibited. Such prohibition includes chain link and barbed wire fences surrounding tennis courts, basketball courts, and other similar recreational areas. Open fences may be placed in the street yard of double frontage or corner lots if the fence is setback at least five feet from the street right-of-way, the side facing the street is attractively landscaped, and the zoning administrator determines that the fence's location and appearance is consistent with the surrounding neighborhood continuity standard. The zoning administrator may forward the fence permit application to the Plan Commission for final approval.

- (ii) *Solid Fences*. Permitted up to the lot line in the side and rear yard but shall not extend into the street yard or exceed a height of six feet. Any solid fence located closer than three feet from the property line shall receive a Conditional Use Permit. Solid fences may be placed in the street yard of double frontage or corner lots if the fence is setback at least five feet from the street right-of-way, the side facing the street is attractively landscaped, and the zoning administrator determines that the fence's location and appearance is consistent with the surrounding neighborhood continuity standard. The zoning administrator may forward the fence permit application to the Plan Commission for final approval.
- v. *Non-Residential Districts*. In any district except residential districts, chain link, barbed wire, or other security fencing is permitted up to the lot line in the side, rear, and street yard but shall not extend into the street right-of-way or exceed a height of ten feet. Any portion of such fencing located in the street yard shall be an open fence as defined in § 17.01(9)(b) of this chapter. Barbed wire fences may include up to four strands of barbed wire on the top of the fence, provided that the barbed wire is at least eight feet above grade with the vertical supports for the barbed wire slanting inward away from the neighboring property line. Fences authorized by this section shall comply with the traffic visibility requirements set forth in § 17.07 of this chapter.
- vi. *Ornamental Fences*. In any district, ornamental fences are permitted up to the lot line in the side, rear, and street yard but shall not extend into the street right-of-way or exceed a height of three feet. Ornamental fences shall comply with the traffic visibility requirements set forth in § 17.07 of this chapter. Ornamental fences shall require a fence permit.
- vii. *Prohibited Fences*. Except as otherwise permitted in this subsection, barbed wire, razor wire, corrugated metal, chicken wire, T-posts and U-posts, and electric fences are prohibited.
- viii. *Exemptions*. The following are exempt from the requirements of this subsection:
- (i) Temporary fencing used for the protection of excavation, construction sites, and individual plants.
  - (ii) Decorative fencing, fences encompassing a garden, pet kennels, and other similar fences provided that they are not located in the front yard, setback at least five feet from all property lines, and do not exceed a height of six feet.
  - (iii) Invisible fences intended for pets.
  - (iv) Screening enclosures. Shall follow applicable regulations for screening enclosures.

Commented [BH6]: Update this reference

- ix. *Maintenance*. All fences and posts shall be maintained in a structurally sound and attractive manner.
- x. *Utility Equipment*. Any utility equipment located within a fence shall be safe and accessible. If the metering location becomes unsafe or inaccessible, the owner shall be required to remove the fence or have the utility equipment moved at the owner's expense.
- xi. *Fence Permits*. Fence permits may be approved administratively by the zoning administrator. Any proposed fence that does not comply with this section shall be considered a conditional use under § 17.02(14) of this chapter.

13. Swimming Pool

- a. An outdoor structure either placed on the ground surface or below-ground that is filled with water for swimming. This term does not include pools with a maximum diameter of 15 feet and a maximum wall height of 15 inches and which are taken down and stored in the off-season. This does not include swimming pools associated with Commercial Indoor Lodging uses.
- b. Regulations:
  - i. *Location*. A swimming pool shall not be located closer than 10 feet to the principal structure. A swimming pool is only permitted in the side or rear yard and is subject to accessory building setbacks in the underlying zoning district. For double frontage lots, the Zoning Administrator may designate a rear yard.
  - ii. *Fence*. All pools shall be surrounded by a fence not less than 4 feet nor more than 6 feet in height designed to prevent unguarded entry to the pool. Sidewalls of aboveground pools which are at least 4 feet high may be used in lieu of a fence.
  - iii. *Access to Pool*. Access to private swimming pools shall be controlled to prevent unguarded entry into a pool. Access to in-ground pools shall be controlled by a self-closing and self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner is not present at the pool. For an above-ground pool, a tip-up ladder may be provided in lieu of the gate.
  - iv. *Distance from Electrical Utilities*. Swimming pools shall not be constructed directly under or over electric transmission lines or within 15 feet of such lines. All electrical connections to a swimming pool shall be properly grounded so that no electrical current can be discharged into any part of the swimming pool or surrounding fence; installed by a licensed electrical contractor upon issuance of an electrical permit and installed in conformance with the requirements of the National Electrical Code.
  - v. *Water Drainage*. No water drained from swimming pools shall be discharged onto adjacent properties without written consent of the owner, or into a municipal sewage system, or directly into a navigable body of water.
  - vi. *Pool Equipment*. Proper equipment shall be provided for the disinfection of all pool water; no gaseous chlorination shall be permitted. Heating units, pumps,



and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance. Such equipment shall be located not closer than 10 feet to a lot line.

vii. *Unobstructed Areaway.* There shall be an unobstructed areaway around all pools of at least 3 feet in width.

viii. *Max Area.* Swimming pools and associated equipment and accessory structures shall not occupy more than 50% of the rear yard area.

14. In-Home Daycare

- a. Occupied residences in which a qualified person or persons provide childcare for 4 to 8 children. The care of less than 4 children is not subject to the regulations of this Chapter. State Law Reference: Section 66.1017(1)(a), Wisconsin Statutes.

15. Antenna

- a. A device used for transmitting or receiving radio waves, including terrestrial antennas and earth station dish antennas. Antennas are permitted as accessory uses in any district, subject to the following regulations. These provisions shall not apply to antennas, including earth station dish antennas, which are less than two feet in diameter.

b. Regulations:

i. *Location:*

- (i) Terrestrial antennas and earth station dish antennas may be located in the rear yard or on the roof of the principal structure in all agricultural, business, office, manufacturing, institutional, or park districts.
- (ii) All freestanding terrestrial antennas and roof antennas shall meet the height requirements for the district in which they are located, except as provided in § 17.07 of this chapter.
- (iii) Ground-mounted earth station dish antennas shall not exceed 15 feet in height.

ii. *Setbacks:*

- (i) All terrestrial antennas shall be located not less than one foot from a lot line for each three feet of height above the surrounding grade to any element of the antenna, with a minimum offset of five feet.
- (ii) All earth station dish antennas shall be located not less than five feet from a side or rear lot line.

iii. *Construction and Materials:* All antennas, including earth station dish antennas, shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and shall be constructed of noncombustible and corrosive-resistant materials.

iv. *Visual Impact:* Earth station dish antennas shall be located and designed to reduce their visual impact on surrounding properties.

- v. *Advertising*: No form of advertising or identification may be displayed on the dish or framework of any antenna other than the customary manufacturer's identification plates.
- vi. *Building Code Compliance*: All dish antennas exceeding 48 inches in diameter, and the construction supports and installation thereof, shall conform to applicable Building Code and Electrical Code regulations and requirements. Appropriate permits shall be issued by the Building Inspector. Prior to the issuance of a permit for a building-mounted earth station dish antenna, the applicant shall submit a plan or document prepared by a registered professional engineer which certifies that the proposed dish antenna installation is structurally sound to accommodate wind load, snow load, and dead load. The Building Inspector shall review and approve plans, including ground elevation, for the location of all earth station dish antennas prior to the issuance of a permit.
- vii. *Portable Antennas*: Portable or trailer-mounted antennas are not permitted, with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed two days at any one location.
- viii. *Variances*: In the event the property owner of a parcel of land located in a residential district determines and documents that the placement of an antenna in a rear yard would prevent its use for its intended purpose, the property owner may apply to the Zoning Board of Appeals for a variance to allow for the installation of the antenna in a side yard location. The procedure for issuing the variance shall follow the procedure set forth in § 17.11 of this chapter.

16. Residential Quarters.

- a. The residential use allowed for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business, provided that an occupancy separation is provided in accordance with State Code (Chs. SPS 361 through 366, Wis. Adm. Code).
- b. Regulations:
  - i. None.

17. Onsite Parking.

- a. Parking lots are any areas located on the same property as the principal land use which are used for the temporary parking of vehicles which are fully registered, licensed, and operable.
- b. Regulations:
  - i. *Access and Circulation*. Access and vehicular circulation shall be designed to discourage cut-through traffic.

18. Company Cafeteria.

- a. A food service operation which provides food only to company employees and their guests.
  - b. Regulations:
    - i. *Location.* Shall be located on the same property as a principal land use engaged in an operation other than food service.
19. Onsite Ancillary Use.
- a. Uses incidental to the principal uses, including the sale and display of merchandise or equipment outside of an enclosed building, indoor sales, concession stands, concession stands, and light industrial activities.
  - b. Regulations:
    - i. *Review and Approval.* These uses are reviewed and approved by the Plan Commission during business plan of operation approval and/or site plan approval. Any proposed change will require an amendment to the approved business plan of operation or site plan.
    - ii. *Size.* Ancillary uses shall not exceed 25 percent of gross floor area of principal buildings on the property.
    - iii. *Residential and Institutional Zoned Property.* All onsite ancillary uses shall be permitted in residentially zoned districts only if the principal use of the property is multifamily or institutional and when the use is intended for those already on the premises.
      - (i) Common examples for multifamily include indoor or outdoor gathering spaces and on-site recreational facilities.
      - (ii) Common examples for institutional land uses include concession stands, small indoor sales, and personal service space in parks, schools, churches, large community living arrangements, and similar institutional uses.
    - iv. *Approval.* The Plan Commission may decide to permit any proposed ancillary use that is found to be compatible with the principal use and is found to not adversely impact the surrounding properties and uses.
    - v. *Denial.* The Plan Commission may decide to deny any proposed ancillary use that is found to be incompatible with the principal use and/or the surrounding properties and uses.
20. Undefined Accessory Use
- a. The zoning administrator may refer any proposed or existing accessory use that does not currently fit another accessory land use category to the Plan Commission for review and approval of use. The Plan Commission may require reasonable conditions to regulate the following:
    - i. Duration
    - ii. Location
    - iii. Noise
    - iv. Hours of Operation

- v. Parking
- vi. Lighting
- vii. Any other conditions deemed necessary to protect life, health, safety, and welfare of the Town.

b. *Prohibited Use*: Air dome structures are prohibited within the Town of Brookfield.

(5) Land Use Matrix

- (a) The Land Use Matrix is provided to determine the permitted and conditional uses in each zoning district.

ADD MATRIX HERE

A-1 Agricultural District Rs-1 Single-Family Residential District Rs-2 Single-Family Residential District Rs-3 Single-Family Residential District Rs-4 Single-Family Residential District Rd-1 Two-Family Residential District Rm-1 Multifamily Residential District Rm-2 Multifamily Residential District B-1 Neighborhood Business District B-2 Limited General Business District B-3 Office and Professional Business District M-1 Limited Manufacturing District M-2 General Manufacturing District M-3 Quarrying District I-1 Institutional District P-1 Park District C-1 Conservancy District MU-1 Mixed-Use District																		Land Uses Permitted (P=Permitted, C=Conditional)
																		Ag Uses
P																		Cultivation
P																		Husbandry
P														P	P			Community Garden
P								P	P									Greenhouse
																		Residential Uses
P	P	P	P	P	P													Single-Family
					P	P	P											Two-Family
						P	P										C	Townhouse (3-8 units)
						P	P										P	Multi-Family (3-8 units per structure)
						C	C										C	Multi-Family (9-15 units per structure)
							C										C	Multi-Family (15+ units per structure)
																	P	Mixed-Use Housing
	P	P	P	P	P	P	P							P			P	Community living arrangement (8 persons or less)*
	C	C	C	C	C									C				Community living arrangement (9-15 persons)
						C	C							C				Community living arrangement (16+ persons)
																		Commercial
								P	P	P	P	P					P	Office
								P	P	P							P	Financial Service
									C	C							C	Financial Service with Drive- Through Service
								P	P	P							P	Personal Service
								P	P	P							P	Professional Service
								P	P		P	P					P	Artisan Studio and Store
								P	P								P	Indoor Sales or Service
								C	P								P	Restaurant
									C									Drive-Through Restaurant
									P								P	Tavern
									P		C	C					P	Brewpub
							C	P	C	C	C		C	C			C	Indoor Entertainment
							C	P	C	C	C		C	C			C	Indoor Recreation
							C	C	C	C	C		C	C			C	Outdoor Recreation
								C					C	C			C	Practice Driving Range
								P	C	C	C						P	General Veterinary Clinic
								P									P	Commercial Indoor Lodging
								C	C	C	C						C	Animal Boarding
								P	P	C	P	P					P	General Repair

								C	C	C				C			C	Funeral Home
											P	P						Large Equipment Rental
									P		P	P						Small Equipment Rental
											P	P						Landscape Business
								P	P	P							P	Instructional Services
									C	C				C			C	Commercial Day Care Centers
																		Automotive Uses
								C	C*									Vehicle Fuel Station
								C	C*		C*	C*						Vehicle Service Shop
									C*									Vehicle Sales
									C*		C*	C*						Vehicle Repair
																		Medical Uses
									C	C				P			C	Health Care Center
								P	P	P				P			P	Health Care Clinic
																		Institutional Uses
								P	P	P				P			P	Administrative Government Center
	C	C	C	C	C	C	C	P	P	P	C	C		P	C		P	Community Center
	C	C	C	C	C	C	C	P	P	P	C	C		P	C		P	Community Cultural Facility
	C	C	C	C	C	C	C			C				P	C		C	Worship Facility
														P	C			Public Safety Facility
	C	C	C	C	C	C	C			C				P	C		C	Post-Secondary Educational Facility
	C	C	C	C	C	C	C			C				P	C		C	Pre-K through Grade 12 Educational Facility
								C	C	C	C	C		P			P	Animal Shelter
														C				Cemetary
	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Passive Outdoor Recreation
	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P	C	C	Active Outdoor Recreation
							C	C						C				Institutional Residential
																		Industrial Uses
								C	C	C	P	P					C	Artisan Workshop
											P	P						Light Industrial and Light Manufacturing
												C	P					General Manufacturing
										C	P	P					C	Research and Development Facility
																		Storage Uses
											P	P						Warehouse
											P	P						Truck Terminal and Distribution Center
											C	C						Personal Storage Facility
																		Transportation Uses
C														C				Airport
								C	C	C	C	C		C			C	Heliport
								C	C	C	C	C		C			C	Transit Center
											C	C		C				Bus Storage Facility
								C	C	C	C	C	C	C	C		C	Off-Site Parking
																		Waste Facilities Uses
C												C		C				Composting Facility
C												C		C				Recycling and Solid Waste Transfer
																		Extraction Uses
													C					General Extraction

																		Conservancy Uses
																C		Conservancy Road
																C		Conservancy Non-Residential Building
																C		Conservancy Utilities
																C		Conservancy Railroad
																		Energy Production Land Uses
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Wind Energy System
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Solar Energy System
																		Utilities Land Uses
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Essential Services
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Major Utility Installation
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Minor Utility Installation
											P	P		P				Utility Maintenance Yard
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Stormwater Management Facility
																		Temporary Land Uses
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Contractor's Office
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Temporary On-Site Real Estate Sales Office
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Temporary On-Site Construction Storage
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Earth Materials Stockpile
P								P	P	P	P	P	P	P	P		P	Farmer's Market
C											C	C	C	C				Off-Site Construction Yard
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Party Tent
	P	P	P	P	P	P	P											Temporary Storage Container
P								P	P	P				P	P		P	Seasonal Product Sales
P								P	P	P				P	P		P	Temporary Outdoor Sales
P	P	P	P	P	P	P	P							P				Garage or Estate Sales (Auction)
P								P	P	P	P	P		P	P		P	Temporary Outdoor Assembly
								P	P	P							P	Pop-Up Retail
								P	P	P	P	P					P	Mobile Food Trucks
p*	p*	p*	p*	p*	p*	p*	p*	p*	p*	p*	p*	p*	p*	p*	p*	p*	p*	Undefined Temporary Use
																		Accessory Uses
P	P	P	P	P	P	P	P	P	P	P				P	P		P	Accessory Building, Residential
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Accessory Building, Non-Residential
P	P	P	P	P	P	P	P	P	C	P							P	Minor Home Occupation
C	C	C	C	C	C	C	C	C	C	C							C	Conditional Home Occupation
P	P	P	P	P	P	P	P							P	P		P	Play Structure
P	P	P	P	P	P	P	P	P	P	P	P	P		P	P		P	Deck
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Patio
P	P	P	P	P	P	P	P							P	P		P	Landscaping Feature
P	P	P	P	P	P	P	P										P	Residential Kennel
C	C	C	C	C	C	C	C										C	Private Sport Court
					P	P	P	P	P	P	P	P	P	P	P		P	Screening Enclosures
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Fence
P	P	P	P	P	P	P	P							P	P		P	Swimming Pool
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	In-Home Daycare
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	Antenna
								P	P	P	P	P						Residential Quarters

[illegible]









## 17.06 Planned Unit Development

- (1) Purpose and Intent. The planned unit development is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, diversified building types and mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; attractive recreation and open spaces as integral parts of the developments; enable economic design in the location of public and private utilities and community facilities; and ensure adequate standards of construction and planning. The planned unit development will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic zoning district. In exchange for such flexibility, planned developments shall provide a much higher level of site design, architectural control, and other aspects of aesthetic and functional excellence than normally required for other developments. Planned developments are not intended to circumvent the intent of other zoning districts or this Section. **[Added 8-5-2014]**
- (2) Applicability.
  - (a) Ownership. A tract of land proposed to be developed as a PUD shall be under the control of a single owner, partnership, or corporation, where each owner agrees in advance to be bound by the conditions and regulations which will be effective within the district and to record such covenants, easements, and other provisions with the county.
  - (b) Size. There is no minimum or maximum size for a PUD.
  - (c) Condominium projects. Condominium projects with jointly owned common spaces and/or commonly owned structural walls, roofs, or other structural elements must be approved as PDs if, as a result of a condominium division of the land, the lot requirements of the district in which the development is located cannot otherwise be met. This requirement would apply to townhouses where the resulting lot size would be less than otherwise required.
  - (d) Districts. Planned Unit Developments may be used for development in any basic zoning district, except C-1 Conservancy District and P-1 Park District.
- (3) Permitted uses. Uses permitted in a planned unit development shall conform to uses permitted in the basic zoning district.
- (4) Individual structures shall comply with specific building area and height requirements of the underlying basic zoning district. Open space and parking requirements of the underlying basic zoning district shall be complied with either individually or by providing the combined open space and parking space required for the development in one or more locations within the development. Exceptions can be waived by positive recommendation from Plan Commission and approval by Town Board.

(5) Procedural requirements.

- (a) **Concept Plan Review.** Prior to the submission of the petition for the approval of a planned unit development, an applicant making a petition shall meet with the Town staff, Development Review Team and Plan Commission to discuss the scope and proposed nature of the contemplated development.

**Commented [BH1]:** What role should ARC play in this review?

1. At Plan Commission meeting, the applicant shall engage in an informal discussion with the Plan Commission regarding the conceptual plan. Appropriate topics for discussion may include any of the following information provided in the conceptual plan, or other items as determined by the Plan Commission. Points of discussion and conclusions reached at this stage of the process shall be in no way be binding upon the applicant or the Town, but should be considered as the informal, non-binding basis for proceeding to the next step. The preferred procedure is for one or more iterations of Plan Commission review of the conceptual plan to occur prior to introduction of the formal applicant.
2. The conceptual plan submitted to the Town staff shall include the following items:
  - a. A location map of the subject property and its vicinity (100 feet or greater beyond subject property).
  - b. A general written description of the proposed planned unit development, including:
    - i. General project themes and images.
    - ii. The general mix of dwelling unit types (if any) and/or land uses.
    - iii. Approximate residential densities and non-residential intensities as described by dwelling units per acre, landscaping surface ratio, and/or other appropriate measures of density and intensity.
    - iv. General treatment of natural features.
    - v. Relationship to nearby properties and public streets.
    - vi. Relationship of the project to the Town's Comprehensive Plan.
    - vii. Description of potentially requested exemptions from the requirements of this Section. The purpose of this information shall be to provide the Plan Commission with information necessary to determine the relative merits of the project with respect to private versus public benefit, and to evaluate the potential adverse impacts created by making exemptions to standard zoning district requirements.
    - viii. A conceptual drawing of the site plan layout, including the general locations of public streets and/or private drives.

(b) **Petition.** Following the concept plan review, the applicant may file a petition with the Town Clerk for approval of a planned unit development. Such petition shall be accompanied by the review fee required under § 17.14 and include the following information:

1. A statement which sets forth the relationship of the proposed planned unit development to the Town's Comprehensive Plan or any adopted component thereof and the general character of and uses to be included in the proposed planned unit development, including:
  - a. Total area included in the planned unit development, area of open space, residential density computations, amount of dwelling units, population analysis, availability of or requirements for essential services, and any other data pertinent to a comprehensive evaluation of the development.
  - b. General summary of the estimated value of structures and site improvement costs, including landscaping and special features.
  - c. General outline of the organizational structure of a property owners' or management association proposed to be established to provide any necessary private services.
  - d. Proposed exceptions from the standards of development in this chapter, other Town regulations, administrative rules, or universal guidelines.
  - e. Construction schedule and expected date of commencement of construction for the development, which shall be no later than twelve months after the Town Board's approval of the petition.
2. A general development plan for the planned unit development shall be submitted and include:
  - a. Legal description of the boundaries of the subject property included in the development and its relationship to surrounding properties.
  - b. Location of public and private roads, driveways, and parking facilities.
  - c. General type, size, arrangement, and location of all lots, buildings and structures.
  - d. Location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
  - e. Conceptual landscape plan noting approximate locations and species of proposed landscaping.
  - f. Architectural plans, elevation and perspective drawings and sketches illustrating the design and character of the structures.

**Commented [BH2]:** Other municipalities have 2 phases of PUD reviews: General Development Plan and Specific Implementation Plan. Do we want to consider doing this?

- g. Existing and proposed location of essential services serving the property, and all private utilities or other easements.
  - h. Characteristics of soils related to contemplated specific uses.
  - i. General site grading plan showing preliminary road grades and existing topography on the site.
  - j. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
  - k. Basic storm drainage pattern, including proposed on-site stormwater detention.
  - l. Preliminary sanitary sewer and water system layout.
  - m. General signage plan, including all project identification signs and concepts for public fixtures and signs (such as street light fixtures and/or poles or street sign faces and/or poles) which are proposed to vary from Town standards or common practices.
  - n. Statistical data including: minimum lot sizes in the development, approximate areas of all lots, building coverage, and landscaping surface area ratio of all land uses.
  - o. A Transportation Demand Management (TDM) Plan meeting Wisconsin Department of Transportation requirements for content and format may be required by the Town if deemed necessary by the Town Engineer.
  - p. A preliminary plat or certified survey map that complies with the Town land division regulation of the proposed planned unit development includes the division of any land for the purpose of change or conveyance of ownership. The general development plan shall include a statement of when such land division will occur.
- (c) Referral to Plan Commission. The petition for a planned unit development shall be referred to the Plan Commission for its review and recommendation, including any necessary conditions or restrictions.
- (d) Public Hearing. The Plan Commission and Town Board shall hold a joint public hearing in accordance with **§§ 17.03(XX)**.
- (e) Review of petition and approval criteria. As soon as practicable following the hearing, the Plan Commission shall report its findings and recommendations to the Town Board. The Plan Commission in making its recommendation and the Town Board in making its determination shall consider all of the following:
- 1. The planned unit development is consistent with the spirit and intent of this chapter, complies with the adopted Comprehensive Plan, and would not be contrary to the

general welfare and economic prosperity of the community.

2. Timeline and method of development construction as specified in the general development plan.
3. The proposed planned unit development would maintain the desired relationships between land uses, land use densities and intensities, and land use impacts in the environs of the subject site.
4. The proposed site will have adequate public infrastructure, or will be able, to accommodate the range of proposed uses, including but not limited to public sewer and water, public roads, and drainage facilities for surface and stormwaters.
5. Streets and driveways on the proposed site will have access to public roads, meet the minimum standards of the Town's Code, and will adequately support the traffic expected to be generated by the planned unit development.
6. The planned unit development will not cause undue constraint or burden on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas.
7. Centralized water and sewer facilities is provided.
8. The proposed site will be held under single ownership or if there is more than one owner, the petition for shall be considered as one tract, lot, or parcel, and the legal description shall define the planned unit development as a single parcel, lot, or tract and be recorded with the Waukesha County Register of Deeds.
9. The locations for entrances and exits have been designated 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 upon the general traffic pattern of the surrounding area.
10. 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 property values of the surrounding area.
11. The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
12. The proposed planned unit development project will positively contribute to the physical appearance and functional arrangement of development in the area.
13. The proposed planned unit development project will produce significant benefits in terms of environmental design and significant alternative approaches to addressing development performance that relate to and more than compensate for any requested exemption or variation of any normal standards of this Chapter.



14. For planned unit development projects that are proposed to be developed in phases, the applicant can provide a clear timeline for development and can demonstrate that the project would be successful even if all phases were not completed or could not be completed.
15. In addition to the general requirements, the Plan Commission and Town Board shall also consider the following for a proposed residential planned unit development:
  - a. The planned unit development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
  - b. Up to twenty percent of any area within a planned unit development that is zoned C-1 Conservancy District or Floodplain or Conservancy District under the Waukesha County Shoreland and Floodland Protection Ordinance may be used in calculating density if the total number of units permitted does not exceed twenty percent of the units permitted without using floodland or conservancy lands.
  - c. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities or coverage.
  - d. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.
16. In addition to the above requirements, the Plan Commission and Town Board shall also consider for a proposed commercial planned unit development:
  - a. The proposed development will be adequately served by off-street parking and truck service facilities and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance and maintenance of public areas.
  - b. The locations for entrances and exits have been designated 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 upon the general traffic pattern of the surrounding neighborhood.
  - c. 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 property values of the surrounding neighborhood.
17. In addition to the general requirements, the Plan Commission and Town Board shall also consider the following for a proposed industrial planned unit development:

- a. 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. The proposed development will include adequate provisions for off-street parking and truck service areas and will be adequately served by rail, arterial highway facilities or both.
  - c. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance and maintenance of public areas.
  - d. The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
18. In addition to the general requirements, the Plan Commission and Town Board shall also consider the following for a proposed mixed-use planned unit development:
- a. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance and maintenance of public areas.
  - b. The proposed mixture of uses produces a unified composite which is compatible within the underlying districts and which as a total development entity is compatible with the surrounding neighborhood.
- (f) Determination. The Town Board, after due consideration, may approve or deny the petition as submitted, or approve the petition subject to additional conditions and restrictions. The approval of a planned unit development shall be based upon and include as conditions thereto the building, site, and operational plans for the development as approved by the Town Board.
- (g) Changes and Additions. Any subsequent change or addition to the plans or uses shall first be submitted for approval to the Plan Commission, and if in the opinion of the Commission such change or addition constitutes a substantial alteration of the original plan, a public hearing before the Commission shall be required and notice thereof be given under § 17.03(XX). Upon recommendation of the proposed alterations by the Plan Commission, the proposed alterations shall be submitted to the Town Board for approval.
- (6) A compact form planned unit development shall be available in all districts in which PUDs are available subject to the requirements of § 17.06(5)(e) and as described below: **[Amended 12-7-2021 by Ord. No. 2021-004]**
- (a) A compact form PUD shall allow a mixture of commercial, office, residential, institutional and park and open uses and may also allow for single use projects that contain certain specified urban design elements. Such projects are envisioned to

accommodate compact, higher-intensity development or redevelopment in settings where urban services are available and new compact development is appropriate and will contribute to the vitality of the community. Higher-density residential development is encouraged (less than 6,000 square feet of land area per dwelling unit).

1. The compact development form PUD shall require a heightened level of site design, and individual buildings shall be arranged in a unified fashion so as to be complementary to each other and to be compatible with the surrounding neighborhood.
  2. This PUD option provides opportunity for design flexibility and sets forth basic requirements for compact development projects in order to accommodate unique, integrated development projects. The availability of this design option recognizes that the community realizes economic, aesthetic and quality of life benefits from projects with interesting design and higher-intensity mixed uses in projects with an upscale dynamic. Development projects or new neighborhoods with vertical scale architecture, mixed uses, pedestrian facilities and public gathering spaces create more dynamic places that are attractive for people to live, work and play within. Required amenities will benefit both the developer and the community while also allowing for orderly and efficient land use.
- (b) For a project to be eligible for consideration and approval as a compact form PUD, the following project design elements shall be provided:
1. Compact form PUDs will only be considered in existing corridor business settings or in close proximity to major transportation facilities, such as interstate highway interchanges, county trunk highways, major arterials or mass transit stops.
  2. Proposed development projects must be complementary to the surrounding neighborhood and shall be served by municipal sewer and municipal water.
  3. Architecture, landscaping and building siting must be designed to create an attractive and cohesive environment that contributes positively to the existing setting. Landscape treatments shall be provided to enhance architectural features, improve appearance, screen parking areas and structures, provide shade and enhance the streetscape.
  4. Compact form scale architecture (minimum two-story buildings or two-story facades) is required. Maximum permissible building height and massing must be complementary to the neighborhood as determined by the Plan Commission and Town Board.
  5. Building designs shall utilize a variety of aesthetically compatible exterior building materials and building styles and articulations shall be varied. Long, monotonous facades or roof designs shall not be permitted. HVAC units and other rooftop mechanicals/utilities are required to be screened from view.
  6. Meaningful communal gathering and green spaces provided in accessible settings

must be an integral part of any proposed development.

7. Pedestrian facilities must connect buildings and uses within the proposed development and must connect the development to the surrounding neighborhood in order to provide safe and convenient access for patrons, residents, and pedestrians. Bicycle accommodations should be considered in project design.
8. Buildings shall be predominantly oriented to streets with minimal street setbacks.
9. Large surface parking lots shall be minimized with specific consideration given to avoidance of parking lots between buildings and the street edge. Structured, underground or on-street parking must be provided to the greatest extent practicable. Surface parking lots should be located to the side and rear of buildings as much as possible. Parking areas should be landscaped to incorporate planting islands large enough so they may also serve as stormwater areas or snow storage areas.
10. Retail and mixed retail/office buildings shall provide large store front windows that provide visibility and transparency at the pedestrian level.
11. A compact form for residential development is permissible at densities dependent upon, and related to, the form and massing of buildings. Specified maximum building height, setbacks, build-to lines, offsets, and on-site parking requirements are to be established by the Planning Commission and Town Board, which will determine available housing densities.
12. Internal streets must be designed to adequately serve the users of the proposed development and contain safe, efficient traffic calming measures, such as landscape bumpouts, parallel or angle on-street parking, visually conspicuous crosswalks, and narrow streets.
13. Developers of mixed-use projects or structures with more than one tenant shall submit a comprehensive description of a uniform signage system so that individual business or tenant signs will be harmonious and compatible with the overall design of the structures and site. Individual tenant signage must be predominantly wall mounted.
14. Streets and pedestrian facilities shall contain appropriate streetscape amenities, such as street trees, street furniture, such as benches, planters, trash receptacles, information kiosks, bike racks, bus shelters, appropriate scale lighting and wayfinding signage. The ACC shall set forth the required streetscape elements with consideration given to similar Town-imposed requirements. Terraces to separate pedestrians from vehicles shall be provided, where feasible. ADA-compliant access and facilities shall be provided throughout the development. Sidewalks that will traverse predominantly retail or restaurant use areas shall be wide to accommodate space for passing pedestrians and certain designated sidewalks within retail areas should be widened to allow for sidewalk cafe dining or outdoor retail display while still providing for pedestrian passage.

§ 17.07 Traffic, ~~access, loading, and parking.~~ ~~and access.~~

(1) Traffic visibility.

- (a) Purpose. The purpose of this section is to alleviate or prevent congestion of public and private rights-of-way so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of vehicular visibility.
- (b) Applicability. The requirements shall apply to all new development, new proposed access drives connecting to public right-of-way, and signage.
- ~~(b)~~(c) Review and Approval. The Town Engineer shall review and approve all developments for conformance with this section. The Town Engineer may grant exceptions to the requirements of this section if the intersection is controlled, or if the structure within the triangle does not obstruct visibility for traffic.
- ~~(c)~~(d) No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of 2 1/2 feet and 10 feet above the plane through the mean center line grade of the vision triangle. The vision triangle is formed by connecting a line between points located 30 feet from the intersection of two streets along the right-of-way line.
- ~~(d)~~(e) In the case of arterial streets intersecting with other intersecting streets or railways, the corner cutoff distances establishing the vision triangle clearance space shall be increased to 60 feet.
- (f) In the case of driveways intersecting with other intersecting streets, the corner cutoff distances establishing the vision triangle clearance space shall be a minimum of 15 feet.

(2) Access and Driveway Standards.

- (a) Purpose. The purpose of this section is to alleviate or prevent congestion of public and private rights-of-way so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of access to public rights-of-way.
- (b) Applicability. The requirements shall apply to each access drive onto a public street or right-of-way in a new development.
- (c) Review and Approval. The Town Engineer shall review and approve all proposed access drives on the subject property.
- (d) Site Plan. Any and all proposed access drives on the subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property.
- (e) Distance from Property Line. The distance from an access drive to the property line of an abutting property shall not be less than 5 feet, as measured along the property line, except for existing driveways and shared driveways. Private driveways may not be located closer than 5 feet from an adjoining property zoned or used for residential purposes nor

closer than 25 feet from any adjoining property line where the property is used for non-residential purposes.

(f) Driveway Width. All access drives for one or two-family residential uses shall have a minimum width of 12 feet. Access drives for all other uses shall be determined by the Town Engineer.

(g) Traffic Control. The traffic generated by any use shall be channelized and controlled in a manner which avoids congestion on public streets and other safety hazards. Traffic control devices shall be required as approved by the Town Engineer.

(h) Traffic Study. The Town Engineer or Plan Commission may require a traffic impact analysis to be completed if a proposed development is expected to have a substantial impact on traffic. The traffic impact analysis shall be completed in accordance with the most current version of the Traffic Impact Analysis Guidelines published by the Wisconsin Department of Transportation. This analysis shall be conducted by a third party agreed upon by both the applicant and the Town at the applicant's expense. Specific components of the analysis shall be determined by the Town Engineer or the Plan Commission.

(i) Paving. All access approach areas located within the street right-of-way shall be paved to the satisfaction of the Town Engineer with a hard, all-weather surface, and shall be maintained so as to prevent the transport of gravel, dirt, or other eroded material from the subject property into the right of way.

~~(2)~~(3) Loading requirements. On every lot on which a business, trade or industrial use is hereafter established, adequate space with access to a public street or alley shall be provided for the loading and unloading of vehicles off the public right-of-way. At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

~~(3)~~(4) ~~Parking and pavement s~~Setback requirements. The distance from an off-street parking area or traffic circulation area to the property line of an abutting property shall not be less than 5 feet, measured along the property line, except for existing driveways, shared driveways, and approved cross access drives. A five-foot offset to paving shall be provided in all nonresidential districts, except for shared driveways and approved cross access drives.

~~(4)~~(5) ~~General p~~Parking requirements. In all districts, in connection with every use, there shall be provided at the time any use is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the following:

(a) Adequate access to a public street shall be provided for each parking space. **[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]**

(b) Applicability. The requirements of this subsection shall apply to all new development and any expansion of parking areas. Parking requirements may be modified, reduced, or waived by the Plan Commission and Town Board during site plan review, based on a positive recommendation by the Town Engineer.

1. Repaving and reconstruction. When more than 10 percent of an existing off-street parking area is repaved or reconstructed, the Town Engineer must review for conformance with the requirements of this section and approve the project. The Town Engineer may forward this item to the Plan Commission for final approval if substantial changes are proposed or if exemptions are requested.

(c) Review and approval. Proposed parking layout and requirements are reviewed during the site plan review process. The town engineer reviews the proposed parking area for conformance and provides a recommendation to the Plan Commission and Town Board.

(d) Site Plan. Any and all parking and traffic circulation areas proposed to be located on a subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property.

1. ~~(b)~~ The minimum dimensions of each parking space shall be ~~nine~~ feet by 18 feet, except for properly signed spaces provided for use by physically disabled persons. ~~A garage stall meeting the minimum dimensions shall be considered a parking space.~~

(e) ~~(e)~~ —Parking spaces for use by physically disabled persons. All open off-street parking areas provided for more than 25 parking spaces, except for parking areas restricted to use by employees only, shall provide properly signed parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the following minimum standards:

1. One properly signed physically disabled parking space shall be provided in parking areas containing 26 to 49 spaces.

2. Two percent of the total number of spaces shall be properly signed physically disabled parking spaces in parking areas containing 50 to 1,000 spaces.

~~(4)~~3. In addition to the number of spaces required in Subsection (3)(c)2 above, 1% of each 1,000 spaces over the first 1,000 spaces shall be provided for properly signed physically disabled parking spaces in parking areas containing more than 1,000 spaces.

~~(2)~~4. The minimum dimensions for all parking spaces provided for use by physically disabled persons shall be 12 feet by 18 feet.

~~(3)~~5. Parking spaces provided for use by physically disabled persons shall be located as close as possible to an entrance which allows persons to enter and leave the parking area without assistance.

~~(4)~~6. All parking spaces provided for physically disabled persons shall be marked by a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for physically disabled persons. Such sign shall comply with the requirements of §§ 346.50, 346.503, and 346.505, Wis. Stats.

7. Shall meet any additional requirements for ADA-compliant parking.

(f) General Design Principles. Parking areas shall be designed based on the following principles:

1. Provide continuous flow of traffic through the parking area.
2. Allow safe movement of pedestrians from parking to building(s).
3. Avoid conflicts between vehicular, bicycle, and pedestrian traffic. Pedestrian circulation and safety shall take precedence over vehicular circulation.
4. Allow for appropriate landscaping within parking areas.
5. Ensure emergency service vehicles are able to travel through parking areas, including fire trucks with a curb-to-curb turning radius of 40 feet.
6. Minimize unused impervious surfaces.
7. Ensure stormwater generated on the site is accommodated consistent with Town requirements.
8. The Town may reject a proposed site plan that does not adequately address one or more of these principles.

(g) (d) — Location. Location of parking spaces shall be on the same lot as the principal use or not more than 400 feet from the principal use. No parking space or driveway, except in residential districts, shall be closer than 25 feet to a residential lot line, or a street right-of-way opposite a residential district.

(b)(h) — Circulation. The site shall be designed to provide for the safe and efficient movement of all traffic entering, exiting, and circulating on the site. Circulation patterns shall conform to the general rules of the road. All traffic control measures shall meet the requirements of the Manual of Uniform Traffic Control Devices or other requirements as determined by the Town Engineer.

(e)(i) — Surfacing. All off-street parking areas shall be surfaced with an asphaltic or portland cement pavement in accordance with Town standards and specifications so as to provide a durable and dust-free surface and shall be so graded and drained as to dispose of all surface water. Any parking area for more than five vehicles shall have the aisles and spaces clearly marked. Surfacing of parking areas shall be completed before occupancy is granted. The Plan Commission may, however, recommend a delay in surfacing if surfacing will be completed within 12 months following occupancy. When a delay is permitted, the Town Board shall require appropriate sureties to guarantee that surfacing will be completed on in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the conservancy area.

~~(d)(a) — Landscaping. All public off-street parking areas serving five or more vehicles and created or redesigned and rebuilt subsequent to adoption of this chapter shall be provided with accessory landscaped areas totaling not less than 5% of the surface area. The~~



~~minimum size of each landscaped area shall be 100 square feet. Location of landscaped areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance, shall be subject to approval by the Plan Commission. All plans for proposed parking areas shall include a topographic survey and grading plan showing existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of required minimum landscaped area. Parking areas for five or more vehicles which adjoin residential districts shall be visually screened with a solid wall, fence or evergreen planting of equivalent visual density or other effective means, built and maintained to a minimum height of six feet.~~

- (j) Curbs. Curbs or barriers shall be installed at least four feet from a property line so as to prevent parked vehicles from extending over any lot line.
- (k) Reduction in Parking. The Plan Commission may decrease the required number of off-street parking spaces based upon information furnished by the applicant that indicates, to the satisfaction of the Plan Commission, that actual off-street parking demand for the particular use is less than the required standard set forth in the Section or that the demand can be adequately met without detrimental impact to the surrounding neighborhood.
- (l) Maintenance. The Zoning Administrator may require the property owner to replace portions of parking areas, driveways, traffic circulation areas, or private drives if found in disrepair and/or found to be a safety hazard.
- (m) Snow Storage. Required off-street parking and traffic circulation areas shall not be used for snow storage.
- (n) Signage. All signage located within, or related to, required off-street parking or traffic circulation areas shall comply with the requirements of the Sign Code. The Town may require additional internal signage to address concerns with traffic circulation, pedestrian or vehicular safety, or for identification of temporary parking areas.
- (o) Lighting. All off-street parking and traffic circulation areas serving 10 or more vehicles shall be lit to ensure the safe and efficient use of said areas during the hours of use. These requirements shall meet the requirements as set forth in Section 17-08.
- ~~(e)(p)~~ Pedestrian Routes. When a pedestrian circulation route crosses a vehicular route, a crosswalk shall be provided to clearly identify the pedestrian route.
- (q) ~~(h)~~ Parking Requirements for New Development and Change of Land Use.
  - 1. All required parking for new development, including aisles, must be provided on-site or on adjoining property if owned or controlled by the owner of the subject property and hard surfaced within one year of occupancy.
  - 2. All additional required parking, new parking areas, aisles, and/or new access points, for a change in land use that triggers an increase in the parking requirements, must be provided on-site or on adjoining property if owned or controlled by the owner of the

subject property and hard surfaced within one year of occupancy.

3. Off-street parking requirements for each land use are found in Section 17.05 for each individual land use. These requirements are generally tied to the land use's capacity, gross floor area, or the number of employees at the subject property during the largest work shift.
  - a. The term "capacity" means the maximum number of persons that may be accommodated by the use as determined by its design or number of persons expected at one time by the facility, excluding special events.
  - b. The term "employee(s) on the largest work shift" means the maximum number of employees working at the facility during a single given day, regardless of the time period during which this occurs, and regardless of whether any such person is a full-time employee. The largest work shift may occur on any particular day of the week or during a lunch or dinner period in the case of a restaurant.
  - c. In all cases, one reserved parking space shall be provided for each vehicle used by the operation during business hours.

(r) Joint and Cooperative Parking Facilities.

1. Parking facilities which have been approved by the Town to provide required parking for one or more uses shall provide a total number of parking spaces which shall not be less than the sum total of the separate parking needs for each use during any peak hour parking period when said joint parking facility is utilized at the same time by said uses. However, this aggregate requirement may be reduced or expanded if part of a cooperative parking facility or the total number of required parking is reduced by the Plan Commission and Town Board, based on a positive recommendation from the Town Engineer.
2. The applicant(s) for approval of a joint parking facility shall demonstrate to the satisfaction of the Town Engineer that there is no substantial conflict in the demand for parking during the principal operating hours of the two of more uses for which the joint parking facility is proposed to serve.
3. Cooperative parking facility. Up to 15 percent reduction in the number of required parking spaces for 4 or more separate uses; 10 percent for 3 separate uses; and 5 percent for 2 separate uses may be authorized by the Town, following a positive recommendation by the Town Engineer, following approval of a plan which provides for a collective parking facility of, serving 2 or more buildings or uses, developed through voluntary cooperation or under any parking district which may hereafter be provided by law.
4. Joint but alternate use. The Town may also authorize the joint use of parking facilities under the following conditions:

- a. Up to 50 percent of the parking facilities by nighttime uses may be supplied by the off-street parking facilities of daytime uses.
- b. Up to 50 percent of the parking facilities of daytime uses may be supplied by the off-street parking facilities of nighttime uses.
- c. Up to 100 percent of the parking facilities of a church or auditorium incidental to a school may be supplied by the off-street parking facilities of daytime uses.
- d. For the purposes of this section, daytime uses are defined as offices, banks, retail stores, personal service or repair shops, household equipment or furniture stores, manufacturing or wholesale, or similar primarily daytime uses; and nighttime uses are defined as auditoriums incidental to grade schools, churches, bowling alleys, dancehalls, theaters, bars or restaurants, motels, or similar primarily nighttime or Sunday uses and nonelderly, multifamily housing.
- e. Conditions required for joint use shall be as follows:
  - i. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 400 feet of such parking facilities.
  - ii. The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.
  - iii. A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the town attorney, shall be presented to the Plan Commission and Town Board. Joint use parking privileges shall continue in effect only so long as such an instrument, binding on all parties, remains in force. If such instrument becomes legally ineffective, then parking shall be provided as otherwise required in this chapter.

~~(6) (4)~~ Driveways. All driveways installed, altered, changed, replaced, or extended after the effective date of this chapter shall be designed in accordance with Chapter 8, Public Works, of this Code. [Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]

~~(7) (5)~~ Highway access. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways nor to any controlled access arterial street without permission from the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

- ~~(a) (a)~~ — Arterial streets intersecting other arterial streets within 100 feet of the intersection of the right-of-way lines.
- ~~(b) (b)~~ — Collector and minor land access streets intersecting an arterial street or

another minor land access street within 50 feet of the intersection of the right-of-way lines.

~~(c) (e)~~ — Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above-specified streets or highways.

~~(d) (d)~~ — Temporary access to the above rights-of-way may be granted by the Town Board after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed 12 months.

~~— Landscaping. All public off-street parking areas serving five or more vehicles and created or redesigned and rebuilt subsequent to adoption of this chapter shall be provided with accessory landscaped areas totaling not less than 5% of the surface area. The minimum size of each landscaped area shall be 100 square feet. Location of landscaped areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance, shall be subject to approval by the Plan Commission. All plans for proposed parking areas shall include a topographic survey and grading plan showing existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of required minimum landscaped area. Parking areas for five or more vehicles which adjoin residential districts shall be visually screened with a solid wall, fence or evergreen planting of equivalent visual density or other effective means, built and maintained to a minimum height of six feet.~~

~~(8)~~

~~(a) (e) — Landscape islands. All off-street parking areas which serve 30 vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this chapter shall be provided with landscape islands or peninsulas within the parking lot totaling not less than 5% of the surfaced area. The minimum size of each landscape island shall be 170 square feet. Landscape islands and peninsulas shall consist of landscape areas, type and size of plant materials, protection afforded the plantings, including curbing and provision for maintenance shall be subject to approval by the Plan Commission. Landscape islands shall be dispersed throughout the off-street parking area. Islands and peninsulas should be located at the ends of parking rows and aisles; around light poles; signs; existing trees; hydrants; and along entryways. Landscape islands and peninsulas should also be used to break up long aisles of parking. Any island or peninsula that is less than 170 square feet in area shall not be counted towards the 5% required landscaping. All plans for such proposed parking areas shall include a topographic survey of grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.~~

(b) (f) ~~—— Parking lot screening. Parking areas for five or more vehicles, if adjoining a residential zoning district line or public right-of-way, shall be screened from casual view by an earth berm, a solid wall, fence, evergreen planting of equivalent visual density or other effective means approved by the Plan Commission. Such fence or berm and landscaping together shall be an average of three feet in height between the parking and the street right-of-way and six feet in height between the parking and any adjacent residential property line. All screening materials shall be placed and maintained at a minimum height of three feet. The Plan Commission may require greater screening requirements for parking of large trucks, semi-trailers, and large equipment.~~

## 17.08 Outdoor Lighting Code

- (1) Purpose. The purpose of this subsection is to regulate the spill-over light and glare on operators of motor vehicles, pedestrians, and land uses in the vicinity of a light source in order to promote traffic safety and prevent the creation of nuisances.
- (2) Applicability. The requirements of this subsection apply to all new private exterior lighting within the jurisdiction of this Section, except for the following, provided the lighting is not causing nuisances to adjoining property owners or to the public:
  - (a) Lighting within public rights-of-way and/or lighting located on public property including parks and athletic fields.
  - (b) Holiday lighting, unless deemed as an excessive nuisance or safety hazard.
  - (c) Lighting for public monuments, statutes, or flags.
  - (d) Accent lighting and low voltage lighting (12 volts or less).
  - (e) Patio string lights.
  - (f) Lighting related to signage.
  - (g) Lighting that is only used under emergency conditions.
  - (h) Lighting exempted as a part of a Conditional Use Permit.
  - (i) Lighting required by State or Federal law.
  - (j) Lighting luminaires and light poles existing prior to the effective date of this Section shall be considered grandfathered and may be replaced at their present location and height provided any nonconformity is not increased.
- (3) **Review and Approval.** **The Town shall review and approve all developments for conformance with this section through the site plan review process (See Section 17.02(XX)).**
  - (a) **Amendments to Lighting Plans. Any proposed amendments to lighting plans shall be reviewed and approved by the Architectural Review Committee or Plan Commission?**
- (4) Lighting Plan. A lighting plan must include the following:
  - (a) A description of all existing and proposed luminaires, including name of manufacturer, product number, lamp type, mounting height, and lumen output. Submitted materials shall include specification sheets for all proposed luminaries.
  - (b) Exterior lighting for multifamily and non-residential development shall be depicted as to its location, orientation, and configuration on the site plan required for the development of the subject property.
  - (c) A photometric plan indicating the location of all existing and proposed luminaires, mounting and/or installation height in feet, the overall illumination levels (in footcandles) and uniformities on the site, and the illumination levels (in footcandles) at the property boundary lines.
  - (d) Other information the zoning administrator deems necessary to ensure compliance with this section.
  - (e) Amendment of Lighting Plan. The zoning administrator may, upon petition, approve an amendment to an approved lighting plan based on a finding that the amendment is minor and otherwise complies with the requirements of this subsection. Any proposed

**Commented [BH1]:** The ARC has always wanted to review lighting but I personally see this as a PC review. Should we have it go thru the site plan review process (PC) or send all lighting to the ARC?

**Commented [BH2R1]:** Make sure to update the rest of the chapter based on the direction we choose.

amendment that the zoning administrator determines to be substantial, shall require a new approval and all procedures and requirements in place at the time must be met.

(5) General Exterior Lighting Requirements.

(a) Flashing, flickering, and/or other lighting which may distract motorists are prohibited.

(b) Intensity of Illumination.

1. The maximum number of footcandles at a property line abutting a residential use or residentially zoned property shall be 0.2 footcandles. The maximum number of footcandles at a property line abutting a non-residential use or non-residentially zoned property shall be 1.0 footcandles. Properties owned by the same owner or where an agreement has been established by abutting property owners, may be excluded from this requirement.
2. Reflected glare onto nearby buildings, streets, or pedestrian areas is prohibited.

(c) Onsite Lighting.

1. The maximum average on-site lighting in non-residential zoning districts shall be 2.0 footcandles.
2. The maximum average on-site lighting in residential zoning districts shall be 0.4 footcandles.

a. The following exceptions may be permitted:

- i. The maximum average allowable on-site lighting of outdoor recreation facilities and assembly areas is 3.6 footcandles.
- ii. The maximum average on-site lighting of auto display lots and gas station pump islands is 25.0 foot-candles.

3. All under canopy fixtures shall be full cutoff and recessed into the structure ceiling.

4. Fixtures and Luminaires.

a. Light Poles.

- i. The maximum fixture height in residential districts shall be 20 feet. The maximum fixture height in all other districts shall be 40 feet, except for any fixture located within 100 feet of a residentially zoned property, then the maximum height shall be 25 feet. The height shall be measured from the ground to the top of the fixture.
- ii. All pole lights shall be directed down and have full cutoff or fully shielded luminaires except for the following:
  1. Lighting sources that emit less than 2,500 lumens (roughly equivalent to 150 watt incandescent light bulb).
  2. Non-cutoff or flood lighting may be used to illuminate properties zoned M-1 or M-2 for parking, loading, and outdoor yard areas where the fixture lens is screen from any adjoining residentially zoned property. Fixture lenses should be screened from public rights-of-way when feasible.

b. Wall Lights.

- i. All wall lights shall be directed down and have full cutoff or fully shielded luminaires except for the following:
  - 1. Lighting sources that emit less than 2,500 lumens (roughly equivalent to 150 watt incandescent light bulb).
  - 2. Partially shielded fixtures may be used for loading and parking areas for nonresidential uses where the fixture lens is not facing or is screened from any adjoining residentially zoned property. Fixture lenses should be directed away from public rights-of-way when feasible.
  - 3. Non-cutoff or flood lighting may be used to illuminate properties zoned M-1 or M-2 for parking, loading, and outdoor yard areas where the fixture lens is screen from any adjoining residentially zoned property. Fixture lenses should be screened from public rights-of-way when feasible.
  - 4. Uplighting shall only be permitted for the architectural/decorative lighting of a building or landscaping.
  - 5. Freestanding decorative and bollard lighting is permitted provided the lighting sources emits less than 2,500 lumens if visible from adjoining properties or public right-of-way.
  - 6. Blinders, shields, or some other type of protectors may be required to be placed on any lights so as to the minimize glare or direct the beam away from adjoining properties, rights-of-way, or driveways of deemed a nuisance or safety hazard.
  - 7. The color and design of fixtures shall be compatible with the building(s) and public lighting in the area. Generally, the color and design of fixtures should be uniform throughout the entire development site.

(6) Public Safety and Nuisance

- (a) Authority. The Town may require the modification or removal or limited operation of any new lighting fixtures found to be a public hazard or public nuisance according to the criteria of this subsection. This also applies to lighting fixtures that were installed incorrectly in the past and are not considered to be legal, non-conforming.
  - 1. The Building Inspector will forward any report lighting nuisance complaints to the Architectural Review Committee for review. **The property owner shall be invited to the meeting for an opportunity to discuss.**
  - 2. The Architectural Review Committee may review and determine whether a property's exterior lighting is deemed to be a nuisance or safety hazard and must determine whether the lighting needs to be modified, removed, or limit operation.
  - 3. The property owner, or authorized representative, must comply with the Committee's requirement within 30 days, or within an alternative timeline established and agreed



upon by the Committee. The Committee may also require a shorter compliance period if the Committee deems that the lighting presents an immediate safety hazard.

- a. The Building Inspector may require immediate removal of lighting that presents an immediate safety hazard until the next available meeting.

(b) Hazard. Criteria for finding illumination to be a public hazard are as follows:

1. Light trespass or glare that is sufficiently intense or contrasts excessively with surrounding illumination, regardless of the intensity of the surrounding illumination, in a manner to cause impairment of visual performance or to distract from or impair the safe operation of a vehicle.
2. Light trespass or glare that impairs a person's visual performance or ability to avoid obstacles in their path.

(c) Nuisance. Criteria for finding illumination to be a public nuisance are as follows:

1. Light trespass or glare that deprives an owner or occupant of usual and reasonable use and enjoyment of his property.
2. Light trespass or glare that causes visual discomfort or impairment of visual performance in a manner that deprives any person from the usual and reasonable enjoyment of the public streets and properties of the Town.

§ 17.09 Nonconforming premises and structures.

**[Amended 11-21-2006]**

(1) Nonconforming lots. A legal nonconforming lot may be used for an allowable use, provided such use complies with all other development standards of the zoning district in which the lot is located. The location of a property boundary line of a nonconforming lot shall not be modified by any means, except when the new property boundary line location will make the nonconforming lot to be conforming or lessen the nonconformity.

(2) ~~Existing n~~Nonconforming ~~premises and~~ structures. A legal nonconforming building or structure may be used for any conforming use. A nonconforming building that is used for a conforming use may be enlarged provided a Site Plan review and approval by the Plan Commission and Town Board. Except as otherwise provided in this section, the continued use of any building, premises, structure, or fixture for which the building, premises, structure, or fixture was used at the time of the adoption or amendment of this chapter may be continued although the use does not conform with the provisions of this chapter.

(a) Unsafe conditions. Nothing in this subsection shall preclude the building inspector or any other town official from initiating remedial or enforcement actions when a nonconforming building is declared unsafe or presents a danger to the public health, safety or welfare or constitutes a substantial public nuisance.

(b) Repair, maintenance, and remodeling. Nothing in this subsection shall be deemed to prohibit or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming building.

(c) Reconstruction from damage. A nonconforming building or structure that is damaged by wind, vandalism, fire, flood, ice, snow, mold, or infestation on or after March 2, 2006, may be restored to its conditions prior to the damage, except the building may be larger when necessary to comply with state or federal requirements.

~~(a) Expansion or enlargement. The nonconforming use shall not be expanded or enlarged. The expansion or addition to any existing building, premises, structure, or fixture used to carry on an otherwise prohibited trade or industry within the zoning district shall be prohibited. If the nonconforming use is discontinued for a period of 12 months, any future use of the land, building, premises, structure, or fixture shall conform to the requirements of this chapter.~~

~~(b) Repair or restoration. The total structural repair or alteration of any nonconforming building, premises, structure, or fixture shall not, during its life, exceed 50% of the assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use.~~

(3) ~~Restoration of n~~Nonconforming ~~structur~~ uses. A legal nonconforming use may continue to exist so long as it remains otherwise lawful, subject to the provisions of this subsection.

(a) Cessation of use. If a nonconforming use ceases for any reason for more than 12

consecutive months, such use shall not thereafter be reestablished. A business of a seasonal nature shall not be deemed to be discontinued during periods in which it is normally inactive (e.g., marinas, summer camps). If the zoning administrator determines that a nonconforming use has ceased to operate for more than the 12 consecutive months, the zoning administrator shall initiate the process to terminate the nonconforming use.

(b) Changes. Except as may be provided in this section or state statutes, a nonconforming use shall not be enlarged, increased, or expanded and shall not occupy a greater area than what existed on the effective date of this chapter or any amendment thereto that created the nonconformity.

(c) Structural alterations. Structural alterations to a building containing a nonconforming use shall not exceed, on an accumulative percentage basis, 50% of the equalized assessed value of such structure. If a building containing a nonconforming use is damaged beyond 50% of its present equalized assessed value, such nonconforming use shall not be reestablished.

(d) Change of location. A nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied on the effective date of this section or any amendment thereto that created the nonconformity.

(e) Termination due to public health, safety, or welfare. In the event the building inspector or zoning administrator determines that a nonconforming use, regardless of its duration, is harmful to the public health, safety, or welfare, the zoning administrator may terminate the use.

(f) Unsafe conditions. Nothing in this subsection shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, provided that such work conforms to the provisions in this chapter.

(g) Permissible accessory residential uses. If an existing single-family dwelling unit is classified as a nonconforming use, the establishment of accessory residential uses normally incidental to a single-family dwelling is not considered to be an expansion of a nonconforming use and is permitted provided the accessory use is otherwise allowed by the zoning code and all accessory buildings exceeding 600 square feet must be approved by the Plan Commission upon a determination that the accessory building is otherwise allowed in the zoning district in which it is located.

~~(a) Notwithstanding the restrictions contained in subsection (1), the restoration of a nonconforming structure that was damaged or destroyed shall not be prohibited if the structure will be restored to the size, location, and use that existed immediately prior to the damage to, or destruction of, the building, premises, structure, or fixture, irrespective of the cost of repair, reconstruction, or improvement, provided all of the following conditions apply:~~

~~1. The nonconforming structure was damaged or destroyed on or after March 2, 2006; and~~

~~2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice,~~

~~snow, mold, or infestation.~~

~~(b) The size of the structure may be increased where such increase is necessary as a condition of complying with applicable state or federal requirements in effect immediately before the damage or destruction to the structure. Any determination as to the required increase in size shall be determined by the Building Inspector.~~

~~(4) Existing substandard structures. The use of a structure existing at the time of the adoption or amendment of this chapter may be continued although the structure's size or location does not conform with the established building setback line along streets or the yard, height, parking, loading, access and lot area provisions of this chapter; however, such structure shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.~~

~~(45) Changes and substitutions. After a nonconforming situation~~use or structure~~ has been changed to conform, it shall not revert back to a nonconforming situation~~use or structure~~. After the Zoning Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Zoning Board of Appeals.~~

~~(56) Purpose. [Added 10-15-2002] The purpose of this subsection is to establish legal, conforming status to certain residential structures which would otherwise be nonconforming structures because those structures were constructed within the offset or setback areas of a residential lot.~~

(a) The owner of any property on which a structure would otherwise be deemed a nonconforming structure because of its failure to meet the offset or setback requirement, may submit a survey establishing the actual offset and setback measurements to the Building Inspector.

(b) If the Building Inspector determines that the existing structure fails to meet the offset or setback requirements, but that the encroachment into the offset or setback areas is less than 10% of the minimum offset or setback required for that zoning district, the Building Inspector may, after providing notice under Subsection (5)(d)3, certify the structure as a legal, conforming structure. If Building Inspector determines that the encroachment into the offset or setback area is more than 10%, but less than 20%, the Plan Commission, after providing notice under Subsection (5)(d)3, may certify the structure as a legal, conforming structure.

(c) Modification of offset and setback requirements. Notwithstanding anything contained herein to the contrary, the status of any structure within any portion of a lot designated as the offset or setback area of the lot, may be deemed a conforming structure, provided that the structure meets the following conditions:

1. The structure was constructed or erected prior to January 1, 1980;
2. The property on which the structure is located is zoned for residential uses; and

3. Prior to certifying a nonconforming structure as a legal, conforming structure under this section, notice of the proposed certification shall be provided to all property owners whose properties are located within 300 feet of the property on which the structure is located, and those property owners are afforded a reasonable opportunity to object to the certification. If the Building Inspector receives any objection to the proposed certification, the Building Inspector shall refer the request for certification to the Plan Commission for its review and recommendation to the Town Board for approval. Upon certification, the offset or setback requirements applicable to such structure, shall be the offsets or setbacks depicted on the survey in the direction of encroachment into the established minimums, and in all other directions, to the offset or setback requirements which would otherwise be applicable to the zoning district.

**§ 17.11 Wireless telecommunications facilities in the right-of-way.**  
**[Added 4-8-2020]**

- (1) References to Code of Federal Regulations. If 47 CFR §§ 1.6100 or 1.6002, as amended, conflicts with a definition in this chapter, the 47 CFR §§ 1.6100 or 1.6002, as amended, shall control. For the purposes of this chapter, *Administrator* refers to the “Zoning Administrator or his/her designee” and *Applicant* refer to “a person filing an application for placement or modification of a wireless telecommunications facility in the right of way”.
- (2) Purpose. In the exercise of its police powers, the Town has priority over all other uses of the right-of-way. The purpose of this chapter is to provide the Town with a process for managing, and uniform standards for acting upon, requests for the placement of wireless telecommunications facilities within the right-of-way consistent with the Town's obligation to promote the public health, safety, and welfare; to manage the right-of-way; and to ensure that the public's use is not obstructed or incommoded by the use of the right-of-way for the placement of wireless telecommunications facilities. The Town recognizes the importance of wireless telecommunications facilities to provide high-quality communications and internet access services to residents and businesses within the Town. The Town also recognizes its obligation to comply with applicable federal and state laws regarding the placement of wireless telecommunications facilities in the right-of-way including, without limitation, the Telecommunications Act of 1996 (47 U.S.C. § 151 et seq), Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Wis. Stat. § 182.017, and Wis. Stat. § 196.58, and this chapter shall be interpreted consistent with those provisions.
- (3) Applicability. Unless exempted by Subsection (3)(b), below, no person may place a wireless telecommunications facility in the right-of-way or modify an existing wireless telecommunications facility in the right-of-way without first obtaining a wireless permit under this chapter.
- (4) Exempt facilities. This section [other than Subsections (10) through (14)] shall not be applied to wireless permit applications for the following:
  1. Installation of a small wireless facility on the strand between two utility poles, provided that the cumulative volume of all wireless facilities on the strand shall not exceed one cubic foot, and provided further that the installation does not require replacement of the strand, or excavation, modification, or replacement of either of the utility poles.
  2. Installation of a mobile cell facility (commonly referred to as "cell on wheels" or "cell on truck") for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.
  3. Placement or modification of a wireless telecommunications facility on structures owned by or under the control of the Town. See Subsection (13) of this section.
  4. Placement or modification of a wireless telecommunications facility by Town staff or any person performing work under contract with the Town.

5. Modification of an existing wireless telecommunications facility that makes no material change to the footprint of a facility or to the surface or subsurface of a public street if the activity does not disrupt or impede traffic in the traveled portion of a street, and if the work does not change the visual or audible characteristics of the wireless telecommunications facility.
- (4) Nondiscrimination. In establishing the rights, obligations, and conditions in this section, it is the Town's intent to treat each applicant and right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, while taking into account the unique technologies, situation, and legal status of each applicant or request for use of the right-of-way.
- (5) Administration. The Zoning Administrator is responsible for administering this section. The Zoning Administrator may:
  1. Adopt wireless regulations governing the placement and modification of wireless telecommunications facilities in addition to but consistent with the requirements of this section, including regulations governing co-location, the resolution of conflicting applications for placement of wireless telecommunications facilities, and aesthetic standards.
  2. Interpret the provisions of this section and the wireless regulations.
  3. Develop forms and procedures for submission of applications for wireless permits consistent with this section.
  4. Collect any fee required by this section.
  5. Require, as a condition of completeness of any application, notice to members of the public that may be affected by the placement or modification of the wireless telecommunications facility that is the subject of the wireless permit application.
  6. Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations.
  7. Issue notices of incompleteness or requests for information in connection with any wireless permit application.
  8. Select and retain an independent consultant or attorney with expertise in telecommunications to review any issue that involves specialized or expert knowledge in connection with any permit application.
  9. Coordinate and consult with other Town staff, committees, and governing bodies to ensure timely action on all other required permits under Subsection (6)(b)8 of this section.
  10. Subject to appeal as provided in Subsection (8)(d), determine whether to grant, grant subject to conditions, or deny an application.

11. Take such other steps as may be required to timely act upon wireless permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(6) Application.

- (a) Format. An applicant must submit to the Zoning Administrator a paper copy and an electronic copy (in a searchable format) for a wireless permit application, as well as any amendments or supplements to the application or responses to requests for information regarding an application.
- (b) Content. In order to be considered complete, the paper and electronic copies of application must contain:
  1. All information required pursuant to the wireless regulations.
  2. A completed application cover sheet signed by an authorized representative of the applicant, listing all standard permit conditions.
  3. The name of the applicant (including any corporate or trade name), and the name, address, email address, and telephone number of a local representative. If the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider(s) that will be using the wireless telecommunications facility must also be provided.
  4. A statement of which shot clock or shot clocks apply to the application and the reasons the chosen shot clocks apply.
  5. A separate and complete description of each proposed wireless telecommunications facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the facility and technical specifications for each element of the facility, clearly describing the site and all structures and facilities at the site before and after installation or modification and identifying the owners of such preexisting structures and facilities; and describing the distance to the nearest residential dwelling unit. Before and after 360° photo simulations must be provided for each facility.
  6. Proof that the applicant has mailed to the owners of all property within 300 feet of the proposed wireless telecommunications facility a notice that the applicant is submitting an application to the Town for placement or modification of a wireless telecommunications facility in the right-of-way, which notice must include i) the proposed location of the facility, ii) a description and scale image of the proposed facility, and iii) an email address and phone number for a representative of the applicant who will be available to answer questions from members of the public about the proposed project.
  7. A copy of the FCC license for the facility or a sworn written statement from the applicant attesting that the facility will comply with current FCC regulations.



8. To the extent that filing of the wireless permit application establishes a deadline for action on any other permit that may be required in connection with the wireless telecommunications facility, the application must include complete copies of applications for every required permit (including without limitation electrical permits, building permits, traffic control permits, and excavation permits), with all engineering completed and with all fees associated with each permit.
  9. A certification by a registered and qualified engineer that the installation can be supported by and does not exceed the tolerances of the structure on which it will be mounted and that all elements of the wireless telecommunications facility comply with applicable safety standards.
  10. Payment of all required fees.
  11. If an applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all evidence on which the applicant relies in support of that claim. Applicants are not permitted to supplement this evidence if doing so would prevent the Town from complying with any deadline for action on an application.
  12. If the application is an eligible facilities request, the application must contain information sufficient to show that the application qualifies as an eligible facilities request under 47 CFR § 1.6100(b)(3), including evidence that the application relates to an existing tower or base station that has been approved by the Town. Before and after 360° photo simulations must be provided with detailed specifications demonstrating that the modification does not substantially change the physical dimensions of the existing approved tower or base station.
- (c) Waivers. Requests for waivers from any requirement of this Subsection (6) shall be made, in writing, to the Administrator. The Administrator may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of the waiver, the Town will be provided with all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the wireless permit sought.
  - (d) Fees. Applicant must provide an application fee and shall be required to pay all costs reasonably incurred in reviewing the application, including costs incurred in retaining outside consultants. Fees shall be reviewed periodically and raised or lowered based on the costs the Town expects to incur, with a review commencing by the first anniversary of the effective date of this chapter.
  - (e) Public records. Applications are public records that may be made publicly available pursuant to state and federal public records law. Notwithstanding the foregoing, the applicant may designate portions of the application materials that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and the Town shall endeavor to treat the information as proprietary and confidential, subject to applicable state and federal public records law and the Administrator's determination that the applicant's request for confidential or proprietary treatment of the application materials is reasonable. The Town shall not be required to incur

any costs to protect the application from disclosure.

(7) General and aesthetic standards.

(a) Generally. Wireless telecommunications facilities shall meet the minimum requirements set forth in this chapter and the wireless regulations, in addition to the requirements of any other applicable law or regulation.

(b) Regulations. The wireless regulations and decisions on wireless permits shall, at a minimum, ensure that the requirements of this chapter are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of a telecommunications or personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this chapter and the wireless regulations may be waived, but only to the extent required to avoid the prohibition.

(c) General standards.

1. Wireless telecommunications facilities shall be installed and modified in a manner that:

- a. Minimizes risks to public safety;
  - b. Ensures that placement of facilities on existing structures is within the tolerance of those structures;
  - c. Avoids placement of aboveground facilities in underground areas, installation of new support structures or equipment cabinets in the public right-of-way, or placement in residential areas when commercial areas are reasonably available;
  - d. Maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;
  - e. Ensures that installations are subject to periodic review to minimize the intrusion on the right-of-way;
  - f. Ensures that the Town bears no risk or liability as a result of the installations; and
  - g. Ensures that applicant's use does not inconvenience the public, interfere with the primary uses of the right-of-way, or hinder the ability of the Town or other government entities to improve, modify, relocate, abandon, or vacate the right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right-of-way.
2. No wireless permit shall be issued unless i) the wireless service provider applicant has immediate plans to use the proposed facility or ii) the wireless infrastructure applicant has a contract with a wireless service provider that has immediate plans to use the proposed facility.

3. In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic and at all times must comply with the requirements of the Americans with Disabilities Act of 1990.
- (d) Aesthetic and location standards. Wireless communication facilities shall be installed subject to the following aesthetic and location standards.
  1. Preferred locations. The following locations, in the order listed from most to least preferred, are the preferred locations for installations of facilities in public rights-of-way:
    - a. Industrial area;
    - b. Commercial areas; and,
    - c. Other nonresidential areas.
  2. Nonpreferred locations. The applicant should avoid locating new support structures, towers, or utility poles within residential neighborhoods, designated open space, conservation areas, or historic districts. A facility may be permitted in a location other than a preferred location if the applicant provides evidence showing that:
    - a. Adequate coverage can be maintained, existing services can be improved, or new services can be added only if facilities are placed in a nonpreferred location; or
    - b. The proposed facility will meet all applicable requirements for the nonpreferred location and will complement the character of the surrounding area.
  3. Co-location.
    - a. Co-location generally. Subject to the provisions of this section, co-location of facilities is generally preferred over new support structures if it can be accomplished in a way that better complements the character of the surrounding area.
    - b. Co-location with nonmunicipal facilities. Co-location on facilities or support structures owned by parties other than the Town is subject to the following:
      - i. Where an existing facility or support structure can potentially accommodate co-location of a new wireless facility, co-location will be required unless:
        - [i] The applicant submits substantial evidence supporting the unsuitability of the co-location;
        - [ii] The owner of the existing facility or support structure is unwilling to accommodate the applicant's equipment and cannot be required to cooperate; or
        - [iii] The Administrator determines that installing a new support structure or co-location with a Town facility is preferable to co-location with another facility or support structure.
  4. General location restrictions. In addition to regulating location among districts, site-specific restrictions and requirements shall be followed:

- a. Obstruction of traffic. Facilities and support structures, towers, and utility poles must be at least three feet from the curb or nearest traffic lane edge to reduce the risk of being struck by a motor vehicle or bicycle. No aboveground equipment may be placed within five feet of the back of curbs or edge of the nearest traffic lane. **[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]**
- b. Obstruction. To the extent possible, a facility, support structure, tower, or utility pole should be located and designed so as to avoid interference with right-of-way maintenance activities, such as:
  - i. Grass mowing, brush collection, tree trimming, and landscaping maintenance;
  - ii. Trash collection;
  - iii. Maintenance of streets, pavement, sidewalks, and bicycle lanes; and
  - iv. Maintenance of other facilities in the rights-of-way.
- c. ADA. Facilities and support structures, towers, and utility poles at all times must comply with the requirements of the Americans with Disabilities Act of 1990.
- d. Alignment. Facilities and support structures, towers, and utility poles must be located in alignment with existing trees, facilities, support structures, towers, utility poles and streetlights.
- e. Spacing. A support structure, tower, or utility pole for a wireless facility must be at least 500 feet from any other support structure in a public right-of-way. **[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]**
- f. Frontage. Facilities and support structures, towers, and utilities poles must not be located along the frontage of any building deemed to be of historic significance on a federal, state, or local level.
- g. Use of lighting elements. A combination support structure and streetlight pole should only be located where an existing pole can be removed and replaced, or at a new location where the Town has identified that a streetlight is necessary.
- 5. Height restrictions and requirements. The wireless telecommunication facilities shall be installed in accordance with the following height restrictions and requirements:
  - a. Support structures, towers, and utility poles. The height of a support structure, tower, or utility pole in the right-of-way may not exceed the greater of 50 feet above ground level or 10 feet above the tallest existing support structure, tower, or utility pole that is in place on the effective date of this chapter and that is located in the same right-of-way and within 500 feet of the facility that is the subject of the application.
  - b. Small wireless facility. The height of a small wireless facility in the right-of-way may not exceed the greater of 50 feet above ground level or 10 feet above the tallest existing support

structure, tower, or utility pole that is in place on the effective date of this chapter and that is located in the same right-of-way.

6. Underground and ground-mounted equipment. The wireless telecommunication facilities shall be installed in accordance with the following height restrictions and requirements:
  - a. Underground equipment. To conceal the nonantenna equipment, applicants shall install all nonantenna equipment underground when proposed in an area where utilities or other equipment or in the right-of-way is primarily located underground. In all other areas, applicants shall underground its nonantenna equipment to the extent feasible. Additional expense to install and maintain an underground equipment enclosure does not exempt an applicant from this requirement, except where the applicant demonstrates by clear and convincing evidence that this requirement will effectively prohibit the provision of personal wireless services. Nothing in this subsection is intended to require the applicant to install any electric meter required by the applicant's electrical service provider underground.
  - b. Ground-mounted equipment. To the extent that the equipment cannot be placed underground as required, applicants shall install ground-mounted equipment in the location so that it does not obstruct pedestrian or vehicular traffic. The Town may require landscaping as a condition of approval to conceal ground-mounted equipment. Ground-mounted equipment shall not be permitted in connection with a streetlight, traffic signal, utility pole or other similar infrastructure in the public right-of-way. In the event that the Town approves ground-mounted equipment, the applicant shall conform to the following requirements.
    - i. Self-contained cabinet or shroud. The equipment shroud or cabinet shall contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment shall be concealed from view.
    - ii. Concealment. The Town may require the applicant to incorporate concealment elements into the proposed design, including but not limited to public art displayed on the cabinet, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.
7. Concealment. Permits for wireless telecommunications facilities shall incorporate specific concealment elements to minimize visual impacts, and design requirements ensuing compliance with all standards for noise emissions. Unless it is determined that another design is less intrusive, or placement is required under applicable law;
  - a. Antennas located at the top of support structures shall be incorporated into the structure, or placed within shrouds of a size such that the antenna appears to be part of the support structure.
  - b. Antennas placed elsewhere on a support structure shall be integrated into the structure, or be designed and placed to minimize visual impacts.
  - c. Radio units or equipment cabinets holding radio units and mounted on a utility pole shall be placed as high as possible on a support structure, located to avoid interfering with, or

creating any hazard to, any other use of the public rights-of-way, and located on one side of the utility pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on utility poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the support structure on which they are placed.

- d. Wiring and cabling shall be neat and concealed within or flush to the support structure, ensuring concealment of these components to the greatest extent possible.
  - e. Ground-mounted equipment associated with a wireless communications facility shall be permitted only where consistent with the portion of the corridor in which it is to be placed, and may be required to be underground, located in alleys or otherwise shielded. In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic.
  - f. No support structures, towers, or utility poles shall be permitted in the public rights-of-way, and no wireless telecommunications facilities shall be permitted aboveground, in underground areas, provided that the Town may permit placements where all elements of the wireless communications facility are concealed and the facility does not appear to a casual observer as a wireless telecommunications facility.
  - g. Unless appropriately placed, and concealed, so that the size of the facility cannot be increased except with the discretionary approval of the Town, no wireless telecommunications facility is permitted in rights-of-way in alleys.
  - h. Wireless communication facilities must be designed to minimize visual impacts. When feasible, the facilities must be concealed or camouflaged, and shall have subdued colors and nonreflective materials that blend with the materials and colors of the surrounding area and structures so as to minimize visibility and obstruction of views.
  - i. Facilities may not be illuminated except in accordance with state or federal regulations or if incorporated as part of a streetlight pole.
  - j. Signage is not permitted except to comply with FCC or Wisconsin regulations to provide safety warnings.
- (e) Standard permit conditions. All wireless permits under this chapter are issued subject to the following minimum conditions:
- 1. Compliance. The permit holder shall at all times maintain compliance with all applicable federal, state, and local laws, regulations, and other rules.
  - 2. Term. A wireless permit issued pursuant to an eligible facilities request shall expire at the same time the permit for the underlying existing wireless telecommunications facility expires. All other wireless permits shall be valid for a period of five years from the date of issuance unless revoked pursuant to § **17.14(9)(b)**.
  - 3. Contact information. The permit holder shall at all times maintain with the Town accurate

contact information for the permit holder and all wireless service providers making use of the facility, which shall include a phone number, mailing address, and email address for at least one natural person.

4. Emergencies. The Town shall have the right to support, repair, disable, or remove any elements of the facilities in emergencies or when the facility threatens imminent harm to persons or property.
5. Indemnities. The permit holder, by accepting a permit under this chapter, agrees to indemnify, defend, and hold harmless the Town, its elected and appointed officials, officers, employees, agents, representatives, and volunteers (collectively, the "indemnified parties") from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs, and expenses of whatsoever kind or nature in any manner caused in whole or in part, or claimed to be caused in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of the permit holder or anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on one or more of the Indemnified parties. The obligation to indemnify, defend, and hold harmless the indemnified parties shall be applicable even if the liability results from an act or failure to act on the part of one or more of the indemnified parties. However, the obligation does not apply if the liability results from the willful misconduct of an indemnified party.
6. Adverse impacts on adjacent properties. The permit holder shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.
7. Graffiti removal. All graffiti on facilities shall be removed at the sole expense of the permit holder within 48 hours after notification from the Town.
8. Relocation. At the request of the Town pursuant to Subsection (10) of this section, the permit holder shall promptly and at its own expense permanently remove and relocate any wireless telecommunications facility in the right-of-way.
9. Abandonment. The permit holder shall promptly notify the Town whenever a facility has not been in use for a continuous period of 60 days or longer and must comply with Subsection (11).
10. Restoration. A permit holder who removes or relocates a facility from the right-of-way must restore the right-of-way in accordance with Section (12).
11. Record retention. The permit holder shall retain full and complete copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation all conditions of approval, approved plans, resolutions, and other documentation associated with the permit or regulatory approval. In the event the Town cannot locate any such full and complete permits or other regulatory approvals in its official records, and the permit holder fails to retain full and complete records in the permit holder's files, any ambiguities or uncertainties that would be resolved through an examination of the missing documents will be conclusively resolved against the permit holder.

12. Radio frequency emissions. Every wireless facility shall at all times comply with applicable FCC regulations governing radio frequency emissions, and failure to comply with such regulations shall be treated as a material violation of the terms of the permit.
  13. Certificate of insurance. A certificate of insurance sufficient to demonstrate to the satisfaction of the Administrator that the applicant has the capability to cover any liability that might arise out of the presence of the facility in the right-of-way.
- (8) Application processing and appeal.
- (a) Rejection for incompleteness. Notices of incompleteness shall be provided in conformity with state, local, and federal law, including 47 CFR § 1.6003(d), as amended.
  - (b) Processing time line. Wireless permit applications [including applications for other permits under Subsection (6)(b)8 necessary to place or modify the facility] and appeals will be processed in conformity with the shot clocks set forth in state, local, and federal law, as amended.
  - (c) Written decision. In the event that an application is denied [or approved with conditions beyond the standard permit conditions set forth in Subsection (7)(d)], the Administrator shall issue a written decision with the reasons therefor, supported by substantial evidence contained in a written record.
  - (d) Appeal to the Town Board. Any person adversely affected by the decision of the Administrator may appeal that decision to the Town Board, which may decide the issues de novo, and whose written decision will be the final decision of the Town. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless telecommunications facility.
  - (e) Deadline to appeal.
    1. Appeals that involve eligible facilities requests must be filed within three business days of the written decision of the Administrator.
    2. All other appeals not governed by Subsection (8)(e)1, above, must be filed within 10 business days of the written decision of the Administrator, unless the Administrator extends the time therefor. An extension may not be granted where extension would result in approval of the application by operation of law.
  - (f) Decision deadline. All appeals shall be conducted so that a timely written decision may be issued in accordance with the applicable shot clock.
- (9) Expiration and revocation.
- (a) Expiration. A wireless permit issued pursuant to an eligible facilities request shall expire at the same time the permit for the underlying existing wireless telecommunications facility expires. All other wireless permits shall be valid for a period of five years from the date of issuance. Upon expiration of the wireless permit, the permit holder must either:



1. Remove the wireless telecommunications facility; or
  2. Submit an application to renew the permit at least 90 days prior to its expiration. The facility must remain in place until the renewal application is acted on by the Town and any appeals from the Town's decision are exhausted.
- (b) Revocation for breach. A wireless permit may be revoked for failure to comply with the conditions of the permit or applicable federal, state, or local laws, rules, or regulations. Upon revocation, the wireless telecommunications facility must be removed within 30 days of receipt of written notice from the Town. All costs incurred by the Town in connection with the revocation, removal, and right-of-way restoration shall be paid by the permit holder.
- (c) Failure to obtain permit. Unless exempted from permitting by Subsection (3)(b), a wireless telecommunications facility installed without a wireless permit must be removed within 30 days of receipt of written notice from the Town. All costs incurred by the Town in connection with the notice, removal, and right-of-way restoration shall be paid by entities who own or control any part of the wireless telecommunications facility.
- (10) Relocation. Except as otherwise prohibited by state or federal law, a permit holder must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate any of its wireless telecommunications facilities in the right-of-way whenever the Town requests such removal and relocation. The Town may make such a request to prevent the facility from interfering with a present or future Town use of the right-of-way; a public improvement undertaken by the Town; an economic development project in which the Town has an interest or investment; when the public health, safety, or welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way. Notwithstanding the foregoing, a permit holder shall not be required to remove or relocate its facilities from any right-of-way that has been vacated in favor of a nongovernmental entity unless and until that entity pays the reasonable costs of removal or relocation to the permit holder.
- (11) Abandonment.
- (a) Cessation of use. In the event that a permitted facility within the right-of-way is not in use for a continuous period of 60 days or longer, the permit holder must promptly notify the Town and do one of the following:
1. Provide information satisfactory to the Administrator that the permit holder's obligations for its facilities under this chapter have been lawfully assumed by another permit holder.
  2. Submit to the Administrator a proposal and instruments for dedication of the facilities to the Town. If a permit holder proceeds under this Subsection (11)(a)2, the Town may, at its option:
    - a. Accept the dedication for all or a portion of the facilities;
    - b. Require the permit holder, at its own expense, to remove the facilities and perform the

required restoration under Subsection (12); or

- c. Require the permit holder to post a surety or provide payment sufficient to reimburse the Town for reasonably anticipated costs to be incurred in removing the facilities and undertaking restoration under Subsection (12).
3. Remove its facilities from the right-of-way within one year and perform the required restoration under Subsection (12), unless the Administrator waives this requirement or provides a later deadline.
- (b) Abandoned facilities. Facilities of a permit holder who fails to comply with Subsection (11)(a) and which, for one year, remain unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the Town may, at its option:
  1. Abate the nuisance and recover the cost from the permit holder or the permit holder's successor in interest;
  2. Take possession of the facilities; and/or
  3. Require removal of the facilities by the permit holder or the permit holder's successor in interest.
- (12) Restoration. In the event that a permit holder removes or is required to remove a wireless telecommunications facility from the right-of-way under this chapter [or relocate it pursuant to Subsection (10)], the permit holder must restore the right-of-way to its prior condition in accordance with Town specifications. However, a support structure owned by another entity authorized to maintain that support structure in the right-of-way need not be removed but must instead be restored to its prior condition. If the permit holder fails to make the restorations required by this Subsection (12), the Town at its option may do such work. In that event, the permit holder shall pay to the Town, within 30 days of billing therefor, the cost of restoring the right-of-way.
- (13) Placement on Town-owned or-controlled structures. The Town may negotiate agreements for placement of wireless telecommunications facilities on Town-owned or-controlled structures in the right-of-way. The agreement shall specify the compensation to the Town for use of the structures. The person or entity seeking the agreement shall reimburse the Town for all costs the Town incurs in connection with its review of and action upon the request for an agreement.

**§ 17.12 Mobile tower siting regulations.**  
**[Added 12-16-2003; amended 8-5-2017]**

- (1) Purpose. The purpose of this section is to regulate by zoning permit 1) the siting and construction of any new mobile service support structure and facilities; 2) with regard to a Class 1 co-location, the substantial modification of an existing support structure and mobile service facilities; and 3) with regard to a Class 2 co-location, co-location on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.
- (2) Authority and definitions. The Town Board has the specific authority under Wis. Stat. §§ 62.23 and 66.0404 to adopt and enforce this section. All definitions contained in Wis. Stat. § 66.0404(1), as amended, are hereby incorporated by reference.
- (4) Siting and construction of any new mobile service support structure and facilities.
  - (a) Application process.
    1. A Town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Town obtainable with this permit.
    2. A written permit application must be completed by any applicant and submitted to the Town Planner. The application must contain the following information:
      - a. The name and business address of, and the contact individual for, the applicant.
      - b. The location of the proposed or affected support structure.
      - c. The location of the proposed mobile service facility.
      - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
      - e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
      - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service

provider.

3. A permit application will be provided by the Town upon request to any applicant.
  4. If an applicant submits to the Town an application for a permit to engage in an activity described in this section, which contains all of the information required under this section, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant, in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
  5. Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree, in writing, to an extension of the ninety-day period:
    - a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
    - b. Make a final decision whether to approve or disapprove the application.
    - c. Notify the applicant, in writing, of its final decision.
    - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  6. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicant's search ring and provide the sworn statement described under Subsection (4)(a)2.f.
  7. If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
  8. The fee for the permit is \$3,000.
- (5) Class 1 co-location.
- (a) Application process.
1. A Town zoning permit is required for a Class 1 co-location. A Class 1 co-location is a conditional use in the Town obtainable with this permit.
  2. A written permit application must be completed by any applicant and submitted to the Town Planner. The application must contain the following information:

- a. The name and business address of, and the contact individual for, the applicant.
  - b. The location of the proposed or affected support structure.
  - c. The location of the proposed mobile service facility.
  - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
  - e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
3. A permit application will be provided by the Town upon request to any applicant.
  4. If an applicant submits to the Town an application for a permit to engage in an activity described in this section, which contains all of the information required under this section, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant, in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
  5. Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree, in writing, to an extension of the ninety-day period:
    - a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's Building Code and, subject to the limitations in this section, zoning ordinances.
    - b. Make a final decision whether to approve or disapprove the application.
    - c. Notify the applicant, in writing, of its final decision.
    - d. If the decision is to disapprove the application, include with the written notification

substantial evidence which supports the decision.

6. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicant's search ring and provide the sworn statement described under Subsection (5)(a)2.f.
  7. If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
  8. The fee for the permit is \$3,000.
- (6) Class 2 co-location.
- (a) Application process.
1. A Town zoning permit is required for a Class 2 co-location. A Class 2 co-location is a conditional use in the Town obtainable with this permit.
  2. A written permit application must be completed by any applicant and submitted to the Town Planner. The application must contain the following information:
    - a. The name and business address of, and the contact individual for, the applicant.
    - b. The location of the proposed or affected support structure.
    - c. The location of the proposed mobile service facility.
  3. A permit application will be provided by the Town upon request to any applicant.
  4. A Class 2 co-location is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
  5. If an applicant submits to the Town an application for a permit to engage in an activity described in this section, which contains all of the information required under this section, the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant, in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
  6. Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree, in writing, to an extension of the forty-five-day period:

- a. Make a final decision whether to approve or disapprove the application.
  - b. Notify the applicant, in writing, of its final decision.
  - c. If the application is approved, issue the applicant the relevant permit.
  - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
7. The fee for the permit is \$500.
- (7) Penalty provisions. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this section shall, upon conviction, pay a forfeiture of not less than \$100 nor more than \$500, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this section. In addition, the Town board may seek injunctive relief from a court of record to enjoin further violations.

## Section 17.13 Landscaping Code

(1) Purpose. This section is established to accomplish the following purposes:

- (a) Enhance the Town of Brookfield's attractiveness and enhance aesthetics of properties located within the town.
- (b) Promote and improve public health and safety through the abatement of noise, light glare, dust, and air pollution.
- (c) Ensure land uses of different intensity have sufficient buffering between them to minimize negative effects.
- (d) Enhance environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, storm water runoff retardation, and noise, glare, and heat abatement.

(2) Applicability. The provisions of this subsection apply to the following:

- (a) Construction of a principal building, except for single-family and two-family residences and agricultural buildings.
- (b) Expansion of a principal building or parking area.

(3) Landscape Plan. A landscape plan consisting of a scaled site plan demonstrating proposed location of proposed landscaping and narrative and/or table describing proposed vegetation type and size shall be provided.

~~(a) for all development in all districts shall be in accordance with this section and shall submit a landscaping plan as part of the required site plan. The followi~~

~~(b)~~(4) Required landscape planting. The number of plant materials required in order to achieve an appropriate and complete landscape plan for a site shall be as provided below:

1. In every district the minimum open space required in that district shall be provided. For the purpose of this chapter, open space shall not include buildings, driveways, parking lots, loading areas, or storage yards, but may include trees, shrubs, ground cover, patios, decks, sidewalks and paths, and swimming pools.
2. Required open space shall consist of a mixture of trees, shrubs, ground cover, and other open space features as approved by the Plan Commission.
3. Parking lot interior and peripheral planting shall be provided as set forth in § 17.13(4)(d)06(3)(f) of this ~~section~~chapter.

[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]

~~(c)~~(b) The minimum size of plantings required by this section shall be as follows:

1. Deciduous trees shall have a minimum caliper of two inches caliper.
2. Coniferous trees shall be a minimum of six feet in height.
3. Shrubs shall be a minimum of 18 inches in height or spread.
4. Ornamental trees shall have a minimum caliper of one inch caliper.

~~(d)~~(c) Woodland preservation.

1. It is the policy of the Town of Brookfield to preserve the environmentally sensitive or significant natural areas including natural forest, and woodland areas in the Town,



and with respect to specific site development to retain, as far as practical, substantial tree stands which should be incorporated into the site. Credit for the retention of existing trees which are of desirable and acceptable minimum size, species, and location may be given by the Plan Commission to satisfy other requirements of this section.

2. Trees that are to be destroyed in the development process shall be identified in the required landscaping plan. Any trees not approved for destruction in the approved development or landscape plan, which are subsequently destroyed, shall be replaced in accordance with the following schedule:

<b>Tree Type</b>	<b>Size of Tree Destroyed</b>	<b>Size of Replacement Tree(s)</b>
Deciduous	5-inch to 7-inch caliper tree	One 5-inch to 7-inch caliper tree; or Two 2 1/2-inch to 4-inch caliper trees
	8-inch to 11-inch caliper tree	Three 5-inch to 7-inch caliper trees; or Nine 2-inch to 4-inch caliper trees
	12-inch or larger tree	Six 5-inch to 7-inch caliper trees; or Twelve 2 1/2-inch to 4-inch caliper trees
Conifers	10-foot or taller tree	One 10-foot or taller tree; or Three 6-to-10-foot trees or 4-foot to 6-foot trees

3. Plant species. Landscaping shall utilize a variety of tree species and no species currently under disease epidemic shall be used. Species planted shall be hardy under local conditions and compatible with the local landscape.
4. Location of trees shall consider the mature height and spread of trees. Trees shall be located in such a manner that no part of the tree shall extend beyond the lot line.
5. No landscaping shall be permitted within utility easements, drainage easements, or road rights-of-way except with seed or sod with the approval of the Plan Commission.
6. Implementation of landscape plans. The Plan Commission may permit a delay in the implementation of a landscape plan, provided that landscaping will be completed within one full planting season and provided that sureties are provided to guarantee completion of the landscaping plan.
7. Maintenance. The owner shall tend and maintain all plant materials in a healthy growing condition as per the approved plan. Plantings shall be replaced when necessary and kept free from refuse and debris. All planting material which is dying

or damaged beyond recovery shall be replaced within six months or by the next planting season, whichever comes first.

8. Sureties. The Plan Commission may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission may require appropriate sureties to guarantee that improvements will be completed on schedule.
9. Appeals. Any person or persons aggrieved by any decisions of the Plan Commission related to plan review may appeal the decision to the Zoning Board of Appeals. Such appeal shall be filed with the Town Administrator within 30 days after filing of the decision with the Zoning Administrator.

~~(e)~~(d) Parking Area Landscaping. All public off-street parking areas serving five or more vehicles and created or redesigned and rebuilt subsequent to adoption of this chapter shall be provided with accessory landscaped areas totaling not less than 5% of the surface area.

1. The minimum size of each landscaped area shall be 100 square feet.
2. Location of landscaped areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance, shall be subject to approval by the Plan Commission.
3. All plans for proposed parking areas shall include a topographic survey and grading plan showing existing and proposed grades and location of improvements.
4. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of required minimum landscaped area.
5. Parking areas for five or more vehicles which adjoin residential districts shall be visually screened with a solid wall, fence or evergreen planting of equivalent visual density or other effective means, built and maintained to a minimum height of six feet.

6. Landscape islands. All off-street parking areas which serve 30 vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this chapter shall be provided with landscape islands or peninsulas within the parking lot totaling not less than 5% of the surfaced area.

- a. The minimum size of each landscape island shall be 170 square feet.
- b. Landscape islands and peninsulas shall consist of landscape areas, type and size of plant materials, protection afforded the plantings, including curbing and provision for maintenance shall be subject to approval by the Plan Commission.
- c. Landscape islands shall be dispersed throughout the off-street parking area. Islands and peninsulas should be located at the ends of parking rows and aisles; around light poles; signs; existing trees; hydrants; and along entryways.
- d. Landscape islands and peninsulas should also be used to break up long aisles of parking.

- e. Any island or peninsula that is less than 170 square feet in area shall not be counted towards the 5% required landscaping.
  - f. All plans for such proposed parking areas shall include a topographic survey of grading plan which shows existing and proposed grades and location of improvements.
  - g. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.
- (e) Prohibited Plants. Plants specifically designated as invasive species by the Wisconsin Department of Natural Resources or other state agency shall not be planted and shall not be used to meet the requirements of this section.

#### **§ 17.14 Fees; violations and penalties.**

- (1) Permit fees. All persons, firms, or corporations performing work which by this chapter requires the issuance of a permit shall pay a fee for such permit to the Town Treasurer to help defray the cost of administration, investigation, advertising, and processing of permits and variances. The permits for which a fee is required are listed in the Schedule of Fees and Forfeitures. A fee shall also be required for a zoning text or map amendment, and a zoning appeal or variance. An appearance before the Plan Commission for the purpose of securing conceptual, preliminary, or final project approval shall require the fee set forth in the Schedule of Fees and Forfeitures. Any action requiring a public hearing shall require a fee to cover the cost of the public hearing and attendant publication costs. All fees shall be established by separate resolution by the Town Board from time to time as deemed appropriate. **[Amended 12-7-2021 by Ord. No. 2021-004]**
- (2) Double fee. A double fee shall 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 chapter nor from prosecution for violation of this chapter.
- (3) Violations. It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this chapter. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In case of any violation, the Town Board, the Zoning Administrator, the Plan Commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this chapter.
- (4) Remedial action. Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the Town Board, the Zoning Administrator, or the Town Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.
- (5) Penalties. Any person, firm, or corporation that fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit an amount as listed in the Schedule of Fees and Forfeitures and costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate and distinct offense. **[Amended 12-7-2021 by Ord. No. 2021-004]**

Zoning District	Front Setback (measured from ROW)	Side and Rear Offset	Minimum Lot Area	Minimum Lot Width	Maximum Building Height *	Maximum Total Floor Area	Minimum Dwelling Floor Area Minimum Floor Area – All Buildings in B-1, B-2, B-3, M-1, M-2, MU-1
A-1 Agricultural	50'	30'	5 acres	300 ft.	Dwelling = 35'	5%	Total = 1,200sf 1 <sup>st</sup> floor of bi-level or 2-story dwelling = 1,000sf Tri-level = 400sf of minimum living area per level.
			Lots with existing non-farm dwellings or lots with dwellings remaining after farm consolidation shall provide a minimum of 40,000sf and shall not be less than 150' in width.	150 ft.	Farm Buildings = 100'		
Rs-1 Single-Family Residential	50'	20'	40,000sf	150 ft.	35'	20%	Total = 1,300sf 1 <sup>st</sup> Floor of bi-level or 2-story dwelling = 1,000sf Tri-level = 450sf of minimum living area per level.
Rs-2 Single-Family Residential	50'	20'	30,000sf	120 ft.	35'	18%	Total = 1,200sf 1 <sup>st</sup> Floor of bi-level or 2-story dwelling = 1,000sf Tri-level = 400sf of minimum living area per level.
Rs-3 Single-Family Residential	50'	20'	20,000sf	110 ft.	35'	25%	Total = 1,100sf 1 <sup>st</sup> Floor of bi-level or 2-story dwelling = 1,000sf Tri-level = 400sf of minimum living area per level.
Rs-4 Single-Family Residential	35'	15'	15,000sf	90 ft.	35'	25%	Total = 1,100sf 1 <sup>st</sup> Floor of bi-level or 2-story dwelling = 1,000sf Tri-level = 400sf of minimum living area per level.
Rd-1 Two-Family Residential	35'	15'	20,000sf (with not less than 10,000sf per dwelling unit)	120 ft.	35'	20%	Total = 1,000sf 1 <sup>st</sup> Floor of 2-family dwelling = 1,000sf
RM-1 Multifamily Residential	35'	20'	20,000sf (with not less than 10,000 sf per dwelling unit)  20% of any adjacent area owned by applicant zoned C-1 may be used in calculating density provided the total number of units shall not exceed 20% of the units permitted without using flood land or conservancy lands.	120 ft.	40'	30%	Total = 1 bedroom = 750sf 2 bedroom = 950sf 3 bedroom = 1,100sf
RM-2 Multifamily Residential	35'	20'	20,000sf (with not less than 6,000 sf per dwelling unit).  20% of any adjacent area owned by applicant zoned C-1 may be	120 ft.	40'	25%	Total = 1 bedroom = 750sf 2 bedroom or larger = 950sf

Zoning District	Front Setback (measured from ROW)	Side and Rear Offset	Minimum Lot Area	Minimum Lot Width	Maximum Building Height *	Maximum Total Floor Area	Minimum Dwelling Floor Area  Minimum Floor Area – All Buildings in B-1, B-2, B-3, M-1, M-2, MU-1
			used in calculating density provided the total number of units shall not exceed 20% of the units permitted without using flood land or conservancy lands.				
B-1 Neighborhood Business	25’	15’	Neighborhood business shopping centers = 2 acres. Individual business site = no requirement as long as all ordinance requirements met.	200 ft.  none	35’	30%	Total of all principal and accessory buildings = No less than 6,000sf or 25% of lot, whichever is less. <b>Plan Commission may grant exceptions to this requirement.</b>
B-2 Limited General Business	25’	15’	20,000sf	120 ft.	45’	50%	Total of all principal and accessory buildings = No less than 6,000sf or 15% of lot, whichever is less. <b>Plan Commission may grant exceptions to this requirement.</b>
B-3 Office and Professional Business	25’	15’	20,000sf	120 ft.	60’	30%	Total of all principal and accessory buildings = No less than 6,000sf or 15% of lot, whichever is less.
M-1 Limited Manufacturing	50’	10’	20,000sf	120 ft.	45’	50%	Total of all principal and accessory buildings = No less than 8,000sf or 20% of lot, whichever is less.
M-2 General Manufacturing	50’	10’	20,000sf	120 ft.	45’	50%	Total of all principal and accessory buildings = No less than 8,000sf or 20% of lot, whichever is less.
M-3 Quarrying	-	-	-	-	-		--
I-1 Institutional	50’	20’	20,000sf	120 ft.	35’		Residential uses permitted in the I-1 District shall comply with the building area requirements of the Rs-3 Single-Family Residential District.
C-1 Conservancy	-	-	-	-	-	-	-
P-1 Park	20’	20’	-		45’		-

\*Maximum Accessory Building Height in all Districts is 15 ft.

Zoning District	Front Setback (measured from ROW)	Side and Rear Offset	Minimum Lot Area	Minimum Lot Width	Maximum Building Height	Maximum Floor Area	Building Area (principal building)
MU-1 Mixed-Use	12’ (minimum) and 70’ maximum	20’ if abutting residential parcels.*	20,000sf	120 ft.	100’ (Does not include rooftop mechanical or HVAC systems). Exceptions can be granted.	400%	Total of all principal and accessory buildings = No less than 50% of the lot. 15% of lot shall remain usable open space. Exceptions can be granted.

**Commented [BH1]:** I am recommending to reduce setback from 50 to 25. We will want to mention this change during meetings

**Commented [BH2]:** Even non-residential? 15’ is not that tall

\*Buildings that abut a residential district shall be set back a distance that is greater than 50% of their height. If a building steps back, such that floors terminate at different heights, each level shall be treated as a separate building for the purposes of measuring the appropriate setback in relation to height.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

## Chapter 17

# Zoning Code

**[HISTORY: Adopted by the Town Board of the Town of Brookfield. Amendments noted where applicable.]**

### § 17.01 Authority, purpose, title and definitions.

- (1) Authority. These regulations are adopted under the authority granted by §§ 60.62, 61.35, 62.23(7) and 66.0103, Wis. Stats.
- (2) Purpose; jurisdiction. The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of this community. The jurisdiction of this chapter include all lands and waters within the limits of the Town. All Town-owned lands are exempt from the requirements of this section.
- (3) Intent. It is the general intent of this chapter to regulate and restrict the use of all structures, lands and waters; lot coverage, population distribution and density; size and location of structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic, and other dangers; provide adequate light, air, sanitation, and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; facilitate the use of solar energy devices and other innovative development techniques; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; reduce construction site erosion; avoid construction problems resulting from high groundwater; preserve and promote the beauty of the community; and implement the community's Comprehensive Plan or plan components. To this end, it is further intended to provide for the administration and enforcement of this chapter and provide penalties for its violation.
- (4) Abrogation and greater restrictions. It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to laws. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.
- (5) Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (6) Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- (7) Repeal. All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are hereby repealed.

~~(8)~~ Title. This chapter shall be known as, referred to or cited as the "Zoning Ordinance, Town of Brookfield, Waukesha County Wisconsin."

### § 17.02 Definitions.

#### (1) Definitions.

- (a) General definitions. For the purposes of this chapter, certain words or phrases shall have meanings

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that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning. Words used in the present tense include the future. The word "person" includes a firm, association, partnership, trust, company or corporation as well as an individual. The word "he" includes the word "she." The word "shall" is mandatory, "should" is advisory, and "may" is permissive. Any words not defined in this section shall be presumed to have their customary dictionary definitions.

(b) Specific words and phrases. The following terms shall have the meanings indicated:

**ACCESSORY USE OR STRUCTURE**

A use or detached structure subordinate to the principal use of a structure, land or water, located on the same lot or parcel and serving a purpose customarily incidental to the principal use or the principal structure. (See also "minor structure.")

**AIR DOME STRUCTURE**

A building consisting of a reinforced fabric envelope, anchored at its base, which is supported by air pressure. An air dome structure shall be considered a structure as that term is defined herein.

**ALLEY**

A special public right-of-way affording only secondary access to abutting properties.

**ART STUDIO**

An establishment engaged in the sale or exhibit of art works, such as paintings, sculpture, macrame, knitted goods, stitchery or pottery. Art studios are also engaged in the creations of such art works and often offer instruction in their creation. Within the context of this chapter, "art studio" does not include nude modeling and other pornographic exhibits.

**ASSEMBLY**

When used in describing an industrial operation, the fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, welding or other similar technique. "Assembly" shall not include the construction, stamping or reshaping of any of the component parts.

**BABYSITTING**

The act of providing care and supervision for fewer than four children. This definition does not apply when the babysitter is related to the child or when more than four children in one household are related.

**BASEMENT**

That portion of any structure which is below grade or which is partly below and partly above grade but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling.

**BOARDINGHOUSE**

A building other than a hotel or restaurant where meals or lodging is regularly furnished by prearrangement for compensation for four or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

**BOND**

See "surety."

**BUILDING**

Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials.

**BUILDING HEIGHT**

The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.

**CLOTHING STORES**

Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, and dress, hosiery and millinery shops.

**COMMUNITY LIVING ARRANGEMENT**

The following facilities licensed and operated or permitted under the authority of the Wisconsin Statutes: child welfare agencies under § 48.60, group foster homes for children under § 48.02(7), and, adult family homes and community-based residential facilities under § 50.033; but does not include day-care centers, nursing homes, general hospitals, special hospitals, prisons or jails. The establishment of community living arrangements is governed by §§ 46.03(22), 59.69(15), 60.23, and 62.63(7)(i), Wis. Stats.

[Amended 5-17-2016; 12-7-2021 by Ord. No. 2021-004]

**CONDITIONAL USES**

Uses of a special nature as to make impractical their predetermination as a permitted use in a district.

**CONDOMINIUM**

A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all owners on a proportional, undivided basis. It is a legal form of ownership of real estate and not a specific building type or style.

**DAY-CARE CENTER**

An establishment providing care and supervision for four or more persons under the age of seven, licensed by the state under § 48.65, Wis. Stats.

**DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including but not limited to construction of or addition or substantial improvements to buildings, other structures or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.

**DISTRICT, BASIC**

A part or parts of the Town for which the regulations of this chapter governing the use and location of land and buildings are uniform (such as the Residential, Commercial and Industrial District classifications).

**DISTRICT, OVERLAY**

Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict requirements shall apply.

**DRIVE-THROUGH RESTAURANT**

A freestanding establishment used for the sale, dispensing or serving of food, refreshments or beverages in or on disposable plates and cups, including those establishments where customers may serve themselves and may eat and drink on or off the premises. Contemporary drive-in or fast-food restaurants often offer drive-through service. For the purpose of this chapter, an eating establishment, located in a shopping center with three or more attached business/retail establishments, which does not provide drive-through service and which may serve food, refreshments or beverages in or on disposable plates

and cups is not considered to be a drive-through restaurant. (See also "restaurant.")

**DWELLING**

A detached building, also called a duplex, designed or used exclusively as a residence or sleeping place, but not including boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

**DWELLING, BI-LEVEL**

A two-level dwelling with one level above grade and the other level half above grade and half below grade. The lowest level may or may not have exterior access. For the purpose of measuring living area, the Building Inspector will determine functional areas as defined under "living area" and the first floor area will be considered to be the first level that is entirely above grade.

**DWELLING, MULTIPLE-FAMILY**

A residential building designed for or occupied by three or more families, with the number of families in residence not to exceed the number of dwelling units provided.

**DWELLING, SINGLE-FAMILY**

A detached building designed for or occupied exclusively by one family.

**DWELLING, TRI-LEVEL**

A three-level dwelling with two levels above grade, and a third level half above grade and half below grade. The lowest level may or may not have exterior access.

**DWELLING, TWO-FAMILY**

A detached building containing two separate dwelling (or living) units, designed for occupancy by not more than two families.

**ELECTION CAMPAIGN PERIOD**

In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates or the first day that candidates would circulate papers were papers to be required and ending the day of the election. In the case of a referendum, the period beginning on the day on which the question to be voted upon is submitted to the electorate and ending on the day on which the referendum is held.

**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, stormwater drainage and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

**FAMILY**

The body of persons related by blood, marriage, adoption, or not more than four unrelated persons who live together in one dwelling unit as a single housekeeping entity.

**FAMILY DAY CARE HOME**

A dwelling licensed as a day-care center by the state under § 48.65, Wis. Stats., where care is provided for no more than eight children.

**FAST-FOOD RESTAURANT**

See "drive-through restaurant."

**FENCE, OPEN**

A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Open fences are those with more than 30% of their surface area open for free passage of light and air. Examples of such fences include barbed wire, chain-link, picket, and rail fences.

**FENCE, ORNAMENTAL**

A fence intended to decorate, accent, or frame a feature of the landscape. Ornamental fences are often used to identify a lot corner or lot line or frame a driveway, walkway or planting bed. Ornamental fences are those with more than 80% of their surface area open for free passage of light and air. Ornamental fences are often of the rail or wrought iron type.

**FENCE, SOLID**

A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Solid fences are those with 30% or less of their surface area open for free passage of light and air and designed to conceal from the activities conducted behind them. Examples of such fences are stockade, board-on-board, board and batten, basket weave, louvered and chain-link with screening inserts.

**FLEA MARKET**

Any premises where the principal use is the sale of new or used household goods, personal effects, tools, art work, small household appliances and similar merchandise, equipment or objects, in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser. Flea markets may be conducted within a structure or in the open air. Rummage sales and garage sales are not considered flea markets.

**FLOOR AREA RATIO**

The total area of all buildings on a lot divided by the lot area. When a building has more than one story, the sum of the floor area of all stories is the total floor area of that building.

**FRONTAGE**

The smallest dimension of a lot abutting a public street measured along the street right-of-way line. For lots abutting a lake or stream, the smallest dimension measured along the shoreline.

**GARAGE SALE**

See "rummage sale."

**GARAGE, PRIVATE**

A structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the families resident upon the premises. Carports are considered garages.

**GARAGE, PUBLIC OR COMMERCIAL**

Any garage other than a private garage.

**GIFT STORES**

Retail stores where items such as art, antiques, jewelry, books, and notions are sold.

**GROUP ASSEMBLY**

A company of persons gathered together for any purpose for a period of two or more hours.

**HARDWARE STORES**

Retail stores where items, such as plumbing, heating and electrical supplies, sporting goods, and paints are sold.

**HOME INDUSTRY**

Any occupation for gain or support which may be of a more intense nature or exceeds the limitations as defined under "home occupations" in terms of storage of stock or inventory, use of equipment not customarily household in nature, display of product, etc. A home industry may include occupations or uses, such as assembly, mass mailing, multitiered marketing, gunsmithing or licensed firearm sales, furniture and cabinetry woodworking, furniture upholstery and refinishing, route sales, schools or classes (not exceeding four students in one interval), studios, animal grooming (with no overnight boarding) and salons. Home industries are to be considered conditional uses as provided in § 17.02(14)(c).

**HOME OCCUPATION**

Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises. A home occupation includes uses such as telephone marketing, desktop publishing, word processing, computer services, home business office, employment services, travel services, baby sitting, canning, laundering, dressmaking, woodworking, and crafts, but does not include the display of any goods nor such occupations or uses as salons, studios, schools, real estate or insurance agencies. Home occupations shall be considered accessory uses as provided in § 17.02(14)(g).

**IMPROVED SURFACE**

Any exterior grade altered from a natural vegetated state by the installation of an impervious surface intended for accessory use such as a driveway, parking area, deck, or patio.

**JUNK OR SALVAGE YARD**

An area consisting of buildings, structures or premises where junk, waste and discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards and house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

**LIVING AREA**

The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways and unfinished attics.

**LOADING AREA**

A completely off-street space or berth on the same lot as the principal uses it serves for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

**LOT**

For the purpose of this chapter a lot shall be defined as a parcel of land on which a principal building and its accessory building are placed, together with the required open spaces, provided that no such parcel shall be bisected by a public street and should not include any portion of a public right-of-way. No lands dedicated to the public or reserved for roadway purposes should be included in the computation of lot size.

**LOT WIDTH**

The width of a parcel of land measured at the setback line.

**LOT, CORNER**

A lot abutting two or more streets at their intersection provided the corner of such intersection has an angle of 135 feet or less, measured on the lot side.

**LOT, DOUBLE FRONTAGE**

A parcel of land, other than a corner lot, with frontage on more than one street or with frontage on a street and a navigable body of water.

**MACHINE SHOPS**

Shops where lathes, presses, grinders, shapers and other wood and metal working machines are used, such as blacksmith, tinsmith, welding and sheet metal, plumbing, heating, electrical repair and overhaul shops.

**MANUFACTURING**

When used in describing an industrial operation, the making or processing of a product with machinery.

**MINOR STRUCTURES**

Any small, movable accessory erection or construction such as birdhouses, toolhouses, pethouses, play equipment, arbors and walls and fences.

**MOTEL**

A series of attached, semiattached or detached sleeping units for the accommodation of transient guests.

**NONCONFORMING USES OR STRUCTURES**

Any structure, land or water lawfully used, occupied or erected at the time of the effective date of this chapter or amendments thereto which does not conform to the current regulations of this chapter or amendments thereto. Any such structure conforming with respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements is considered a nonconforming structure and not a nonconforming use.

**OFFSET**

The distance between any lot line, except a street line (street right-of-way) and the nearest roofed or enclosed portion of a building. The offset may also be referred to as a side yard or rear yard.

**PARKING LOT**

A structure or premises containing 10 or more parking spaces open to the public. Such spaces may be for rent or a fee.

**PARTIES IN INTEREST**

Includes all abutting property owners, all property owners within 300 feet, and all property owners of opposite frontages.

**PROCESSING**

When used in describing an industrial operation, the series of continuous actions that changes one or more raw materials into a finished product. The process may be chemical as in the processing of photographic materials; it may be a special method such as processing butter or cheese; it may be a mechanical process such as packaging a base product.

**PROFESSIONAL HOME OFFICES**

Residences of clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, real estate agents, artists, teachers, authors, musicians or persons in other recognized professions, used to conduct their professions where the office does not exceed 25% of the area of only one floor of the residence and only one nonresident person is employed.

**REAR YARD**

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard is opposite the street yard or one of the street yards on a corner lot.

**RESTAURANT**

An establishment where food, refreshments, and beverages are prepared, served and consumed primarily within the principal structure. (See also "drive-through restaurant.")

**RUMMAGE SALE**

The occasional sale of personal property at a residence conducted by one or more families in a neighborhood. Rummage sales do not exceed four consecutive days in length and are not conducted more often than three times per year. Rummage sales do not involve the resale of merchandise acquired for that purpose. Rummage sales are also known as "garage sales." Flea markets, defined elsewhere in this section, are not rummage sales.

**SEAT**

Furniture upon which to sit having a linear measurement not less than 24 inches across the surface used for sitting.

**SETBACK OR STREET YARD**

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots and double frontage lots have two such yards.

**SHORELANDS**

Those lands lying within the following distances from the ordinary high-water mark of navigable waters: 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 is greater. Shore lands shall not include lands adjacent to farm drainage ditches where such lands are not adjacent to a navigable stream or river; those parts of drainage ditches adjacent to such lands which were nonnavigable streams before ditching or had no previous stream history and such lands are maintained in nonstructural agricultural use.

**SIDE YARD**

A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

**SIGN**

Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which is visible from any public street or highway.

**SIGN AWNING**

A sign that is mounted or painted on, or attached to an awning, canopy or marquee.

**SIGN COPY**

The message or advertisement and any other symbols on the face of a sign.

**SIGN FACE**

The area or display surface used for the message.

**SIGN, GROUND**

Any sign placed upon or supported by the ground independent of any other structure.

**SIGN, POLE**

A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign is 10

feet or more above grade.

**SIGN, PORTABLE**

A sign that is not permanent, affixed to a building, structure or to the ground. Such signs are sometimes mounted on wheels to make it transportable.

**SIGN, PROJECTING**

A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

**SIGN, ROOF**

A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof.

**SIGN, WALL**

A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and which does not project more than 12 inches from such building or structure.

**SIGN, WINDOW**

A sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window.

**SILVICULTURE**

The care and cultivation of forest trees; forestry.

**SPECIAL EXCEPTION**

A unique or unusual land use or situation which may be deemed to be appropriate by the Town Plan Commission and the Town Board in a given location or zoning district, but which has not been specifically provided for as a permitted, accessory, or conditional use. Such special exception shall not have the effect of rezoning, and shall not be considered or allowed if said use is specifically allowed as a permitted, accessory or conditional use in any other district. Granting of a special exception does not require the demonstration of unnecessary hardship or practical difficulty, and must be obtained through the procedural due process described herein.

**STREET**

A public right-of-way not less than 50 feet wide providing primary access to abutting properties.

**STRUCTURAL ALTERATIONS**

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

**STRUCTURE**

Any erection or construction, such as buildings, prefabricated or prebuilt buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.

**SUBSTANTIAL COMPLETION**

The date certified by a registered architect or engineer that a project is sufficiently complete to be occupied by the owner and for which the Building Inspector will issue a limited or temporary occupancy permit.



## **SUBSTANTIAL IMPROVEMENT**

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the present equalized assessed value of the structure, either before the improvement or repair is started or if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure or site documented as deserving preservation by the State Historical Society or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components.

## **SURETY**

Whenever the terms "surety," "surety bond" or "bond" are used in this chapter, such term shall describe only an irrevocable letter of credit or a cash bond as approved by the Town Attorney.

## **SUSTAINED YIELD FORESTRY**

Management of forested lands to provide annual or periodic crops of forest products.

## **TOWNHOUSES**

A group of single-family dwellings, also called row houses, having an unpierced common wall between each adjacent section and the end units having side yards.

## **TURNING LANE**

An existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

## **UTILITIES**

Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

## **WETLAND**

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

## **YARD**

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

### **§ 17.03 ~~Administration and Procedures~~General provisions.**

~~(1) Jurisdiction. The jurisdiction of this chapter shall include all lands and waters within the limits of the Town.~~

#### (1) Purpose

(a) The purpose of this Section is to establish responsibilities for the administration of this Chapter, and the enforcement procedures and penalties for non-compliance with the provisions of this Zoning Ordinance. The purpose of this Section is also to establish procedural requirements for zoning text amendments, zoning map amendments, and various development approvals under this Chapter, including conditional use permits, temporary use permits, variances, certificates of occupancy, architectural and site plan review and approval.

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## (2) Exempt Activities

(a) The following activities/uses do not require review or approval by the Town:

1. The maintenance or improvement of a public road or railroad track not involving substantial engineering redesign if the work is carried out on land within the boundaries of the right of way.
2. Work by any utility not involving substantial engineering redesign for the purpose of inspection, repair, renewal or construction on established rights-of-way of any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.
3. Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or decoration of the exterior of the structure (but does not otherwise materially affect the external appearance of the structure).
4. The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products outdoors or for other agricultural purposes except the growing or storage of livestock.
5. Official public information street graphics installed by or at the direction of a governmental unit.

(2) ~~Compliance. No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered except in conformity with the regulations herein specified for the district in which it is located, except as allowed under § 62.23(7)(he), Wis. Stats. [Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]~~

(3) ~~Plan commission. The Town Plan Commission shall have the duties of making reports and recommendations related to the planning and development of the Town to public officials, agencies, public utility companies, civic, educational, professional and other organizations, and citizens. The Plan Commission may employ staff and shall oversee the operation of the Office of the Zoning Administrator. The Commission, its members and employees, in the performance of its functions, may enter upon any land and make examinations and surveys. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its function and promote municipal planning.~~

(4) ~~Architectural review committee. There shall be a Town of Brookfield Architectural Review Committee consisting of the Town Building Inspector and a minimum of two members of the Town Plan Commission. One of the Plan Commission members shall be a Town Board Supervisor serving on the Plan Commission. Other members serving on the Architectural Review Committee shall be appointed by the Plan Commission Chairperson, subject to Town Board approval, for a term of two years. An attempt shall be made to include a member from the public at large. The Chairperson of the Architectural Review Committee shall be elected at the first meeting in May by the Committee membership. The Architectural Review Committee may employ staff or professional consultants with the consent of the Town Board.~~

(a) ~~Organization. The Architectural Review Committee shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.~~

1. ~~Meetings shall be held at the call of the Chairperson and shall be open to the public.~~
2. ~~Minutes of the proceedings and a record of all actions and recommendations shall be kept by the Building Inspector, or other designated person, showing the reasons for the Committee's determination, and its finding of facts. These records shall be immediately filed in the office of the Committee and shall be a public record.~~

(b) ~~The Building Inspector shall review the site plans, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, drainage, sewerage and water systems, and utilization of landscaping and open space as deemed appropriate for all development in the A-1 Agricultural District, and the Rs-1, Rs-2, Rs-3, Rs-4, and Rd-1 Residential Districts. The Building Inspector shall grant or deny associated building permit application, or refer application to the Architectural Review Committee for further consideration.~~

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(e) The Architectural Review Committee shall review the site plans, existing and proposed structures, architectural plans, parking areas, driveway location, loading and unloading, highway access, traffic generation and circulation, drainage, and utilization of landscaping and open space and the proposed operation for development in all districts except the A-1 Agricultural District, and the Rs-1, Rs-2, Rs-3, Rs-4, and the Rd-1 Residential Districts. The Architectural Review Committee shall make a recommendation to the Plan Commission and Town Board who shall grant or deny the associated building permit, conditional use permit, or other referred permit applications. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**(3) Duties of the Zoning Administrator/Building Inspector.**

(5)(a) **Duties:** The Town Zoning Administrator ~~is~~ **Building Inspector** designated as the administrative and enforcement officer for the provisions of this chapter. The ~~duty of the Building Inspector~~ Zoning Administrator shall be the Town Administrator or the Town Administrator's designee such as but not limited to the Town Planner, Building Inspector, Fire Chief, Sewer District No. 4 Superintendent, Town Attorney and Police Chief. The Zoning Administrator shallto interpret all permits required by this chapter and to issue, ~~after on site inspection,~~ all permits required by this chapter. The Zoning Administrator shall also have the following specific duties and responsibilities~~further:~~

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(a)1. Maintain permanent and current records of this Chapter, including but not limited to, all maps, amendments, conditional uses, temporary uses, site plans, occupancy permits, variances, appeals, interpretations, and applications thereof, all permits issued, inspections made, work approved, and other official actions.

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1-2. Receive, review, analyze, and develop written reports (if necessary) on all applications for zoning and land use permits, certificates of occupancy, appeals, variances, amendments to this Chapter, or other development matters. All available information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely distributed.

2-3. Coordinate official development review processes among government offices to the extent feasible. Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the 100-year recurrence interval floodplain at appropriate locations within the floodplain.

4. Shall review all site plans, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, drainage, sewerage and water systems, and utilization of landscaping and open space as deemed appropriate for all development in the A-1 Agricultural District, and the Rs-1, Rs-2, Rs-3, Rs-4, and Rd-1 Residential Districts. The Zoning Administrator shall grant or deny associated building permit application, or refer application to the Architectural Review Committee, Plan Commission, and/or Town Board for further consideration.

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3- Where useful, wetland boundaries may be staked in the field and said boundaries may be identified on a plat of survey.

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4. Information regarding the location of floodlands and wetlands shall be provided to realtors, lenders, and the general public. All legal descriptions of property containing floodlands or wetlands should include information designating the floodland or wetland areas when property is transferred.

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5. The Town Board may set fees necessary to recover the costs of providing information to the public.

(b)5. Inspect and access all structures, lands, and waters during reasonable hours to ensure as often as necessary to assure compliance with this eChapter.

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6. Serve as an ex-officio non-voting member of the Plan Commission, Architectural Review Committee, and Zoning Board of Appeals.

~~(e)7.~~ Interpretations concerning whether specific uses are permitted and concerning the precise selection of zoning district boundaries, shall be made initially by the Building Inspector.

8. Issue land use permits and certificates of occupancy when the requirements of this Chapter have been met, and make and maintain records thereof.

~~(d)9.~~ Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this chapter to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the Town Attorney in a manner specified by him.

~~(e)10.~~ Along with any authorized agent, issue citations for the enforcement of this Chapter and a Assist the Town Attorney in the prosecution of violations of this chapter.

~~(f)11.~~ Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by the Building Inspector to ensure compliance with this chapter. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant under Wis. Stat. § 66.0119 in accordance with § 66.0119 of the Wisconsin Statutes. [Amended 12-7-2021 by Ord. No. 2021-004]

~~(g)12.~~ Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.

~~(h)13.~~ Request assistance and cooperation from the Town Police Department, Building Inspector, and Town Attorney as deemed necessary.

~~(i)~~ Attend all meetings of the Town Plan Commission, Zoning Board of Appeals.

~~(6) Plan of operation, site plan and architectural review. For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure without first obtaining the approval of detailed site and architectural plans as set forth in this section. A plan of operation approval shall be required if 25% of any existing building is proposed to be altered or remodeled, or an occupancy change occurs equaling 25% of the floor area of the structure. The Zoning Administrator/Building Inspector shall review the site plans, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, utilization of landscaping and open space as deemed appropriate for all development in the A-1 Residential District, and the Rs-1, Rs-2, Rs-3 Rs-4, and Rd-1 Residential Districts. The Zoning Administrator may, at his discretion, refer site plans or architectural plans to the Plan Commission when a question arises concerning generally accepted community standards or when a development is substantially different from Town norms. The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, utilization of landscaping and open space, and the proposed operation in all districts except the A-1 Agricultural District, and the Rs-1, Rs-2, Rs-3 Rs-4, and Rd-1 Residential Districts. Plan Commission review and recommendation shall be pursuant to § 17.02(7).~~

~~(a) Principles. To implement and define criteria for the purposes set forth above, the following principles are established to apply to all new structures and uses, and to changes or additions to existing structures and uses:~~

~~1. Appearance. No building shall be permitted the design or exterior appearance of~~

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Commented [BH6]: These are broken down into new sections: Plan of Operation (Section 17.03(10)), Site Plan Review (Section 17.03(12)), and Architectural Review (Section 17.03(13))

Commented [BH7]: The Development Review Process is discussed in Section 17.03(11)

Commented [BH8]: This entire section is torn apart and the topics are relocated elsewhere in the code.

Commented [BH9]: The various principles are relocated in new sections of the code, whether under the site plan review section, architectural review section, landscaping, lighting etc.

which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards. The Plan Commission or Zoning Administrator shall make necessary interpretations as to the substance of community standards.

**Commented [BH10]:** Relocated to Architectural Review (Section 17.03(13))

2. ~~Monotony. No building shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness. The Plan Commission or Zoning Administrator shall make necessary interpretations as to what is monotonous or drab in the Town of Brookfield.~~

3. ~~Facades, generally. No building shall be permitted where any exposed facade is not constructed or faced with a finished material, which is not aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.~~

4. ~~Facades in manufacturing districts. The facade of a manufacturing building which faces upon a street right of way shall be finished with an aesthetically pleasing material. Fifty percent of a facade facing a street shall be finished with brick, decorative masonry, glass panel, or other appropriate finished facade as may be approved by the Plan Commission. Such brick, masonry, glass, or other decorative facing shall extend for a distance of at least 20 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade facing each street. Metal buildings may be constructed in any business, manufacturing, institutional, or park district, but only by a 3/4 affirmative vote of the Plan Commission. [Amended 12-7-2021 by Ord. No. 2021-004]~~

2. ~~Building scale and mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.~~

3. ~~Building rooflines and roof shapes. The visual continuity of roofs and their contributing elements (parapet walls, coping, and cornices) shall be maintained in building development and redevelopment.~~

4. ~~Colors. Since the selection of building colors has a significant impact upon the public and neighboring properties, color shall be selected in general harmony with existing neighborhood buildings.~~

**Commented [BH11]:** Relocated to Architectural Review (Section 17.03(13))

5. ~~Siting of structures. No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties. A ten foot offset to paving shall be provided in all nonresidential districts.~~

**Commented [BH12]:** Portions of the paragraph were incorporated into the site plan review process section 17.03(12)

6. ~~Health and safety. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Town.~~

**Commented [BH13]:** Add to Section 17.03(12)(E)1. I.

7. ~~Outdoor storage. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment shall be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers shall be screened from the street and from neighboring facilities. The Plan Commission may recommend the outdoor display of product or merchandise when it makes a finding that such display is essential to a business or industrial use.~~

**Commented [BH14]:** Outdoor storage is generally discussed under the specific land use types (in Section 17.05). Screen enclosures have their own land use type and set of regulations (17.05)(4)(p)11.

8. ~~Topography and drainage. Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The Plan Commission may require that drainage easements be executed. Buildings and uses shall conform with any adopted Stormwater Management Plan.~~

**Commented [BH15]:** Discussed in 17.03 under the site plan section 17.03(12)

9. ~~Erosion control. Appropriate erosion control measures shall be utilized in all new construction.~~

**Commented [BH16]:** Discussed in 17.03 under the site plan section 17.03(12)

10. ~~Traffic circulation. Buildings and uses shall provide for safe traffic circulation and safe driveway locations.~~

**Commented [BH17]:** Discussed in 17.03 under the site plan section 17.03(12)

11. ~~Parking and loading. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead doors shall face upon a street right of way. A ten foot offset to paving shall be provided in all nonresidential districts.~~

**Commented [BH18]:** Covered in site plan section 17.03(12) and the Parking and Loading section (Section 17.07)

12. ~~Lighting shall be installed and maintained in accordance with the standards set forth herein. No exterior lighting used for parking lots, recreational facilities, product display, or security shall be permitted to spillover on operators of motor vehicles, pedestrians, and uses of land in the vicinity of the light source. These requirements shall not apply to lighting placed in a public right of way for public safety. The requirements are:~~

- a. ~~Type. Shielded luminaires, or luminaires with cutoff optics, and careful fixture placement shall be required so as to facilitate compliance with this section.~~
- b. ~~Orientation. Exterior lighting fixture shall be orientated so that the lighting element (or a transparent shield) does not throw rays onto neighboring properties. No lighting source shall be visible from outside its premises. Light rays shall not be directed into street rights of way or upward into the atmosphere. No horizontal throw via outward projecting lenses or optics shall be permitted contributing as a point glare source.~~
- c. ~~Minimum lighting standards. All areas designated on approved site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 footcandle, exclusive of approved antivandal lighting. This standard shall not apply to properties in agricultural and single family residential districts.~~
- d. ~~Intensity of illumination. The intensity of illumination, measured at the property line, shall not exceed 0.2 footcandle.~~
- e. ~~Location. Light fixtures shall not be permitted within required buffer yards.~~
- f. ~~Flashing, flickering, and other distracting lighting which may distract motorists is prohibited.~~
- g. ~~Nuisances. Lighting which creates or becomes a public nuisance is not permitted.~~
- h. ~~Accent lighting and low voltage lighting (12 volts or less) is exempt from these requirements.~~
- i. ~~Nonconforming lighting. All lighting fixtures approved prior to the adoption of this chapter shall be treated as and regulated as legal nonconforming uses (see § 17.09).~~

**Commented [BH19]:** Created a standalone Lighting section (Section 17.08). We incorporated some of these regulations with newer regulations.

13. ~~Utilities. Buildings and uses shall be provided with adequate public services as approved by the appropriate utility.~~

**Commented [BH20]:** We don't feel its necessary to leave in the code but we require utilities to be shown on proposed plans.

14. ~~Heating, air conditioning, and ventilating equipment shall be located in a manner to be unobtrusive or screened from view.~~

**Commented [BH21]:** Relocated to the architectural standards section (Sec 17.03(13)(d))

15. ~~Open spaces. Buildings and uses shall make appropriate use of open spaces and shall be landscaped in accordance with the standards set forth in § 17.02(6)(a)19 of this chapter. [Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]~~
16. ~~Landscaping for all development in all districts shall be in accordance with this section and shall submit a landscaping plan as part of the required site plan.~~
- a. ~~Required landscape planting. The number of plant materials required in order to achieve an appropriate and complete landscape plan for a site shall be as provided below:~~
- i. ~~In every district the minimum open space required in that district shall be provided. For the purpose of this chapter, open space shall not include buildings, driveways, parking lots, loading areas, or storage yards, but may include trees, shrubs, ground cover, patios, decks, sidewalks and paths, and swimming pools.~~
- ii. ~~Required open space shall consist of a mixture of trees, shrubs, ground cover, and other open space features as approved by the Plan Commission.~~
- iii. ~~Parking lot interior and peripheral planting shall be provided as set forth in § 17.06(3)(f) of this chapter. [Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]~~
- b. ~~The minimum size of plantings required by this section shall be as follows:~~
- i. ~~Deciduous trees shall have a minimum caliper of two inches caliper.~~
- ii. ~~Coniferous trees shall be a minimum of six feet in height.~~
- iii. ~~Shrubs shall be a minimum of 18 inches in height or spread.~~
- iv. ~~Ornamental trees shall have a minimum caliper of one inch caliper.~~
- e. ~~Woodland preservation.~~
- i. ~~It is the policy of the Town of Brookfield to preserve the environmentally sensitive or significant natural areas including natural forest, and woodland areas in the Town, and with respect to specific site development to retain, as far as practical, substantial tree stands which should be incorporated into the site. Credit for the retention of existing trees which are of desirable and acceptable minimum size, species, and location may be given by the Plan Commission to satisfy other requirements of this section.~~
- ii. ~~Trees that are to be destroyed in the development process shall be identified in the required landscaping plan. Any trees not approved for destruction in the approved development or landscape plan, which are subsequently destroyed, shall be replaced in accordance with the following schedule:~~

(7) Tree Type	(8) Size of Tree Destroyed	(9) Size of Replacement Tree(s)
(10) Deciduous	(11) 1-inch to 7-inch caliper	(12) One 5-inch to 7-inch caliper

<del>(7) Tree Type</del>	(8) Size of Tree Destroyed	(9) Size of Replacement Tree(s)
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tree tree; or

~~(13) Two~~  
~~6 2 1/2-~~  
~~inch to 4-~~  
~~inch~~  
~~caliper~~  
~~trees~~

~~(15) 11-inch to 11-inch caliper tree~~ ~~(16) Tree 5-inch to 7-inch caliper trees; or~~ ~~Th~~

~~(17) Nine 2-inch to 4-inch caliper trees~~ ~~Ni~~

~~(19) 2-inch or larger tree~~ ~~(20) Six 5-inch to 7-inch caliper trees; or~~ ~~Six~~

~~(21) Twelve 2 1/2-inch to 4-inch caliper trees~~ ~~Tw~~

~~(22) Conifers~~ ~~(23) 10-foot or taller tree~~ ~~(24) One 10-foot or taller tree; or~~ ~~On~~

~~(25) Three 6-to-10-foot trees or 4-foot to 6-foot trees~~ ~~Th~~

a. ~~Plant species. Landscaping shall utilize a variety of tree species and no species currently under~~



disease epidemic shall be used. Species planted shall be hardy under local conditions and compatible with the local landscape.

b. Location of trees shall consider the mature height and spread of trees. Trees shall be located in such a manner that no part of the tree shall extend beyond the lot line.

c. No landscaping shall be permitted within utility easements, drainage easements, or road rights of way except with seed or sod with the approval of the Plan Commission.

d. Implementation of landscape plans. The Plan Commission may permit a delay in the implementation of a landscape plan, provided that landscaping will be completed within one full planting season and provided that sureties are provided to guarantee completion of the landscaping plan.

e. Maintenance. The owner shall tend and maintain all plant materials in a healthy growing condition as per the approved plan. Plantings shall be replaced when necessary and kept free from refuse and debris. All planting material which is dying or damaged beyond recovery shall be replaced within six months or by the next planting season, whichever comes first. **Cre**

(b) Sureties. The Plan Commission may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission may require appropriate sureties to guarantee that improvements will be completed on schedule.

(e) Appeals. Any person or persons aggrieved by any decisions of the Plan Commission related to plan review may appeal the decision to the Zoning Board of Appeals. Such appeal shall be filed with the Town Administrator within 30 days after filing of the decision with the Zoning Administrator.

(26)(4) Conceptual, preliminary and final project approval. Prior to applying for a building permit as set forth in § 17.02(8) of this chapter, a land developer of any multifamily residential, commercial, industrial, park or institutional development shall appear before the Architectural Review Committee, Plan Commission, and Town Board as part of the project approval process. **[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]**

(a) Conceptual approval. The purpose of conceptual project review shall be to determine the best use of a building site. The Plan Commission will consider the proposed land use and its compatibility with adjacent land uses. The Plan Commission should consider ingress and egress, off-street parking, and internal traffic patterns. The developer of any multifamily residential, commercial, industrial, park, or institutional development shall submit a conceptual site plan or alternative site plans for Plan Commission review. Conceptual approval recommended by the Plan Commission and granted by the Town Board shall expire within six months unless preliminary or final project plans are presented to the Plan Commission.

(b) Preliminary approval. The purpose of preliminary project review shall be to determine that proposed structures are properly located and to review the project plans. The project plans, in the maximum scale of one inch equals 40 feet, for any multifamily residential, commercial, industrial, park, or institutional development shall include a plat of survey prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations, existing and proposed grades to the Town of Brookfield datum; and uses and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas, driveways, ingress and egress plans; landscaping and open space utilization plans; existing highway access restrictions; and existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, existing grades, and use of any abutting lands and their structures within 100 feet of the subject site. Preliminary approval recommended by the Architectural Review Committee and granted by the Plan Commission shall expire within six months

**Commented [BH22]:** Created a standalone Landscaping Section (Section 17.13)

**Commented [BH23]:** Relocated to the final approval stage of the development review process (17.03(11)(b)2.a.iv.

**Commented [BH24]:** Relocated to the final approval stage of the development review process (17.03(11)(b)2.a.iv.

**Commented [BH25]:** This section was deleted and we plan to break the review stage into the following: conceptual, site plan review, architectural review, and final approval. Each stage provides information on what is required and adds applicable standards in that section.

unless final project plans are presented to the Plan Commission.

(e) Final approval. The purpose of final project review shall be to determine that this chapter and other Town ordinances have been fully complied with, and to authorize the issuance of a building permit, subject to the developer receiving approval of the Wisconsin Department of Safety and Professional Services (SPS) of the building plans, if required, including architectural details and lighting plan. The Plan Commission may require appropriate sureties to guarantee the completion of grading, landscaping, and construction and paving of parking and loading areas within an approved time schedule. Final approval granted by the Town Board shall expire within 12 months unless necessary building permits have been applied for and issued.

(d) Project approval fee. There shall be a project approval review fee as set forth in § 17.03 of this chapter. A separate fee shall not be required for each approval—conceptual, preliminary, and final—provided that each phase is completed within the time schedule set forth above. Should the Plan Commission determine that the final project plans are not substantially in conformance with the approved preliminary project plans, or that the preliminary project plans are not substantially in conformance with the approved conceptual plans, the project shall be considered a new project. At that point, the developer starts over with the resubmission of plans and fees.

(27) ~~Building permit required. No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after the owner or his agent has secured a building permit from the Zoning Administrator unless otherwise exempted pursuant to § 17.02(9) of this chapter. A building permit is required for all alterations or modifications impacting structure or exiting. Applications for building permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable:~~

(a) ~~Name and addresses of the applicant, owner of the site, architect, professional engineer, and contractor.~~

(b) ~~Description of the subject site by lot, block and recorded subdivision, or metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.~~

(c) ~~Plat of survey prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations to National Geodetic Vertical Datum (NGVD), uses, and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; and existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site.~~

(d) ~~Proposed sewage disposal plan if municipal sewerage service is not available. This plan shall include a copy of the permit issued by the Waukesha County Health Department for the installation of an on-site soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal. The Town Engineer shall certify that satisfactory, adequate, and safe sewage disposal is possible on the site as shown in the private sewage disposal plan.~~

(e) ~~Proposed water supply. Plan if municipal water service is not available. This plan shall be in accordance with Chapter NR 812 of the Wisconsin Administrative Code and shall be approved by the Town Engineer who shall certify, in writing, that an adequate and safe supply of water will be provided.~~

(f) ~~Condominium declaration. Any developer of land in the Town of Brookfield who elects to create a condominium pursuant to Chapter 703 of the Wisconsin Statutes shall submit a copy of the Condominium Declaration, and any amendment thereto, to the Zoning Administrator to be attached to~~

the file copy of the building permit application.

(g) Additional information as may be required by the Town Plan Commission, Town Engineer, Zoning Administrator, or Plumbing Inspector.

(h) A building permit for a permitted use in a single-family or two-family residential district shall be granted or denied, in writing, by the Zoning Administrator within 15 working days. A building permit for a permitted use in any other district shall be granted or denied in writing by the Zoning Administrator within 30 working days following approval as required under § 17.02(6). Building permits for conditional uses shall be granted or denied, in writing, within 90 working days.

1. All building permits shall expire within six months unless work has commenced. In addition, building permits for single-family residences shall expire within 12 months from the date the permit was issued unless the structure has been substantially completed. Any permit issued in conflict with the provisions of this chapter shall be null and void.

2. A permit applicant shall apply for conceptual or preliminary project approval in which case the time limits set forth in § 17.02(7) of this chapter shall apply.

(28) Uses not requiring a building permit. No building permit shall be required for any of the following cases:

(a) For building an accessory building less than 120 square feet in area.

(b) For any improvement or alteration to an existing building less than 120 square feet in area which does not structurally alter or effect a change in use to an existing building.

(c) For repairs that do not alter the size or position of an existing structure on a lot, subject to the conditions of the original project approval, if required under § 17.02(6). Such repairs shall not include the replacement or alteration of bearing walls.

(d) For ordinary maintenance, such as painting, or the replacement of roofing, roof gutters, or siding subject to the conditions of the original project approval, if required under § 17.02(6).

(e) However, any work that does qualify for an exemption under this section shall be required to comply with the applicable setback, yard, height, and other requirements set forth in this chapter.

(29) Foundation survey required.

(a) Any person erecting, moving, enlarging or reconstructing a structure, which under this chapter requires a building permit, shall, prior to the completion of the construction of footings, concrete slab, or other foundation, submit to the Zoning Administrator a survey prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations and size of the following: all structures and their relation to the lot line. The Zoning Administrator shall compare the location of all new or extended foundations with the location of all proposed construction activity reported on the building permit application. No further construction may commence unless the Zoning Administrator finds that the foundation location is as certified by the surveyor and is consistent with the permit as issued.

(30) Occupancy permit required.

(a) No vacant land shall be occupied or used; and no building or premises shall be erected, altered or moved, or create change in use; and no nonconforming use shall be maintained, renewed, changed, or extended until a certificate of compliance shall have been issued by the Zoning Administrator. Such

**Commented [BH26]:** Proposing to relocate this to Section 14 (Building Code) and change the reference to building inspector instead of zoning administrator

**Commented [BH27]:** Proposed to be relocated to Building Code (Section 14) since this is more for the building inspector.

certificate shall show that the building or premises or part thereof is in compliance with the provisions of this chapter. Such certificate shall be applied for at the time of occupancy of any land and/or building.

(b) No building located in a business or industrial zone and used for business or industrial purposes shall be occupied by a new tenant or a new owner or shall have the use changed without the issuance of a new certificate of compliance by the Zoning Administrator. Plan of operation approval, as required under § 17.02(6), shall be required for any change in tenancy which accounts for an excess of 25% of the floor area of the structure. Such certificate shall show that the building or premises or part thereof is in compliance with the provisions of this chapter, Uniform Dwelling Code, Electrical Code, Fire Prevention Code and the Plumbing Code of the Town of Brookfield and State of Wisconsin. Such occupancy permit for the occupation of a previously existing building by a new tenant or use shall be applied for at the time of any remodeling of the building or prior to the occupancy for the new use or by the new owner. Application for an occupancy permit be made in the same manner as for a building permit pursuant to § 17.02(8) of this chapter.

**Commented [BH28]:** Best suited for Building code as well

(31) — Special occupancy permit required. The following uses are special occupancy uses which are temporary in nature and may be permitted as specified herein upon the issuance of a special occupancy permit by the Zoning Administrator. Application for a special occupancy permit shall be made in the same manner as for a building permit pursuant to § 17.02(8) of this chapter.

(a) Model homes, real estate sales and rental field offices, and shelters for the storage of material and equipment being used in the construction of a permanent structure may be permitted in any district for a period not to exceed one year. Special requirements may be imposed by the Zoning Administrator for parking, sanitary facilities, lighting, and hours of operation. No temporary use listed herein shall be conducted within the street right of way. Temporary uses permitted under this section may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, signs, equipment, supplies, and debris shall be removed from the site within 10 days following the temporary activity.

(b) Outdoor group assemblies may be permitted for each tenant in a B-1, B-2, or any manufacturing district for a period not to exceed 14 days within a twelve month period. Special requirements may be imposed by the Zoning Administrator for parking, sanitary facilities, lighting, and hours of operation. No temporary use listed herein shall be conducted within the street right of way. Temporary uses permitted under this section may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet on all sides. All buildings, tents, signs, equipment, supplies, and debris shall be removed from the site within 10 days following the temporary activity. **[Amended 3-3-2020]**

(c) (Reserved)

(d) Farmers markets may be permitted in a B-1, B-2, or any manufacturing district for a period not to exceed 120 days in a twelve month period. Special requirements may be imposed by the Zoning Administrator for parking, sanitary facilities, lighting, and hours of operation. No temporary use listed herein shall be conducted within the street right of way. Temporary uses permitted under this section may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, signs, equipment, supplies, and debris shall be removed from the site within 10 days following the temporary activity.

(e) Fireworks sales facilities are prohibited in the Town of Brookfield.

(32) — Site restrictions. No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this

**Commented [BH29]:** We removed this section, added temporary use permit procedure in Section 17.03 and create a list of temporary land uses with typical regulations which included some of this information from original language.

community. The Town Building Inspector, in applying the provisions of this section, shall, in writing, recite the particular facts upon which he bases his conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the Town Plan Commission may affirm, modify, or withdraw the determination of unsuitability. In addition:

- (a) All lots shall abut upon a public street and each lot shall have a minimum frontage at the road right-of-way of 50 feet.
- (b) All principal structures shall be located on a lot; and only one principal structure shall be located, erected or moved onto a lot in single family and two family residential districts. The Plan Commission may permit more than one structure per lot in other districts where more than one structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements, or parking requirements, or require a minimum separation distance between principal structures.
- (c) No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (d) Street yard and offset areas shall be landscaped and kept clean and free from the accumulation of debris and refuse and shall not be used for the storage or display of equipment, products, vehicles or other materials. All commercial and manufacturing lots shall maintain an area not less than 10 feet in width around the periphery of the lot that is free of structures, materials, trees or shrubs for access by emergency vehicles.
- (e) Lots abutting more restrictive district boundaries shall provide offsets not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.

(33) ~~Use restrictions. The following use restrictions and regulations shall apply:~~

- (a) ~~Principal uses. Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in that district.~~
- (b) ~~Conditional uses.~~
  - 1. ~~Permits. The Town Board may issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community. A review of all approved conditional use permits shall be made at least every five years. Applications for conditional use permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where pertinent and necessary for proper review by the Plan Commission:~~
    - a. ~~Names and addresses of the applicant owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.~~
    - b. ~~Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary~~

**Commented [BH30]:** A good portion of the content here was added to the General Site Design Principles section (Section 17.03(12)(e))

**Commented [BH31R30]:** There were other portions that were best removed but we added additional site design principles that seemed more relevant.

**Commented [BH32]:** We created the Land Use section instead (17.05) which provides a list of the permitted uses and all of the regulations that apply.

**Commented [BH33]:** We discuss the conditional use permit process in Section 17.03(14) and use some of the language here but included more information for clarification. The uses themselves are listed as individual land uses and have additional regulations that apply. Some of the regulations included in the original CUP's are in the new language.

for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.

- e. ~~Plat of survey prepared by a registered land surveyor showing all of the information required under § 17.02(8)(e) for a building permit and, in addition, the mean and historic high water lines and floodlands on or within 40 feet of the subject premises and existing and proposed landscaping. [Amended 12-7-2021 by Ord. No. 2021-004]~~
- d. ~~Additional information as may be required by the Town Plan Commission, Town Engineer, Zoning Administrator, or Plumbing Inspector.~~
- e. ~~Review and approval. The Town Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed plan of operation. Conditions such as landscaping, architectural design, dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the Town Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter.~~
- f. ~~Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses. Variances shall only be granted as provided in § 17.11 of this chapter.~~
- g. ~~Public hearing. The Town Plan Commission shall hold a public hearing on each application giving public notice as specified in § 17.13 of this chapter. The Plan Commission may subsequently issue the conditional use permit with appropriate conditions, deny the permit with reasons, or require the submittal of a modified application.~~
- h. ~~Existing conditional uses. All uses existing at the effective date of this chapter which would be classified as a conditional in the district concerned if they were to be established after the effective date of this chapter, are hereby declared to be conforming conditional uses to the extent of their existing operation. Any proposed change in the existing operation shall be subject to the conditional use procedures as if such use were being established anew.~~
- i. ~~Amendments. Changes subsequent to the initial issuance of a conditional use permit which would result in a need to change the initial conditions shall require an amendment to the conditional use permit. Enlargement of a conditional use shall be considered an amendment. The process for amending a permit shall generally follow the same procedures as those required for granting a conditional use permit as set forth in this section.~~
- j. ~~Revocation of conditional use permit. Should a permit applicant, his heirs or assigns, fail to comply with the conditions of the permit issued by the Plan Commission or should the use, or characteristics of the use be changed without prior approval by the Plan Commission, the conditional use permit may be revoked. The process for revoking a permit shall generally follow the same procedures as those required for granting a conditional use permit as set forth in this section.~~

2. ~~Public and semipublic uses. The following public and semipublic uses shall be conditional uses and may be permitted as specified:~~
- a. ~~Airports, airstrips, and landing fields in the I-1 Institutional District, the M-1 and M-2 Manufacturing Districts, and A-1 Agricultural District, provided that the site is not less than 20 acres.~~
  - b. ~~Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums, in all residential and business districts, in the M-1 and M-2 Manufacturing Districts, and in the P-1 Park District.~~
  - c. ~~Utility substations, wells, pumping stations, and water towers in all districts, provided all principal structures and uses are not less than 50 feet from any residential district lot line.~~
  - d. ~~Public passenger transportation terminals, such as heliports, and bus and rail depots, but excluding airports, airstrips, and landing fields, in all business districts and in the M-1 and M-2 Manufacturing Districts provided that uses are not less than 100 feet from any residential district boundary.~~
  - e. ~~Public, parochial, and private elementary and secondary schools and churches in all residential districts and the P-1 Park District, provided the lot area is not less than two acres and all principal structures and uses are not less than 100 feet from any lot line.~~
  - f. ~~Penal and correctional institutions in the I-1 Institutional District, provided that the site is not less than five acres and does not abut upon a residential property.~~
  - g. ~~Cemeteries, mausoleums, and crematoriums which are subject to the requirements of Subchapter II, Chapter 157, Wis. Stats., in the I-1 Institutional District, provided that no structure may be located closer than 50 feet from any lot line. [Amended 5-3-2016]~~
  - h. ~~Solar energy collectors erected as an accessory structure may be permitted in any district, provided that the structure shall comply with all the yard and height requirements for the district in which the solar collector is located.~~
  - i. ~~Churches in B-3 Office And Professional Business Districts, provided that the lot area is not less than two acres and that all church related uses are not less than 100 feet from any lot line zoned or used for residential purposes. Before granting a conditional use, the Plan Commission shall approve a site plan and plan of operation which shall include estimates of occupancy during normal or special uses, required parking and traffic control related issues, any and all exterior accessory uses incidental to the operation of the church, the hours of operation, the length and terms of any lease if the church is to be located on property leased, rather than owned, and such information as may be required in the discretion of the Plan Commission so as to ensure that the granting of the conditional use will be consistent with the spirit and intent of the zoning code. [Added 7-5-2011; amended 12-7-2021 by Ord. No. 2021-004]~~
  - j. ~~Any columbarium that is established and used by a religious association and is not subject to the requirements of Subchapter II, Chapter 157, Wis. Stats., as the result of the exemption granted by § 157.123(2) Wis. Stats, in the I-1 Institutional District for the purpose of promoting compatible use of residential property and stability of property values, any conditional use granted under this section shall require the submission of a plan of operation and a site plan. The Plan Commission shall review the proposed location of the columbarium, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, loading and unloading or other special needs accommodations, highway~~



access, landscaping and open space, and such other matters as the Plan Commission deems appropriate to achieve the purposes described in this section. No conditional use authorized under this section may permit the construction and maintenance of any columbarium located within the street yard, offset or setback dimensions or restrictions as established by the underlying zoning classification. **[Added 5-3-2016]**

~~3. Residential uses. The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:~~

- ~~a. Community living arrangements which have a capacity for nine or more persons in the Rs-1, Rs-2, Rs-3, Rs-4, and Rd-1 Residential Districts.~~
- ~~b. Community living arrangements which have a capacity for 16 or more persons in the Rm-1 and Rm-2 Residential Districts.~~
- ~~c. Multifamily residential projects exceeding eight units per structure in the Rm-1 and Rm-2 Residential Districts.~~
- ~~d. Rest homes, nursing homes, clinics, and children's nurseries in the Rm-1 and Rm-2 Residential Districts and the I-1 Institutional District, provided all principal structures and uses are not less than 50 feet from any lot line.~~
- ~~e. Clubs, fraternities, lodges, and meeting places of a nonecommercial nature in any residential district and the I-1 Institutional District, provided all principal structures and uses are not less than 25 feet from any lot line.~~
- ~~f. Home industries in any residential district, provided that:~~
  - ~~i. The use of the residential dwelling for the home industry shall be clearly incidental and subordinate to its residential use and shall not occupy more than 25% of the floor area of one floor.~~
  - ~~ii. One person other than members of the family residing on the premises may be employed or engaged in such home industry.~~
  - ~~iii. No traffic shall be generated by the home industry in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home industry shall be provided off the street and other than in the required street yard.~~
  - ~~iv. No outdoor storage of equipment or product shall be permitted.~~
  - ~~v. Shall not be adverse to the residential character of the neighborhood in terms of either nonresidential traffic or solid waste storage or disposal of a quantity greater than normally expected in a residential neighborhood.~~
  - ~~vi. Shall have no measurable effect outside the building (noise, odors, vibrations, electrical disturbance, etc.).~~
- ~~g. Community living arrangements in all districts zoned for residential use, located between 1,500 feet and 2,500 feet of the location of another community living arrangement, subject to the provisions of § 60.63, Wis. Stats. for the purpose of promoting compatible use of residential property, stability of property values, and to prevent impairment of depreciation of property values, any conditional use granted under this section shall require the submission of a plan of operation and a site plan. The Plan Commission shall review the proposed location~~



of the community living arrangement facility, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, loading and unloading or other special needs accommodations, highway access, landscaping and open space, and such other matters as the Plan Commission deems appropriate to achieve the purposes described in this section. **[Added 5-17-2016]**

**4. Business uses.** The following commercial uses shall be conditional uses and may be permitted as specified:

- a. Automotive, marine, and aircraft sales, service, repair, and storage facilities in the B-2 Business District, provided that there shall be not more than two automotive facilities or two marine facilities or two aircraft facilities in a one-mile radius.
- b. Drive-in theaters in the B-2 Business District, provided that a planting screen at least 25 feet wide is created along any side abutting a residential district and no access is permitted to or within 1,000 feet of an arterial street.
- c. Drive-in banks in the B-1, B-2 and B-3 Business Districts.
- d. Drive-through and fast-food restaurants in the B-2 Business District. **[Amended 5-17-2016]**
- e. Funeral homes in any business district and the I-1 Institutional District, provided all principal structures and uses are not less than 25 feet from any lot line.
- f. Gasoline service stations and car washes in the B-1 and B-2 Business Districts, provided that all service islands, pumps, and structural supports for canopies shall meet the setback and yard requirements of the district, and further provided that there shall be not more than two such facilities in a one-mile radius.
- g. Transmitting towers, receiving towers, relay and microwave towers in the B-2 Business and I-1 Institutional Districts.
- h. Broadcast studios in the I-1 Institutional District.
- i. Adult day care facilities in B-3 Office and Professional Districts. **[Added 9-5-2017]**

**5. Industrial and agricultural uses.** The following industrial and agricultural uses shall be conditional uses and may be permitted as specified:

- a. Animal hospitals with exterior runs in the B-2 Business District and the M-1 and M-2 Manufacturing Districts, provided all principal structures and uses are not less than 100 feet from any residential use.
- b. Dumps, disposal areas, incinerators, and sewage treatment plants in A-1 Agricultural Districts and M-2 Manufacturing District.
- c. Processing and manufacturing of feeds prepared for animals and fowl; storage of animal feeds, fertilizer, seeds, animal health products, and lawn and garden equipment in the M-1 and M-2 Manufacturing District, provided all storage operations are conducted within an enclosed building.
- d. Lumberyards, millwork, sawmills, and planing mills in the M-1 and M-2 Manufacturing Districts.
- e. Manufacturing and processing of dimension hardwood flooring, veneer, and plywood, in the

~~M-1 and M-2 Manufacturing Districts.~~

- ~~f. Freight yards, freight terminals, and transshipment depots in the M-1 and M-2 Manufacturing Districts.~~
  - ~~g. Commercial service facilities, such as restaurants, fueling stations, and office uses, in the M-1 and M-2 Manufacturing Districts, provided that all such services are physically and saleswise oriented toward industrial district users and employees, and that other users are only incidental customers. [Amended 8-2-2005]~~
- ~~6. Mineral extraction. The following earthmoving and mineral extraction uses shall be conditional uses and may be permitted as specified:~~
- ~~a. Topsoil removal and sale may be permitted in any district except the C-1 Conservancy District. An adequate amount of topsoil shall be retained or stored on the site to accommodate final development of the site. An "adequate amount" is declared to be four inches of topsoil over all areas not paved or covered by buildings. The Town Board shall require the use of adequate soil erosion control measures to prevent tracking of Town streets and prevent pollution of surface waters caused by runoff.~~
  - ~~b. Processing and storage of cement products in the M-3 Manufacturing District.~~
  - ~~e. Mineral extraction operations, including washing, crushing, or other processing, may be permitted in the M-3 Manufacturing District, provided:~~
    - ~~i. The application for the conditional use permit shall include an adequate description of the operation; a list of equipment, machinery, and structures to be used; a topographic map of the site showing existing contours with minimum vertical contour interval of five feet; trees, proposed and existing and proposed excavations; and a restoration plan.~~
    - ~~ii. The restoration plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, and restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the Town's inspection and administrative costs and the necessary sureties which will enable the Town to perform the planned restoration of the site in event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the Town Engineer, and the form and type of such sureties shall be approved by the Town Attorney.~~
    - ~~iii. The conditional use permit shall be in effect for a period not to exceed two years and may be renewed upon application for a period not to exceed two years. Modifications or additional conditions may be imposed upon application for renewal.~~
    - ~~iv. The Town Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality and shall also consider the practicality of the proposed restoration of the site.~~
- ~~7. Recreation uses. The following public recreational facilities shall be conditional uses and may be permitted as specified:~~
- ~~a. Archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, ice boating, marinas, music halls, polo fields, pools, riding academies, stadiums, and zoological and botanical gardens in the P-1 Park District, provided~~

that the lot area is not less than one acre and all structures are not less than 50 feet from any district boundary.

- b. Commercial recreation facilities, such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf facilities, physical culture facilities, pool and billiard halls, racetracks, rifle ranges, Turkish baths, skating rinks, and theaters are conditional uses and may be permitted in all nonresidential districts. **[Amended 12-7-2004]**

8. Conservancy uses. The following uses are conditional uses in the C-1 Conservancy Overlay District and may be permitted as specified:

- a. The construction of streets which are necessary for the conduct of agricultural cultivation or to a silvicultural activity, or necessary for the provision of essential utility and public safety services, or necessary to provide access to permitted open space uses, provided that:
  - i. The street cannot as a practical matter be located outside the Conservancy District;
  - ii. The street is designed and constructed to minimize adverse impact upon the natural functions of the Conservancy District;
  - iii. The street is designed and constructed with the minimum cross section practical to serve the intended uses;
  - iv. The street construction activities are carried out in the immediate area of the roadbed only; and
  - v. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary for the construction or maintenance of the street.
- b. The construction and maintenance of nonresidential buildings used solely in conjunction with raising of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose which is compatible with natural resource preservation, provided that:
  - i. The building cannot as a practical matter be located outside the Conservancy District;
  - ii. The building is not designed for human habitation and does not exceed 500 square feet in area; and
  - iii. Only limited filling or excavating necessary to provide structural support is conducted.
- c. The establishment and development of public and private parks and recreation areas, recreation trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private habitat areas, provided that:
  - i. Any private recreation or wildlife habitat area must be exclusively for that purpose;
  - ii. No filling is to be done; and
  - iii. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance the value of a wetland or other natural resource.
- d. The Construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public utilities and cooperative associations

organized for the purpose of producing or furnishing heat, light, power or water to members, provided that:

i. The transmission and distribution lines and related facilities cannot as a practical matter be located outside the Conservancy District; and

ii. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the utility, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the Conservancy Area.

e. The construction and maintenance of railroad lines, provided that:

i. The railroad lines cannot as a practical matter be located outside the Conservancy District; and

ii. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the railroad, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the Conservancy Area.

9. PUD-planned unit development. The PUD-planned unit development conditional use is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, diversified building types and mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; attractive recreation and open spaces as integral parts of the developments; enable economic design in the location of public and private utilities and community facilities; and ensure adequate standards of construction and planning. The PUD conditional use under this chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic zoning district. **[Added 8-5-2014]**

a. Application of the PUD conditional use. This conditional use may be used for development in the following basic use districts except:

i. C-1 Conservancy District.

ii. P-1 Park District.

b. Permitted uses. Uses permitted in a planned unit development conditional use shall conform to uses generally permitted in the underlying basic use district. Individual structures shall comply with specific building area and height requirements of the underlying basic use district. Open space and parking requirements of the underlying basic use district shall be complied with either individually or by providing the combined open space and parking space required for the entire development in one or more locations within the development.

c. Procedural requirements:

i. Prepetition conference. Prior to the official submission of the petition for the approval of a planned unit development conditional use, the owner or his agent making such petition shall meet with the Plan Commission or its staff to discuss the scope and proposed nature of the contemplated development.

**Commented [BH34]:** Section 17.05 is where the land use types are listed with their specific regulations. The majority of these uses were incorporated into a new land use type and the regulations typically were added to the land use type.

**Commented [BH35]:** We created a standalone section for PUD's (Section 17.06). Essentially no changes are proposed except for updating references.

ii. ~~Petition. Following the prepetition conference, the owner or his agent may file a petition with the Town Clerk for approval of a planned unit development conditional use. Such petition shall be accompanied by the review fee required under § 17.03 of this chapter and the following information:~~

- ~~(34) [i] A statement which sets forth the relationship of the proposed PUD to the Town's Master Plan or any adopted component thereof and the general character of and uses to be included in the proposed PUD, including:~~
- ~~(35) [A] Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any similar data pertinent to a comprehensive evaluation of the proposed development.~~
- ~~(36) [B] General summary of the estimated value of structures and site improvement costs, including landscaping and special features.~~
- ~~(37) [C] General outline of the organizational structure of a property owners' or management association proposed to be established to provide any necessary private services.~~
- ~~(38) [D] Proposed departures from the standards of development in this chapter, other Town regulations, administrative rules or universal guidelines.~~
- ~~(39) [E] Expected date of commencement of physical development as set forth in the proposal.~~
- ~~(40) [ii] A general development plan including:~~
- ~~(41) [A] Legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.~~
- ~~(42) [B] Location of public and private roads, driveways, and parking facilities.~~
- ~~(43) [C] Size, arrangement and location of any individual building sites and proposed building groups on each individual site.~~
- ~~(44) [D] Location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.~~
- ~~(45) [E] Type, size and location of all structures.~~
- ~~(46) [F] General landscape treatment.~~
- ~~(47) [G] Architectural plans, elevation and perspective drawings and sketches illustrating the design and character of proposed structures.~~
- ~~(48) [H] Existing and proposed location of public sanitary sewer and water supply facilities and proposed location of all private utilities or other easements.~~
- ~~(49) [I] Characteristics of soils related to contemplated specific uses.~~
- ~~(50) [J] Existing topography on the site with contours at no greater than two foot intervals.~~
- ~~(51) [K] Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.~~

i. ~~Referral to Plan Commission. The petition for a PUD conditional use shall be referred to the Plan Commission for its review and recommendation, including any additional conditions or restrictions it may deem necessary or appropriate.~~

ii. ~~Public Hearing. The Plan Commission and Town Board shall hold a joint public hearing under §§ 17.12 and 17.13 of this chapter. Notice of such hearing shall include reference to the development plans filed in conjunction with the requested planned unit development conditional use. As soon as practical following the hearing, the Plan Commission shall report its findings and recommendations to the Town Board.~~

b. ~~Basis for approval of petition.~~

i. ~~The Plan Commission in making its recommendation and the Town Board in making its determination shall consider:~~

(52) ~~[i] That the petitioners for the proposed Planned Development conditional use have indicated they intend to begin the physical development of the PUD within nine months following approval of the petition and the development will be carried out according to a reasonable construction schedule satisfactory to the Town.~~

(53) ~~[ii] That the proposed planned unit development conditional use is consistent in all respects to the purpose of this section and spirit and intent of this chapter; is in conformity with the adopted Master Plan or any adopted component thereof; and the development would not be contrary to the general welfare and economic prosperity of the community.~~

(54) ~~[iii] The proposed site shall be provided with adequate drainage facilities for surface and stormwaters.~~

(55) ~~[iv] The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.~~

(56) ~~[v] No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance and maintenance of public areas by the proposed development.~~

(57) ~~[vi] The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances or administrative regulations of the Town.~~

(58) ~~[vii] Centralized water and sewer facilities shall be provided.~~

(59) ~~[viii] The entire tract or parcel of land to be included in a planned unit development conditional use shall be held under single ownership or if there is more than one owner, the petition for such planned unit development conditional use shall be considered as one tract, lot or parcel and the legal description shall define the PUD as a single parcel, lot or tract and be so recorded with the Register of Deeds for Waukesha County.~~

i. ~~That in the case of a proposed residential planned unit development conditional use:~~

(60) ~~[i] Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.~~

(61) ~~[ii] The total net residential density within the planned unit development conditional use will be compatible with the Town Master Plan or component thereof.~~

- (62) ~~[iii] Twenty percent of any area within a planned unit development zoned C-1 Conservancy District under this chapter or Floodplain or Conservancy District under the Waukesha County Shoreland and Floodland Protection Ordinance may be used in calculating density if the total number of units permitted does not exceed 20% of the units permitted without using floodland or conservancy lands.~~
- (63) ~~[iv] Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.~~
- (64) ~~[v] Adequate, continuing fire and police protection is available.~~
- (65) ~~[vi] The population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.~~
- (66) ~~[vii] Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.~~
- ~~i. That in the case of a proposed commercial planned unit development conditional use:~~
- (67) ~~[i] The proposed development will be adequately served by off-street parking and truck service facilities, and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance and maintenance of public areas. [Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]~~
- (68) ~~[ii] (Reserved)~~
- (69) ~~[iii] The locations for entrances and exits have been designated 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 upon the general traffic pattern of the surrounding neighborhood.~~
- (70) ~~[iv] 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 property values of the surrounding neighborhood.~~
- ~~i. That in the case of a proposed industrial planned unit development conditional use:~~
- (71) ~~[i] 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.~~
- (72) ~~[ii] The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance and maintenance of public areas.~~
- (73) ~~[iii] The proposed development will include adequate provisions for off-street parking and truck service areas and will be adequately served by rail, arterial highway facilities or both.~~
- (74) ~~[iv] The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.~~
- ~~i. That in the case of a mixed-use planned unit development conditional use:~~
- (75) ~~[i] The proposed mixture of uses produces a unified composite which is compatible~~

within the underlying districts and which as a total development entity is compatible with the surrounding neighborhood.

- (76) ~~\_\_\_\_\_ [ii] \_\_\_\_\_~~ The various types of uses conform to the general requirements stated above, applicable to projects of such use and character.
- (77) ~~\_\_\_\_\_ [iii] \_\_\_\_\_~~ The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance and maintenance of public areas.
- ~~a. Determination. The Town Board, after due consideration, may deny the petition, approve the petition as submitted or approve the petition subject to additional conditions and restrictions. The approval of a planned unit development conditional use shall be based upon and include as conditions thereto the building, site and operational plans for the development as approved by the Town Board.~~
- ~~b. Changes and Additions. Any subsequent change or addition to the plans or uses shall first be submitted for approval to the Plan Commission, and if in the opinion of the Commission such change or addition constitutes a substantial alteration of the original plan, a public hearing before the Commission shall be required and notice thereof be given under § 17.12 of this chapter and such proposed alterations shall be submitted to the Town Board for approval.~~
- ~~c. Subsequent land division. The division of any land within a planned unit development conditional use for the purpose of change or conveyance of ownership shall be accomplished under the Town land division regulations and when such division is contemplated, a preliminary plat of the lands to be divided shall accompany the petition for PUD approval.~~
- ~~d. A conditional use for a compact development form planned unit development (PUD) shall be available in all districts in which PUDs are available subject to the requirements of § 17.02(14)(b)9d and as described below: **[Amended 12-7-2021 by Ord. No. 2021-004]**~~
- ~~e. A compact development form PUD shall allow a mixture of commercial, office, residential, institutional and park and open uses and may also allow for single use projects that contain certain specified urban design elements. Such projects are envisioned to accommodate compact, higher intensity development or redevelopment in settings where urban services are available and new compact development is appropriate and will contribute to the vitality of the community.~~
- (78) ~~\_\_\_\_\_ ii. \_\_\_\_\_~~ The compact development form PUD shall require a heightened level of site design, and individual buildings shall be arranged in a unified fashion so as to be complementary to each other and to be compatible with the surrounding neighborhood. Higher density residential development is encouraged (less than 6,000 square feet of land area per dwelling unit) in location appropriate areas and can be authorized within this conditional use category.
- (79) ~~\_\_\_\_\_ iii. \_\_\_\_\_~~ This PUD option provides opportunity for design flexibility and sets forth basic requirements for compact development projects in order to accommodate unique, integrated development projects. The availability of this design option recognizes that the community realizes economic, aesthetic and quality of life benefits from projects with interesting design and higher intensity mixed uses in projects with an upscale dynamic. Development projects or new neighborhoods with vertical scale architecture, mixed uses, pedestrian facilities and public gathering spaces create more dynamic places that are attractive for people to live, work and play within. Required amenities will benefit both the developer and the community while also allowing for orderly and efficient land use. For a project to be eligible for consideration and approval as a compact development form PUD, the following project design elements shall be provided:



- (80) ~~[i] Compact development form PUDs will only be considered in existing corridor business settings or in close proximity to major transportation facilities, such as interstate highway interchanges, county trunk highways, major arterials or mass transit stops.~~
- (81) ~~[ii] Proposed development projects must be complementary to the surrounding neighborhood.~~
- (82) ~~[iii] Eligible sites must be served by municipal sewer and municipal water.~~
- (83) ~~[iv] Architecture, landscaping and building siting must be designed to create an attractive and cohesive environment that contributes positively to the existing setting. Landscape treatments shall be provided to enhance architectural features, improve appearance, screen parking areas and structures, provide shade and enhance the streetscape.~~
- (84) ~~[v] Compact development form scale architecture (minimum two-story buildings or two-story facades) is required. Maximum permissible building height and massing must be complementary to the neighborhood as determined by the Town Plan Commission and Town Board.~~
- (85) ~~[vi] Building designs shall utilize a variety of aesthetically compatible exterior building materials and building styles and articulations shall be varied. Long, monotonous facades or roof designs shall not be permitted. HVAC units and other rooftop mechanicals/utilities are required to be screened from view.~~
- (86) ~~[vii] Meaningful communal gathering and green spaces provided in accessible settings must be an integral part of any proposed development.~~
- (87) ~~[viii] Pedestrian facilities must connect buildings and uses within the proposed development and must connect the development to the surrounding neighborhood in order to provide safe and convenient access for patrons, residents, and pedestrians. Bicycle accommodations should be considered in project design.~~
- (88) ~~[ix] Buildings shall be predominantly oriented to streets with minimal street setbacks.~~
- (89) ~~[x] Large surface parking lots shall be minimized with specific consideration given to avoidance of parking lots between buildings and the street edge. Structured, underground or on-street parking must be provided to the greatest extent practicable. Surface parking lots should be located to the side and rear of buildings as much as possible. Parking areas should be landscaped to incorporate planting islands large enough so they may also serve as stormwater areas or snow storage areas.~~
- (90) ~~[xi] Retail and mixed retail/office buildings shall provide large store front windows that provide visibility and transparency at the pedestrian level.~~
- (91) ~~[xii] A compact development form for residential development is permissible at densities dependent upon, and related to, the form and massing of buildings. Specified maximum building height, setbacks, build-to-lines, offsets, and on-site parking requirements are to be established by the Planning Commission and Town Board, which will determine available housing densities. "More of the same" is specifically discouraged.~~
- (92) ~~[xiii] Internal streets must be designed to adequately serve the users of the proposed development and contain traffic calming measures (landscape bumpouts, parallel or angle on-street parking, visually conspicuous crosswalks, narrow streets, etc.) while allowing for safe and efficient traffic circulation.~~
- (93) ~~[xiv] Developers of mixed use projects or structures with more than one tenant shall~~

submit a comprehensive description of a uniform signage system so that individual business or tenant signs will be harmonious and compatible with the overall design of the structures and site. Individual tenant signage must be predominantly wall mounted.

(94) ~~\_\_\_\_\_ [xv] \_\_\_\_\_~~ Streets and pedestrian facilities shall contain appropriate streetscape amenities (street trees, street furniture, such as benches, planters, trash receptacles, information kiosks, bike racks, bus shelters, appropriate street lighting and wayfinding signage), and the Architectural Control Committee shall set forth the required streetscape elements with consideration given to similar Town imposed requirements, if applicable. Terraces to separate pedestrians from vehicles shall be provided, where feasible. ADA complaint access and facilities shall be provided throughout the development. Sidewalks that will traverse predominantly retail or restaurant use areas shall be wide to accommodate space for passing pedestrians and certain designated sidewalks within retail areas should be widened to allow for sidewalk cafe dining or outdoor retail display while still providing for pedestrian passage.

(a) Conditional uses. Conditional uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town Board in accordance with § ~~17.02(14)~~ of this chapter.

(b) Unclassified or unspecified uses. Unclassified or unspecified uses may be permitted by the Town Plan Commission, provided such uses are similar in character to the principal uses permitted in the district.

(c) Interpretations. Interpretations concerning whether specific uses are permitted and concerning the precise location of zoning district boundaries shall be made initially by the Building Inspector. Interpretations may be corroborated or modified by the Plan Commission. Persons aggrieved by an interpretation of the Building Inspector or Plan Commission may appeal such interpretation to the Zoning Board of Appeals as set forth in § ~~17.11~~ of this chapter.

(d) Temporary uses. Temporary uses are considered special uses regarding review and approval by the Building Inspector and issuance of a special occupancy permit as set forth in § ~~17.02(12)~~ of this chapter. **[Amended 3-3-2020]**

1. ~~Description and purpose.~~

a. ~~A temporary use is the use of property conducted from an area or structure (e.g., parking lots, lawns, trucks, tents, or other temporary structures) that does not require a building permit and that may or may not comply with the use or lot and building standards of the zoning district in which the use is located.~~

b. ~~The temporary use regulations of this section are intended to permit such occasional, temporary uses and activities when consistent with the overall purposes of this chapter and when the operation of the temporary use will not be detrimental to the public health, safety, or general welfare.~~

c. ~~Temporary uses include temporary buildings and uses for construction purposes for a period of not more than one year.~~

2. ~~(Reserved)~~

3. ~~Authority to approve.~~

a. ~~Unless otherwise provided herein, all temporary uses are subject to all Town permits and requirements.~~

b. ~~The Zoning Administrator is authorized to approve temporary uses that comply with the~~

**Commented [BH36]:** Relocated to Section 17.03(19). The main change is replacing building inspector with zoning administrator.

provisions of this section and to impose conditions on the operation of temporary uses that will help to ensure that they do not create unreasonable adverse impacts on surrounding uses and that they operate safely, consistent with the general purposes of this chapter.

e. The Zoning Administrator is also authorized to require that individual temporary use requests be processed as conditional uses.

4. Exemptions. The following are permitted as temporary uses without complying with the permit requirements of this section:

- a. Temporary uses and structures needed as the result of a natural disaster or other health and safety emergencies during the period of the emergency;
- b. Temporary events or activities occurring within, or upon the grounds of, a private residence or upon the common areas of a multiunit residential development;
- c. Garage sales conducted in zoning districts zoned for residential use, or on parcels occupied by residential dwelling units; and
- d. Temporary uses conducted on public property, provided such uses have been approved by the Town Board or other duly authorized Town official.

5. Authorized uses. The following may be approved by the Zoning Administrator as temporary uses when the Zoning Administrator determines that the operation of such use will be generally compatible with surrounding uses and will not be detrimental to public safety:

- a. Temporary signs, subject to § 17.08(7);
- b. Temporary sales offices, including real estate sales and rental field offices, and other temporary uses, subject to § 17.02(12);
- c. Flea markets, subject to § 17.02(12)(b);
- d. Farmers markets, subject to § 17.02 (12);
- e. Christmas tree and similar holiday sales lots;
- f. Outdoor carnivals;
- g. Outdoor concerts, festivals, and similar events;
- h. Temporary portable storage containers;
- i. Auctions;
- j. Similar uses and activities as determined by the Zoning Administrator.

6. Conditions of approval. In approving a temporary use, the Zoning Administrator is authorized to impose conditions on the operation of temporary uses that will help to ensure that they do not create unreasonable adverse impacts on surrounding uses and that they operate safely, consistent with the general purposes of this chapter. Such conditions may include the following:

- a. Requirements for vehicle access and parking;
- b. Restrictions on hours of operation;

~~e. Limitations on signs, outdoor lighting, and amplified sound;~~

~~d. Requirements for financial guarantees for cleanup and/or removal of structures or equipment; and~~

~~e. Approval of an agreement between the applicant, property owner or other responsible party and the Town, for reimbursement to the Town of reasonable anticipated costs that will be incurred by the Town for providing police and fire protection, if necessary, for any event or activity for which a temporary use permit is issued.~~

~~f. Other conditions necessary to carry out the general purposes of this chapter.~~

~~(e) Accessory use regulations. Accessory uses are permitted in any district as may be specified in the appropriate district regulations or herein. A building permit shall be required where specifically noted in this section. Accessory uses are permitted only after their principal structure is present or under construction.~~

~~1. Accessory structures. [Added 12-6-2005; amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]~~

~~a. Accessory structures including, but not limited to, garages, garden or utility sheds, playhouses, or gazebos may be located in the rear yard only. Accessory structures shall be placed respecting, and in sensitivity to, the uses on the adjacent properties. Accessory buildings shall be screened from view from the street and all property lines via landscaping, trellises or other means to minimize the impact and visual clutter. Garages, gazebos, and garden or utility sheds require a building permit, and shall be consistent in design and finish materials with the zoning district in which it is located. Accessory structures shall not occupy more than 20% of the rear yard, with a maximum area of 625 square feet in all districts except the business and manufacturing districts, where such uses and structures shall not occupy more than 50% of the rear yard area.~~

~~b. Accessory buildings shall be located at least 10 feet from the principal structure; shall be on a pad of concrete, shall be located not closer than five feet to a lot line for structures less than 120 square feet; exceeding 120 square feet shall conform to the offset requirements of the zoning district; and shall not exceed 11 feet in height. Not more than one accessory building shall be erected on any residential districts without a conditional use permit as provided in § 17.02(14).~~

~~2. Improved surfaces:~~

~~a. Patios installed at existing yard grade, may be constructed in side and rear yards without a building permit, adjacent to the principal structure, and shall be located not closer than three feet to a lot line.~~

~~b. Improved surfaces for vehicular parking may, upon the issuance of a building permit, be installed not closer than three feet to a lot line.~~

~~3. Decks. Decks shall conform to the offset and setback requirements for the district in which they are located and shall require the issuance of a building permit.~~

~~4. Pet kennels. Permanently installed pet kennels may be placed in the rear yard of any residential district, provided that the kennel is located not closer than five feet from a lot line; that the kennel is placed on a pad of concrete or asphalt; that the kennel is enclosed by a fence not less than four feet nor more than six feet in height; and that no pet kennel shall exceed 150 square feet in area~~

**Commented [BH37]:** We removed this section, added temporary use permit procedure in Section 17.03 and create a list of temporary land uses with typical regulations which included some of this information from original language.

**Commented [BH38]:** Accessory structure uses are defined in 17.05 (17.05(4)(p)). Refer to this section to see allowable accessory uses

and shall be screened from all abutting properties with landscaping.

5. ~~Home occupations. Home occupations are a permitted accessory use in any residential district, provided that:~~

- ~~a. The use of the residential dwelling for the home occupation shall be clearly incidental and subordinate to its residential use and shall not occupy more than 25% of the floor area of one floor.~~
- ~~b. No home occupation or home office shall be located in or conducted in an accessory structure.~~
- ~~c. One person other than members of the family residing on the premises may be employed or engaged in such home occupation or home office.~~
- ~~d. Home occupations shall use only household equipment and no stock in trade shall be kept or sold except that made on the premises.~~
- ~~e. No traffic shall be generated by the home occupation or home office in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation or use shall be provided off the street and other than in the required street yard.~~
- ~~f. No outdoor storage of equipment or product shall be permitted.~~
- ~~g. Shall not be adverse to the residential character of the neighborhood in terms of either nonresidential traffic or solid waste storage or disposal of a quantity greater than normally expected in a residential neighborhood.~~
- ~~h. Shall have no measurable affect outside the building (noise, odors, vibrations, electrical disturbance, etc.)~~

6. ~~Home industries. Home Industries, as defined in § 17.01(9)(b), shall be considered conditional uses in any residential district, as provided in § 17.02(14) of this chapter. [Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]~~

7. ~~Miscellaneous uses.~~

- ~~a. Children's swing sets, active compost piles, clothes lines and gardens are permitted in side and rear yards without a permit, provided that such uses shall be located at least three feet from a lot line. Central air conditioning compressors may be placed in any yard, provided that the air conditioning compressor is screened from view.~~
- ~~b. Accessory uses and structures, such as basketball hoops, birdbaths, flag poles, fountains, lawn furniture, religious statues and wishing wells may be placed in any yard without a building permit, provided that such use does not interfere with the vision clearance triangle as set forth in § 17.06 of this chapter; shall not be located closer than three feet to a side or rear lot line and shall not exceed 15 feet in height [except for flag poles, as provided in § 17.07(2)].~~
- ~~c. Proposed locations other than herein prescribed are subject to the approval of the Building Inspector.~~

8. ~~Rummage sales. Rummage sales may be conducted in any residential district, provided that the sale does not exceed four consecutive days in length and is not conducted more often than three times per year. Rummage sales do not require the issuance of a permit. Rummage sale signs shall be limited as provided in § 17.08(3)(e) of this chapter.~~

9. ~~Swimming pools. Private swimming pools are permitted in the side or rear yard upon the issuance of a building permit, provided that:~~

- ~~a. All private swimming pools shall be surrounded by a fence not less than four feet nor more than six feet in height designed to prevent unguarded entry to the pool. Sidewalls of aboveground pools which are at least four feet high may be used in lieu of a fence;~~
- ~~b. Access to private swimming pools shall be controlled to prevent unguarded entry into a pool. Access to in-ground pools shall be controlled by a self-closing and self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner is not present at the pool. For an above-ground pool, a tip-up ladder may be provided in lieu of the gate;~~
- ~~c. Swimming pools shall not be constructed directly under or over electric transmission lines or within 15 feet of such lines. All electrical connections to a swimming pool shall be properly grounded so that no electrical current can be discharged into any part of the swimming pool or surrounding fence; installed by a licensed electrical contractor upon issuance of an electrical permit and installed in conformance with the requirements of the National Electrical Code;~~
- ~~d. No water drained from swimming pools shall be discharged onto adjacent properties without written consent of the owner, or into a municipal sewerage system, or directly into a navigable body of water;~~
- ~~e. Equipment shall be provided for the disinfection of all pool water. No gaseous chlorination shall be permitted;~~
- ~~f. Heating units, pumps, and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance. Such equipment shall be located not closer than 10 feet to a lot line;~~
- ~~g. There shall be an unobstructed areaway around all pools of at least three feet in width;~~
- ~~h. No private swimming pool shall be located closer than 10 feet to a lot line. No areaway surrounding a private swimming pool shall be located closer than three feet to a lot line;~~
- ~~i. Private swimming pools, together with other accessory structures regulated by § 17.02(14)(g)1 of this chapter, shall not occupy more than 50% of the rear yard area;~~

10. ~~Tennis and volleyball courts. Private tennis courts and volleyball courts accessory to a residential use may be placed in the side yard or rear yard in any residential district, provided that the use is located not closer than three feet to any rear or side lot line; and provided that no lighting installed around a private recreation facility shall throw rays onto adjacent property. The Plan Commission may permit the construction of a fence around the court when it is determined that such a fence is needed for safety purposes or to prevent the court from being a nuisance to neighbors.~~

11. ~~Fences. Fences are a permitted accessory use in any district and may be erected without a permit, provided that fences shall comply with the following requirements:~~

- ~~a. Residential fences shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the subject property.~~
  - ~~i. Open residential fences are permitted up to the lot line in the side and rear yards of residential districts, but shall not exceed a height of four feet, and shall not extend into the street yard.~~
  - ~~ii. Solid residential fences, as defined in § 17.01(9)(b) of this chapter, shall meet the offset~~

requirements of the district. Fences shall not exceed six feet in height and shall be placed in the rear yard only. **[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]**

- b. ~~Ornamental fences, as defined in § 17.01(9)(b) of this chapter, are permitted in the street yard in any district, but shall not be erected in a street right of way and shall not exceed a fence height of three feet. Ornamental fences shall comply with the traffic visibility requirements set forth in § 17.06 of this chapter.~~
  - e. ~~Security fences or screening fences are permitted up to the property lines in all districts except residential districts, but shall not exceed 10 feet in total height and shall be "open fences" as defined in § 17.01(9)(b) of this chapter when located in the street yard. Security fences may include up to four strands of barbed wire on the top of the fence, provided that the barbed wire is at least eight feet above grade with the vertical supports for the barbed wire slanting inward away from the property line. Security and screening fences shall comply with the traffic visibility requirements set forth in § 17.06 of this chapter. Security fences shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property.~~
  - d. ~~Solid, privacy fences, as described in § 17.01(9)(b) of this chapter, not exceeding six feet in height, may be placed in a street yard of double frontage or corner lots subject to approval by the Building Inspector or Architectural Review Committee. Approval shall be based upon a neighborhood continuity standard. Such fencing may be placed at a minimum five foot setback to a street right of way, providing the side facing the street is attractively landscaped.~~
  - e. ~~Barbed wire fences and electric fences are prohibited in the Town of Brookfield.~~
  - f. ~~Any proposed fence which would not conform with the above provisions shall be considered a conditional use as described in § 17.02(14) of this chapter.~~
12. ~~Screening enclosures. Enclosures intended to screen equipment, dumpsters or materials, are permitted in the side and rear yards in all districts without permit subject to the area restrictions as contained under "accessory structures" above and to review and approval by the Architectural Review Committee and shall conform to the offset requirements of the district.~~
13. ~~Antennas. The Town of Brookfield recognizes that the development of various antennas, including earth station dish antennas, and their increased use poses questions of regulation not often addressed in municipal zoning ordinances. In developing antenna regulations, the interest of the antenna owner in the use of the device must be balanced with the interest of adjoining property owners and the general public so as to protect the health and safety of all citizens, as well as the aesthetic values embodied in this chapter. To this end, the following regulations are adopted. Antennas are permitted as accessory uses in any district subject to the following regulations. These provisions shall not be deemed to apply to an antenna, including earth station dish antennas, which are less than two feet in diameter. **[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]**~~
- a. ~~Terrestrial antennas and earth station dish antennas may be located in the rear yard or on the roof of the principal structure in all agricultural, business, office, manufacturing, institutional, or park districts.~~
  - b. ~~All freestanding terrestrial antennas and roof antennas shall meet the height requirements for the district in which they are located, except as provided in § 17.07 of this chapter.~~
  - e. ~~Ground mounted earth station dish antennas shall not exceed 15 feet in height.~~

- d. ~~All terrestrial antennas shall be located not less than one foot from a lot line for each three feet of height above the surrounding grade to any element of the antenna, with a minimum offset of five feet.~~
- e. ~~All earth station dish antennas shall be located not less than five feet from a side or rear lot line.~~
- f. ~~All antennas, including earth station dish antennas, shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of noncombustible and corrosive resistant materials.~~
- g. ~~Earth station dish antennas shall be located and designed to reduce their visual impact on surrounding properties.~~
- h. ~~No form of advertising or identification may be displayed on the dish or framework of any antenna other than the customary manufacturer's identification plates.~~
- i. ~~All dish antennas exceeding 48 inches in diameter, and the construction supports and installation thereof, shall conform to applicable Building Code and Electrical Code regulations and requirements. Appropriate permits shall be issued by the Building Inspector. Prior to the issuance of a permit for a building mounted earth station dish antenna, the applicant shall submit a plan or document prepared by a registered professional engineer which certifies that the proposed dish antenna installation is structurally sound to accommodate wind load, snow load, and dead load. The Building Inspector shall review and approve plans, including ground elevation, for location of all earth station dish antennas prior to the issuance of a permit.~~
- j. ~~Portable or trailer mounted antennas are not permitted with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed two days at any one location.~~
- k. ~~In the event the property owner of a parcel of land located in a residential district determines and documents that the placement of an antenna in a rear yard would prevent its use for its intended purpose, the property owner may apply to the Zoning Board of Appeals for a variance to allow for the installation of the antenna in a side yard location. The procedure for issuing the variance shall follow the procedure set forth in § 17.11 of this chapter.~~

(f) ~~Air dome structures. The use of air dome structures in the Town is prohibited.~~

(95) ~~Reduction or joint use. No lot, yard, parking area, building or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.~~

(96) ~~Special exceptions.~~

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

(b) ~~Procedures.~~

**Commented [BH39]:** This section is removed since we have not had a special exception in decades. A variance is a better option for accomplishing this intent.



- ~~1. Petition made. A petition for special exception shall be made to the Town Board for consideration.~~
  - ~~2. Filing a petition. Such petition shall be prepared and submitted on printed forms provided for this purpose and shall be filed with the Town Clerk, who shall present it to the Town Board at its next meeting.~~
  - ~~3. Data required. In addition to all information required on the petition form, the petitioner shall supply the following:~~
    - ~~a. Twelve copies of a plot map drawn to a scale of not less than 100 feet to the inch showing the land in question, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land and the principal use of all properties within 300 feet of such land.~~
    - ~~b. The names and addresses of the owners of all properties within 300 feet of any part of the land included in the proposed change.~~
    - ~~c. A detailed description of the intended development or use (plan of operation).~~
    - ~~d. Any further information is required by the Town to facilitate the making of an evaluation of such request, such as a site plan depicting proposed buildings, parking, traffic impact, landscaping, drainage, sanitary sewer, erosion control and other factors as would be pertinent including the impact on public facilities.~~
  - ~~4. Hearing. The Town Board and Plan Commission shall hold a joint public hearing within 60 days of the receipt of such petition. Notice of the time and place of such hearing shall be given in the manner prescribed under § 17.13(1) of this chapter.~~
  - ~~5. At the next regularly scheduled meeting after such public hearing, the Plan Commission shall act Board shall take action to approve the petition, deny the petition, or approve the petition with conditions.~~
  - ~~6. Fee. Any petition shall be accompanied by a fee as set from time to time by the Town Board to defray the cost of publication, notification, and holding a public hearing. The petitioner shall also pay to the Town all costs incurred for legal, planning, engineering, and administrative work necessary to administer the application and oversee the development.~~
- (e) ~~Basis of approval. An application for a special exception may be approved, denied, or approved with conditions. If approved, the Town Board must determine that the approval, except as elsewhere herein expressly provided, shall not:~~
- ~~1. Be inconsistent with or contradictory to the purpose, spirit or intent of the Town's General Code;~~
  - ~~2. Violate the spirit or general intent of this chapter;~~
  - ~~3. Be contrary to the public health, safety or welfare, but rather shall promote the public health, safety and welfare;~~
  - ~~4. Be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, traffic congestion, odor or other similar factors;~~
  - ~~5. For any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood; and~~

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

~~(d) Nonconforming use of structures or land. A special exception may be granted to allow the substitution of a more restrictive nonconforming use for an existing nonconforming use, provided that the new use does not exacerbate any existing violations of the preceding point list in § 17.02(16)(e), nor result in a greater degree of nonconformity than the current use.~~

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

~~(97) Other permits. It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal, or county agency. This includes, but is not limited to, a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Act, a water use permit pursuant to Chapter 30 of the Wisconsin Statutes, or a water quality certification pursuant to Chapter NR 103 of the Wisconsin Administrative Code.~~

**Commented [BH40]:** No need for this now but we have added new information to the non-conforming situations section (17.09)

**Commented [BH41]:** Under the final review process, we included a sentence that the applicant is responsible for securing all other necessary permits required.

#### § 17.03 Fees; violations and penalties.

- (1) Permit fees. All persons, firms, or corporations performing work which by this chapter requires the issuance of a permit shall pay a fee for such permit to the Town Treasurer to help defray the cost of administration, investigation, advertising, and processing of permits and variances. The permits for which a fee is required are listed in the Schedule of Fees and Forfeitures. A fee shall also be required for a zoning text or map amendment, and a zoning appeal or variance. An appearance before the Plan Commission for the purpose of securing conceptual, preliminary, or final project approval shall require the fee set forth in the Schedule of Fees and Forfeitures. Any action requiring a public hearing shall require a fee to cover the cost of the public hearing and attendant publication costs. All fees shall be established by separate resolution by the Town Board from time to time as deemed appropriate. **[Amended 12-7-2021 by Ord. No. 2021-004]**
- (2) Double fee. A double fee shall 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 chapter nor from prosecution for violation of this chapter.
- (3) Violations. It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this chapter. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In case of any violation, the Town Board, the Zoning Administrator, the Town Plan Commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this chapter.
- (4) Remedial action. Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the Town Board, the Zoning Administrator, or the Town Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.
- (5) Penalties. Any person, firm, or corporation that fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit an amount as listed in the Schedule of Fees and Forfeitures and costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate and distinct offense. **[Amended 12-7-2021 by Ord. No. 2021-004]**

**Commented [BH42]:** Moved this entire section to 17.14 and did not make any changes.

**§ 17.04 Zoning districts.**

- (1) Established. For the purposes of this chapter, the Town is divided into 17 basic use districts and one overlay district as follows: **[Amended 12-7-2021 by Ord. No. 2021-004]**

A-1 Agricultural District

Rs-1 Single-Family Residential District

Rs-2 Single-Family Residential District

Rs-3 Single-Family Residential District

Rs-4 Single-Family Residential District

Rd-1 Two-Family Residential District

Rm-1 Multifamily Residential District

Rm-2 Multifamily Residential District

B-1 Neighborhood Business District

B-2 Limited General Business District

B-3 Office and Professional Business District

M-1 Limited Manufacturing District

M-2 General Manufacturing District

M-3 Quarrying District

I-1 Institutional District

P-1 Park District

C-1 Conservancy District

MU-1 Mixed-Use District

**Commented [BH43]:** The Zoning District looks a lot different. Instead of list all permitted uses and the zoning district standards, we simply reference the districts and include their intent/purpose description. There were also some overarching standards that were best addressed in this section.

~~(a) Boundaries. The boundaries of the districts enumerated above are hereby established as shown on the map entitled "Zoning Map—Town of Brookfield, Wisconsin," dated December 20, 1988, which map is made a part of this chapter by reference. Any future changes in such maps or later zoning maps that may be adopted by ordinance of the Town Board are also adopted herein by reference. Unless otherwise noted on the Zoning Map, such boundaries shall be construed to follow corporate limits, U.S. Public Land Survey lines, lot or property lines, center lines of streets, highways, alleys, easements and railroad rights-of-way or such lines extended.~~

~~(b) (Reserved)~~

~~(c) Vacation. Vacation of public streets and alleys shall cause the vacated land to be automatically placed in the same district as the abutting side to which the vacated land reverts.~~

~~(2) Zoning Map. A certified copy of the Zoning Map shall be adopted and approved with the text as part of this chapter, shall bear upon its face the attestation of the Town Chairperson and Town Clerk and be available to the public in the office of the Town Clerk. Changes thereafter to the general zoning districts shall not become effective until adopted by the Town Board, approved by the Waukesha County Board of Supervisors and entered and attested on the certified copy.~~

**Commented [BH44]:** The content from these items were moved to subsection 1 and reworded above.

(3) A-1 Agricultural District. The A-1 Agricultural District is intended to provide for the continuation of general farming and related uses in those areas of the Town that are not yet committed to urban development. It is further the intent of this district to protect lands contained herein from urban development until their orderly transition into urban-oriented districts is required.

**Commented [BH45]:** Moved to subsection 2 and added to the A-1 description. See proposed draft for actual proposed change.

(a) Permitted uses.

**Commented [BH46]:** Instead of listed permitted uses here and having conditional uses in a separate district, we created a land use matrix that identifies permitted uses with a "P" and conditional uses with a "C". When an applicant looks up their zoning information they will look for the matrix instead of the zoning district section.

1. General farming, including agriculture, dairying, floriculture, forestry, grazing, hay, orchards, truck farming and viticulture.
2. Keeping and raising of domestic stock for agribusiness, show, breeding or other purposes incidental to the principal use of the premises subject to the following limitations:
  - a. No more than one horse, cow, sheep or similar animal, over six months of age, shall be kept for each two acres.
  - b. No more than five chickens, ducks, or similar poultry, over two months of age, shall be kept for each acre.
  - c. No more than eight rabbits or hare, over two months of age, shall be kept for each acre.
  - d. The keeping and raising of hogs or fur-bearing animals, except rabbits, is prohibited.
  - e. Combinations of the above shall be apportioned to the total acreage and the Building Inspector shall determine the total number of animals allowed.
3. Existing dwellings not accessory to any farm operation or a dwelling remaining after farm consolidation.
4. Essential services.

**Commented [BH47]:** Created new land use types and created general use types instead of hyper-specific uses. The descriptions for these uses can be found in Section 17.05.

(b) Permitted accessory uses.

**Commented [BH48]:** We included all accessory uses in the land use matrix as well.

1. Customary accessory buildings, including not more than one roadside stand for the sale of farm products produced on the premises. Any such stand shall conform to the setback, sign, and other provisions of this chapter.
  2. One farm dwelling per operating farm.
  3. Home occupations and professional home offices.
  4. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
  5. Roof-mounted solar collectors.
- (c) Conditional uses. See § 17.02(14).

(d) Lot area and width.

1. Lots shall have a minimum area of five acres and shall be not less than 300 feet in width.
2. Lots with existing non-farm dwellings or lots with dwellings remaining after farm consolidation shall provide a minimum lot area of 40,000 square feet and shall be not less than 150 feet in width.

(e) Building height and area.

1. No dwelling or part of a dwelling shall exceed 35 feet in height. Farm buildings shall not exceed 100 feet in height. Other accessory buildings shall not exceed 15 feet in height.
2. The total minimum floor area of a dwelling shall be 1,200 square feet.
3. The minimum first floor area of a bi-level or two-story dwelling shall be 1,000 square feet.
4. A tri-level dwelling shall have a minimum living area of 400 square feet per level.
5. The sum total of the floor area of all principal buildings and all accessory buildings shall not exceed 5% of the lot area.

(f) Setback and yards.

1. There shall be a minimum setback of 50 feet from the street right-of-way.
2. There shall be a minimum offset from all side and rear lot lines not less than 30 feet in width.

(4) Rs-1 Single-Family Residential District. The Rs-1 Residential District is intended to provide for single-family residential development at densities not to exceed 1.1 dwelling units per net acre.

(a) Permitted uses.

1. Single-family dwellings.
2. Community living arrangements which have a capacity for eight or fewer persons, and which are located not less than 2,500 feet from the location of another community living arrangement, subject to the limitations and conditions set forth in Wis. Stat. § 60.63. **[Amended 5-17-2016]**
3. Foster family homes.
4. Family day care homes.
5. Essential services.

(b) Permitted accessory uses.

1. Private garages and carports.
2. Gardening, tool, and storage sheds incidental to the residential use.
3. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
4. Roof-mounted solar collectors.
5. Home occupations and professional home offices.

(c) Conditional uses. See § 17.02(14).

**Commented [BH49]:** These items are addressed in the zoning standards matrix. The majority of the requirements did not change.

**Commented [BH50]:** Same comments as A-1 and this applies for the rest of the zoning districts below except MU-1

- (d) Lot area and width. Lots shall be a minimum of 40,000 square feet in area and not less than 150 feet in width.
- (e) Building height and area.
  - 1. No principal building or part of a principal building shall exceed 35 feet in height. No accessory building shall exceed 15 feet in height.
  - 2. The total minimum floor area of a principal building shall be 1,300 square feet.
  - 3. The minimum first floor area of a bi-level or two-story dwelling shall be 1,000 square feet.
  - 4. A tri-level dwelling shall have a minimum living area of 450 square feet per level.
  - 5. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 20% of the lot area.
- (f) Setback and yards.
  - 1. There shall be a minimum setback of 50 feet from the street right-of-way.
  - 2. There shall be a minimum offset from all side and rear lot lines not less than 20 feet in width.
- (5) Rs-2 Single-Family Residential District. The Rs-2 Residential District is intended to provide for single-family residential development at densities not to exceed 1.5 dwelling units per net acre.
- (a) Permitted uses.
  - 1. Single-family dwellings.
  - 2. Community living arrangements which have a capacity for eight or fewer persons, subject to the limitations in § 60.63, Wis. Stats.
  - 3. Foster family homes.
  - 4. Family day care homes.
  - 5. Essential services.
- (b) Permitted accessory uses.
  - 1. Private garages and carports.
  - 2. Gardening, tool, and storage sheds incidental to the residential use.
  - 3. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
  - 4. Roof-mounted solar collectors.
  - 5. Home occupations and professional home offices.
- (c) Conditional uses. See § **17.02(14)**.
- (d) Lot area and width. Lots shall be a minimum of 30,000 square feet in area and shall be not less than 120 feet in width.

(e) Building height and area.

1. No principal building or part of a principal building shall exceed 35 feet in height. No accessory building shall exceed 15 feet in height.
2. The total minimum floor area of a principal building shall be 1,200 square feet.
3. The minimum first floor area of a bi-level or two-story dwelling shall be 1,000 square feet.
4. A tri-level dwelling shall have a minimum living area of 400 square feet per level.
5. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 18% of the lot area.

(f) Setback and yards.

1. There shall be a minimum setback of 50 feet from the street right-of-way.
  2. There shall be a minimum offset from all side and rear lot lines not less than 20 feet in width.
- (6) Rs-3 Single-Family Residential District. The Rs-3 Residential District is intended to provide for single-family residential development at densities not to exceed 2.2 dwelling units per net acre.

(a) Permitted uses.

1. Single-family dwellings.
2. Community living arrangements which have a capacity for eight or fewer persons, subject to the limitations in 60.63, Wis. Stats.
3. Foster family homes.
4. Family day care homes.
5. Essential services.

(b) Permitted accessory uses.

1. Private garages and carports.
2. Gardening, tool, and storage sheds incidental to the residential use.
3. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
4. Roof-mounted solar collectors.
5. Home occupations and professional home offices.

(c) Conditional uses. See § **17.02(14)**.

- (d) Lot area and width. Lots shall be a minimum of 20,000 square feet in area and not less than 110 feet in width.

(e) Building height and area.

1. No principal building or part of a principal building shall exceed 35 feet in height. No accessory

building shall exceed 15 feet in height.

2. The total minimum floor area of a principal building shall be 1,100 square feet.
  3. The minimum first floor area of a bi-level or two-story dwelling shall be 1,000 square feet.
  4. A tri-level dwelling shall have a minimum living area of 400 square feet per level.
  5. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 25% of the lot area.
- (f) Setback and yards.
1. There shall be a minimum setback of 50 feet from the street right-of-way.
  2. There shall be a minimum offset from all side and rear lot lines not less than 20 feet in width.
- (7) Rs-4 Single-Family Residential District. The Rs-4 Residential District is intended to provide for single-family residential development at densities not to exceed 2.9 dwelling units per net acre, served by centralized sewer and water facilities.
- (a) Permitted uses.
1. Single-family dwellings.
  2. Community living arrangements which have a capacity for eight or fewer persons, subject to the limitations in § 60.63, Wis. Stats.
  3. Foster family homes.
  4. Family day care homes.
  5. Essential services.
- (b) Permitted accessory uses.
1. Private garages and carports.
  2. Gardening, tool, and storage sheds incidental to the residential use.
  3. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
  4. Roof-mounted solar collectors.
  5. Home occupations and professional home offices.
- (c) Conditional uses. See § **17.02(14)**.
- (d) Lot area and width. Lots shall be a minimum of 15,000 square feet in area and not less than 90 feet in width.
- (e) Building height and area.
1. No principal building or part of a principal building shall exceed 35 feet in height. No accessory building shall exceed 15 feet in height.



2. The total minimum floor area of a principal building shall be 1,100 square feet.
  3. The minimum first floor area of a bi-level or two-story dwelling shall be 1,000 square feet.
  4. A tri-level dwelling shall have a minimum living area of 400 square feet per level.
  5. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 25% of the lot area.
- (f) Setback and yards.
1. There shall be a minimum setback of 35 feet from the street right-of-way.
  2. There shall be a minimum offset from all side and rear lot lines not less than 15 feet in width.
- (8) Rd-1 Two-Family Residential District. The Rd-1 Residential District is intended to provide for two-family residential development at densities not exceeding 4.4 dwelling units per net acre, served by municipal sewer and water facilities.
- (a) Permitted uses.
1. Two-family dwellings.
  2. Community living arrangements which have a capacity for eight or fewer persons, subject to the limitations in § 60.63, Wis. Stats.
  3. Foster family homes.
  4. Family day care homes.
  5. Essential services.
- (b) Permitted accessory uses.
1. Private garages and carports.
  2. Gardening, tool, and storage sheds incidental to the residential use.
  3. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
  4. Roof-mounted solar collectors.
  5. Home occupations and professional home offices.
- (c) Conditional uses. See § **17.02(14)(b)**.
- (d) Lot area and width. Lots shall be a minimum of 20,000 square feet in area, with not less than 10,000 square feet per dwelling unit, not less than 120 feet in width.
- (e) Building height and area.
1. No principal building or part of a principal building shall exceed 35 feet in height. No accessory building shall exceed 15 feet in height.
  2. The total minimum floor area of a principal building shall be 1,000 square feet per dwelling unit.

3. The minimum first floor area of a two-family structure shall 1,000 square feet.
  4. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 20% of the lot area.
- (f) Setback and yards.
1. There shall be a minimum setback of 35 feet from the street right-of-way.
  2. There shall be a minimum offset from all side and rear lot lines not less than 15 feet in width.
- (9) Rm-1 Multifamily Residential District. The Rm-1 Residential District is intended to provide for multifamily residential development at densities not exceeding 4.4 dwelling units per net acre, served by municipal sewer and water facilities.
- (a) Permitted uses.
1. Two-family and multifamily dwellings. Multifamily residential structures shall not exceed eight dwelling units per structure.
  2. Community living arrangements which have a capacity for 15 or fewer persons, subject to the limitations in § 60.63, Wis. Stats.
  3. Foster family homes.
  4. Family day care homes.
  5. Essential services.
- (b) Permitted accessory uses.
1. Private garages and carports.
  2. Gardening, tool, and storage sheds incidental to the residential use.
  3. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
  4. Roof-mounted solar collectors.
  5. Home occupations and professional home offices.
- (c) Conditional uses. See § **17.02(14)**.
- (d) Lot area and width.
1. Lots shall be a minimum of 20,000 square feet in area, with not less than 10,000 square feet per dwelling unit, and not less than 120 feet in width.
  2. Twenty percent of any adjacent area owned by the applicant zoned C-1 Conservancy District under this chapter or Floodplain or Conservancy District under the Waukesha County Shoreland and Flood land Protection Ordinance may be used in calculating density, provided the total number of units permitted shall not exceed 20% of the units permitted without using flood land or conservancy lands.
- (e) Building height and area.
1. No principal building or part of a principal building shall exceed 40 feet in height. No accessory

building shall exceed 15 feet in height.

2. The total minimum floor area of a principal building shall be as follows:
  - a. One-bedroom dwelling unit: 750 square feet per dwelling unit.
  - b. Two-bedroom dwelling unit: 950 square feet per dwelling unit.
  - c. Three-bedroom or larger dwelling unit: 1,100 square feet per dwelling unit.
3. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 30% of the lot area.
- (f) Setback and yards.
  1. There shall be a minimum setback of 35 feet from the street right-of-way.
  2. There shall be a minimum offset from all side and rear lot lines not less than 20 feet in width.
- (g) Plans and specifications to be submitted to plan commission. To encourage a multifamily residential environment that is compatible with the residential character of the Town, building permits for permitted uses in Rm-1 Multifamily Residential District shall not be issued without review and approval of the Town Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress, egress, parking, landscaping and open space utilization. In addition, all plans are subject to SPS approval prior to the issuance of a building permit.
- (10) Rm-2 Multifamily Residential District. The Rm-2 Residential District is intended to provide for multifamily residential development at densities not exceeding 7.3 dwelling units per net acre. The Rm-2 Residential District is intended for use in more intensely developed areas, particularly in areas adjacent to business and manufacturing areas. It is not intended that the Rm-2 Residential District be located directly adjacent to single-family residential development in the Town. All Rm-2 residential developments should be served by municipal sewer and water facilities.
- (a) Permitted uses.
  1. Two-family and multifamily dwellings. Multifamily residential structures shall not exceed eight dwelling units per structure.
  2. Community living arrangements which have a capacity for 15 or fewer persons, subject to the limitations in § 60.63, Wis. Stats.
  3. Foster family homes.
  4. Family day care homes.
  5. Essential services.
- (b) Permitted accessory uses.
  1. Private garages and carports.
  2. Gardening, tool, and storage sheds incidental to the residential use.
  3. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
  4. Roof-mounted solar collectors.

5. Home occupations and professional home offices.
- (c) Conditional uses. See § **17.02(14)**.
- (d) Lot area and width.
  1. Lots shall be a minimum of 20,000 square feet in area, with not less than 6,000 square feet per dwelling unit, and not less than 120 feet in width.
  2. 20% of any adjacent area owned by the applicant zoned C-1 Conservancy District under this chapter or Floodplain or Conservancy District under the Waukesha County Shoreland and Flood land Protection ordinance may be used in calculating density provided the total number of units permitted shall not exceed 20% of the units permitted without using flood land or conservancy lands.
- (e) Building height and area.
  1. No principal building or part of a principal building shall exceed 40 feet in height. No accessory building shall exceed 15 feet in height.
  2. The total minimum floor area of a principal building shall be as follows:
    - a. One-bedroom dwelling unit: 750 square feet per dwelling unit.
    - b. Two-bedroom or larger dwelling unit: 950 square feet per dwelling unit.
  3. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 25% of the lot area.
- (f) Setback and yards.
  1. There shall be a minimum setback of 35 feet from the street right-of-way.
  2. There shall be a minimum offset from all side and rear lot lines not less than 20 feet in width.
- (g) Plans and specifications to be submitted to plan commission. To encourage a multifamily residential environment compatible with the residential character of the Town, building permits for permitted uses in the Rm-1 Multifamily Residential District shall not be issued without review and approval of the Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress, egress, parking, landscaping and open space utilization. In addition, all plans are subject to SPS approval prior to the issuance of a building permit.
- (11) B-1 Neighborhood Business District. The B-1 Neighborhood Business District is intended for individual and small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood. The character, appearance, and operation of a neighborhood business area should be compatible with surrounding residential areas. No such district shall be less than two acres in area.
- (a) Permitted uses.
  - Bakeries
  - Banks, savings and loan associations and other financial institutions
  - Barbershops

- Beauty shops
- Business offices
- Clinics
- Clothing stores
- Delicatessens
- Drugstores
- Fish markets
- Florists
- Fruit stores
- Gift stores
- Grocery stores
- Hardware stores
- Hobby shops
- Insurance sales offices
- Meat markets
- Optical stores
- Packaged beverage stores
- Professional offices
- Real estate sales offices
- Restaurants, except drive-through and fast-food restaurants
- Self service laundry and dry-cleaning establishments
- Soda fountains and ice cream stores
- Sporting goods stores
- Tobacco stores
- Vegetable stores
- Videotape sales and rental

(b) Permitted accessory uses.

1. Garages used for storage of vehicles used in conjunction with the operation of the business.
2. Off-street parking and loading areas.
3. Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business, provided that an occupancy separation is provided in accordance with State Code (Chs. SPS 361 through 366, Wis. Adm. Code).
4. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
5. Roof-mounted solar collectors.

(c) Conditional uses. See § 17.02(14).

(d) Lot area and width.

1. Neighborhood business shopping centers shall contain a minimum area of two acres and shall be not less than 200 feet in width.
2. Individual business sites in the B-1 Business District shall provide sufficient area for the principal building and its accessory buildings, off-street parking and loading areas and required yards. There is no minimum required site width.

(e) Building height and area.

1. No principal building or parts of a principal building shall exceed 35 feet in height. No accessory building shall exceed 15 feet in height.
2. The sum total of the floor area of the principal building and all accessory buildings shall be not less than 6,000 square feet or 15% of the lot area, whichever is less.
3. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 30% of the lot area.

(f) Setback and yards.

1. There shall be a minimum building setback of 50 feet from the right-of-way of all streets.
2. There shall be a minimum offset from all side and rear lot lines not less than 15 feet in width.

(g) Plans and specifications to be submitted to the plan commission. To encourage a business environment compatible with the residential character of the Town, building permits for permitted uses in the B-1 Business District shall not be issued without review and approval of the Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress, and egress, parking, loading, and unloading, landscaping and open space utilization. Building plans shall be prepared by a registered architect or engineer and are subject to SPS approval prior to issuance of a building permit.

(h) Buffer yard required. Any business use which abuts a residential district shall provide a ten-foot-minimum buffer yard between the business use and the residential district to screen the business activity from the residential environment in such a manner that:

1. If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height and contain sufficient plant species as to provide dense visual screening within two years and during all

seasons of the year.

2. Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side. Any wall or fence shall not be less than four nor more than six feet in height.
3. Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare.
4. All landscaping shall be maintained by the owner or operator to the satisfaction of the Plan Commission.
5. No lighting shall be permitted on or in any part of the buffer yard and no lighting installed elsewhere on the parcel shall throw any rays onto adjacent residential properties.
6. No signs shall be permitted on or in any part of the buffer yard.

- (i) **Occupancy.** All site work shall be completed prior to the issuance of an occupancy permit. A temporary occupancy permit may be issued subject to the deposit of a completion bond in the amount determined by the Building Inspector and approved by the Town Board.

**Commented [BH51]:** This will be moved to the Building Code

- (12) B-2 Limited General Business District. The B-2 Limited General Business District is intended to provide for the orderly and attractive grouping at appropriate locations of businesses offering a wider range of retail products and services than are provided in neighborhood business districts. Many such businesses are related to and dependent upon highway traffic or are specifically designed to serve the need of such traffic.

- (a) Permitted uses. **[Amended 12-7-2004]**

- Antique and collector's stores
- Appliance stores
- Art shops
- Bakeries
- Banks, savings and loan and other financial institutions; including drive-in facilities
- Barbershops
- Beauty shops
- Book or stationery stores
- Building supply stores, excluding lumber yards
- Business offices
- Camera and photographic supply stores
- Clinics
- Clothing stores

- Communication offices or exchanges
- Commercial day-care centers
- Confectioneries and ice cream stores
- Convenience food store
- Delicatessens
- Department stores
- Drugstores
- Dry cleaning and dying establishments
- Electronic equipment sales, service, and repair
- Equipment rental facilities
- Fish markets
- Florist shops
- Fruit and vegetable markets
- Funeral homes
- Furniture stores
- Garden centers
- Gift shops
- Grocery and other food products stores
- Hardware stores
- Hobby shops
- Hotels and motels
- Indoor tennis and racquetball courts and physical fitness centers
- Insurance sales offices
- Interior decorators
- Jewelry stores
- Meat markets



- Music and radio stores
- Notion and variety stores
- Optical stores
- Packaged beverage stores
- Pharmacies
- Photography and art studios
- Printing and publishing houses
- Professional offices
- Radio and television broadcast studios, not including transmission towers
- Real estate sales offices
- Restaurants, not including drive-through or fast-food restaurants
- Self-service laundries
- Shoe stores
- Soda fountains
- Sporting goods stores
- Super markets
- Tailoring or dressmaking shops
- Tobacco stores
- Videotape sales and rental

(b) Permitted accessory uses.

1. Garages used for storage of vehicles used in conjunction with the operation of the business.
2. Off-street parking and loading areas.
3. Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business, if an occupancy separation is provided in accord with Chs. SPS 361 through 366, Wis. Adm. Code.
4. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
5. Roof-mounted solar collectors.

(c) Conditional uses. See § **17.02(14)**

- (d) Lot area and width. Lots shall have a minimum area of 20,000 square feet and be not less than 120 feet in width.
- (e) Building height and area.
  - 1. No principal building or parts of a principal building shall exceed 45 feet in height. No accessory building shall exceed 15 feet in height.
  - 2. The sum total of the floor area of the principal building and all accessory buildings shall be not less than 6,000 square feet or 15% of the lot area, whichever is less.
  - 3. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 50% of the lot area.
- (f) Setback and yards.
  - 1. There shall be a minimum building setback of 50 feet from the right-of-way of all streets.
  - 2. There shall be a minimum offset from all side and rear lot lines not less than 15 feet in width.
- (g) Plans and specifications to be submitted to the plan commission. To encourage a business environment that is compatible with the residential character of the Town, building permits for permitted uses in the B-2 Business District shall not be issued without review and approval of the Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress, and egress, parking, loading, and unloading, landscaping and open space utilization. Building plans shall be prepared by a registered architect or engineer and are subject to SPS approval prior to the issuance of a building permit.
- (h) Buffer yard required. Any business use which abuts a residential district shall provide a ten-foot-minimum buffer yard between the business use and the residential district to screen the business activity from the residential environment in such a manner that:
  - 1. If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height and contain sufficient plant species as to provide dense visual screening within two years and during all seasons of the year.
  - 2. Where architectural walls or fences are used, sufficient landscaping shall be used with such wall or fence to create an attractive view from the residential side. No wall or fence shall be less than four feet nor more than six feet in height.
  - 3. Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare.
  - 4. All landscaping shall be maintained by the owner or operator to the satisfaction of the Plan Commission.
- (i) Occupancy. All site work shall be completed prior to the issuance of an occupancy permit. A temporary occupancy permit may be issued subject to the deposit of a completion bond in the amount determined by the Building Inspector and approved by the Town Board.
- (13) B-3 Office and Professional Business District. The B-3 Office and Professional Business District is intended for individual or small groups of buildings limited to office, professional and special service uses where the office use would be compatible with other neighborhood uses and not exhibit the intense activity of other business districts.
  - (a) Permitted uses.

- Administrative and public service offices
  - Banks, savings and loan and other financial institutions
  - Barbershops and beauty shops
  - Interior decorators
  - Medical clinics
  - Parking lots and structures
  - Professional offices of an architect, engineer, landscape architect, lawyer, accountant, doctor, Christian science practitioner, dentist, optometrist, clergy or other similarly recognized profession
  - Real estate and insurance sales offices
  - Studios for photography, painting, music, sculpture, dance or other recognized fine art.
- (b) Permitted accessory uses.
1. Garages used for storage of vehicles in conjunction with the operation of the Business.
  2. Off-street parking and loading areas.
  3. Enclosed storage of equipment and materials which is incidental to the office use. Residential quarters for the owner, proprietor, commercial tenant, employee, or caretaker located in the same building as the business, provided an occupancy separation is provided in accordance with Chs. SPS 361 through 366, Wis. Adm. Code.
  4. Satellite dish antennas located on the roof of the principal structure or in rear yard. Roof-mounted solar collectors.
- (c) Conditional uses. See § **17.02(14)**
- (d) Lot area and width. Lots shall have a minimum area of 20,000 square feet and be not less than 120 feet in width.
- (e) Building height and area.
1. No principal building or parts of a principal building shall exceed 60 feet in height. No accessory building shall exceed 15 feet in height.
  2. The sum total of the floor area of the principal building and all accessory buildings shall be not less than 6,000 square feet or 15% of the lot area, whichever is less.
  3. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 30% of the lot area.
- (f) Setback and yards.
1. There shall be a minimum building setback of 50 feet from the right-of-way of all streets.
  2. There shall be a minimum offset from all side and rear lot lines not less than 15 feet in width.

- (g) Plans and specifications to be submitted to the plan commission. To encourage a business environment that is compatible with the residential character of the Town, building permits for permitted uses in the B-3 Business District shall not be issued without review and approval of the Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress, and egress, parking, loading, and unloading, landscaping and open space utilization. Building plans shall be prepared by a registered architect or engineer and are subject to SPS approval prior to the issuance of a building permit.
- (h) Buffer yard required. Any business use which abuts a residential district shall provide a ten-foot-minimum buffer yard between the business use and the residential district to screen the business activity from the residential environment in such a manner that:
1. If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height, and contain sufficient plant species as to provide dense visual screening within two years and during all seasons of the year.
  2. Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side. Any wall or fence shall not be less than four nor more than six feet in height.
  3. Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare.
  4. All landscaping shall be maintained by the owner or operator to the satisfaction of the Plan Commission.
- (i) Occupancy. All site work shall be completed prior to the issuance of an occupancy permit. A temporary occupancy permit may be issued subject to the deposit of a completion bond in the amount determined by the Building Inspector and approved by the Town Board.
- (14) M-1 Manufacturing District. The M-1 Limited Manufacturing District is intended to provide for manufacturing, industrial and related uses of a limited nature and size, which on the basis of actual physical and operational characteristics would not be detrimental to the surrounding area or to the Town as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance or other similar factors.
- (a) Permitted uses. Assembly, processing, manufacturing and storage of the following:
- Automotive customizing
  - Automotive upholstery and automotive accessories
  - Apparel and findings and related products
  - Automatic temperature controls
  - Blank books, loose-leaf binders and binding devices
  - Books: publishing, printing and binding
  - Brooms and brushes
  - Candy and confectionery products
  - Cereal preparations

- Cleaning, dressing and dyeing
- Commercial bakery
- Commercial greenhouses
- Costume jewelry, buttons and miscellaneous notions
- Curtains and draperies.
- Dental equipment and supplies
- Dress and work gloves
- Electrotyping and stereotyping
- Electrical appliances
- Electronic devices
- Engineering, laboratory, scientific and research instruments and related equipment
- Envelopes
- Fabric, broad and narrow woven
- Felt goods
- Flavor extracts and flavor syrups
- Floor coverings limited to rugs and carpeting
- Food locker plants
- Footwear
- Fresh or frozen fruits, fruit juices, vegetables and specialties
- Glass manufacturing
- Greeting cards
- Handbags and other personal leather goods
- Hats, caps, and millinery
- Household furniture and furnishings
- Ice
- Ice cream and frozen desserts

- Jewelry manufacturing
- Knit goods
- Laboratories
- Lace goods
- Lampshades
- Leather fabrication, not including tanning
- Luggage
- Macaroni, spaghetti, vermicelli and noodles
- Machine shops
- Manifold business forms
- Manufacturing and bottling of nonalcoholic beverages
- Mechanical measuring and controlling instruments
- Men's, youth's and boy's furnishings, work clothing and allied garments
- Morticians' goods
- Musical instruments and parts
- Newspapers: publishing and printing
- Office furniture
- Ophthalmic goods
- Optical instruments and lenses
- Orthopedic, prosthetic and surgical appliances and supplies
- Packaging and assembly of products made from fur
- Paper coating and glazing
- Partitions, shelving, lockers and office and store fixtures
- Pens, pencils and other office and artist materials
- Periodicals: publishing and printing
- Pharmaceutical processing

- Photoengraving instruments and apparatus
- Photographic equipment and supplies
- Pleating, decorative and novelty stitching and tucking for the trade
- Pressed and molded pulp goods
- Printing and publishing
- Raincoats and other waterproof outer garments
- Rice milling
- Robes and dressing gowns
- Sanitary paper products
- Self-service storage facilities (mini warehouses)
- Sign and other advertising display manufacturing
- Silverware and plated ware
- Surgical and medical instruments and apparatus
- Textiles, dyeing and finishing
- Tire cord and fabric
- Toys, amusement, sporting and athletic goods
- Typesetting
- Umbrellas, parasols and canes
- Venetian blinds and shades
- Wallpaper
- Warehousing
- Watches, clocks, clockwork operated devices and parts
- Wholesaling
- Women's, miss's, junior's, girl's and infant's furnishings, work and dress garments
- Wool scouting, worsted combing and towing to top
- Yarns and threads

(b) Permitted accessory uses.

1. Garages used for storage of vehicles used in conjunction with operation of the business.
2. Off-street parking and loading areas.
3. Office, storage, power supply and uses normally auxiliary to principal industrial operation
4. Residential quarters for owner or caretaker, provided an occupancy separation is provided in accordance with Chs. SPS 361 through 366, Wis. Adm. Code).
5. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
6. Roof-mounted solar collectors.

(c) Conditional uses. See § 17.02(14)

(d) Certain incompatible uses prohibited. The following uses are considered to be incompatible with the residential characteristics of the Town and surrounding area and are herewith prohibited:

1. Manufacturing, processing or storage of acid, ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives (except as permitted for small arms ammunition in the M-2 District), fertilizer, glue, grease, gypsum, insecticides, lampblack, lime, offal, plaster of paris, poison, pulp, pyroxylin, and radioactive materials.
2. Storage of flammable gases or liquids and hazardous chemicals in the M-1 District.
3. Forges, foundries, animal reduction, slaughterhouses, smelters, stockyards, and tanneries.

(e) Lot area and width. Lots shall have a minimum area of 20,000 square feet and be not less than 120 feet in width.

(f) Building height and area.

1. No principal building or parts of a principal building shall exceed 45 feet in height. No accessory building shall exceed 15 feet in height.
2. The sum total of the floor area of the principal building and all accessory buildings shall be not less than 8,000 square feet or 20% of the lot area, whichever is less.
3. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 50% of the lot area.

(g) Setback and yards.

1. There shall be a minimum building setback of 50 feet from the right-of-way of all streets.
2. There shall be a minimum offset from all side and rear lot lines not less than 10 feet in width.

(h) Plans and specifications to be submitted to the plan commission. To encourage a manufacturing and industrial environment that is compatible with the residential character of the Town, building permits for permitted uses in the M-1 Manufacturing District shall not be issued without review and approval of the Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress, and egress, parking, loading, and unloading, landscaping and open space utilization. Building plans shall be prepared by a registered architect or engineer and are subject to SPS approval prior to the

**Commented [BH52]:** These are still remaining in the zoning district section but called out as prohibited in all districts.



issuance of a building permit.

(i) Buffer yard required. Any manufacturing or industrial use which abuts a residential district shall provide a twenty-five-foot-minimum buffer yard between the industrial use and residential district to screen the industrial activity from the residential environment in such a manner that:

1. If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height, and contain sufficient plant species as to provide dense visual screening within two years and during all seasons of the year.
2. Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side. No wall or fence shall be less than four feet nor more than six feet in height.
3. Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare.
4. All landscaping shall be maintained by the owner or operator to the satisfaction of the Plan Commission.

(j) Occupancy. All site work shall be completed prior to the issuance of an occupancy permit. A temporary occupancy permit may be issued subject to the deposit of a completion bond in the amount determined by the Building Inspector and approved by the Town Board.

(15) M-2 General Manufacturing District. The M-2 General Manufacturing District is intended for manufacturing and industrial development of a more general and less restrictive nature than the M-1 Limited Manufacturing District in those areas where the relationship to surrounding land use would create fewer problems of compatibility. The M-2 District should not normally abut directly upon residential districts.

(a) Permitted uses. Those uses permitted in the M-1 Limited Manufacturing District, and:

- Auto body repair, engine repair
- Automobile, marine, and aircraft manufacturing
- Automobile wrecking yard
- Coating, engraving, and allied services
- Construction, mining and materials handling machinery and equipment, manufacturing and repair of
- Cutlery, hand tools and general hardware manufacturing
- Electric lighting and wiring equipment manufacturing
- Electrical industrial apparatus manufacturing
- Electrical transmission and distribution equipment manufacturing
- Electrometallurgical products manufacturing
- Engine and turbine manufacturing

**Commented [BH53]:** Bufferyard landscaping info is in the zoning district section still but may be better suited to move to the new standalone landscaping section.

- Farm machinery and equipment manufacturing
  - Fine earthenware, table and kitchen articles manufacturing
  - Glass and glass container manufacturing
  - Heating apparatus and plumbing fixtures manufacturing
  - Household appliance manufacturing
  - Inflammable gases and liquids storage, not to exceed 50,000 gallons
  - Metal container manufacturing
  - Metal products manufacturing, fabricating and distribution
  - Motorcycle and bicycle manufacturing
  - Office, computing and accounting machine manufacturing
  - Small arms ammunition manufacturing
  - Screw machine products, bolts, nuts, screws, rivets and washer manufacturing
  - Signaling and fire control equipment manufacturing
  - Wire products manufacturing
- (b) Permitted accessory uses.
1. Garages used for storage of vehicles used in conjunction with the operation of the business.
  2. Off-street parking and loading areas.
  3. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operation.
  4. Residential quarters for the owner or caretaker, provided that an occupancy separation is provided in accordance with Chs. SPS 361 through 366, Wis. Adm. Code.
  5. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
  6. Roof-mounted solar collectors.
- (c) Conditional uses. See § **17.02(14)**.
- (d) Certain incompatible uses prohibited. The following uses are considered to be incompatible with the residential characteristics of the Town and surrounding area and are prohibited:
1. Manufacturing, processing or storage of acid, ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives (except as permitted for small arms ammunition), fertilizer, glue, grease, gypsum, insecticides, lampblack, lime, offal, plaster of paris, poison, pulp, pyroxylin and radioactive materials.
  2. Storage of flammable gases or liquids and hazardous chemicals in excess of 50,000 gallons.

3. Forges, foundries, animal reduction, slaughterhouses, smelters, stockyards, and tanneries.
- (e) Lot area and width. Lots shall have a minimum area of 20,000 square feet and be not less than 120 feet in width.
- (f) Building height and area.
  1. No principal building or parts of a principal building shall exceed 45 feet in height. No accessory building shall exceed 15 feet in height.
  2. The sum total of the floor area of the principal building and all accessory buildings shall be not less than 8,000 square feet or 20% of the lot area, whichever is less.
  3. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 50% of the lot area.
- (g) Setback and yards.
  1. There shall be a minimum building setback of 50 feet from the right-of-way of all streets.
  2. There shall be a minimum offset from all side and rear lot lines not less than 10 feet in width.
- (h) Plans and specifications to be submitted to the plan commission. To encourage a manufacturing and industrial environment that is compatible with the residential character of the Town, building permits for permitted uses in the M-2 Manufacturing District shall not be issued without review and approval of the Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress, and egress, parking, loading, and unloading, landscaping and open space utilization. Building plans shall be prepared by a registered architect or engineer and are subject to SPS approval prior to issuance of a building permit.
- (i) Buffer yard required. Any manufacturing or industrial use which abuts a residential district shall provide a twenty-five-foot-minimum buffer yard between the industrial use and residential district to screen the industrial activity from the residential environment in such a manner that:
  1. If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height, and contain sufficient plant species as to provide dense visual screening within two years and during all seasons of the year.
  2. Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side. Any wall or fence shall not be less than four feet nor more than six feet in height.
  3. Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare.
  4. All landscaping shall be maintained by the owner or operator to the satisfaction of the Plan Commission.
- (j) Occupancy. All site work shall be completed prior to the issuance of an occupancy permit. A temporary occupancy permit may be issued subject to the deposit of a completion bond in the amount determined by the Building Inspector and approved by the Town Board.
- (16) M-3 Quarrying District. The M-3 Quarrying District is intended to provide for the orderly continuation of existing quarries and related operations and to provide for new operations that provide maximum protection to the natural environment. This district further provides for the restoration of quarries in a manner that will not deteriorate the natural environment of the Town.

- (a) Permitted uses. None; all uses in the M-3 District are conditional uses.
- (b) Conditional uses. See § 17.02(14)
  - 1. If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height and contain sufficient plant species as to provide dense visual screening within two years and during all seasons of the year.
  - 2. Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side. Any wall or fence shall not be less than four nor more than six feet in height.
  - 3. Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare.
  - 4. All landscaping shall be maintained by the owner or operator to the satisfaction of the Plan Commission.
  - 5. All excavation sites shall be fenced.
- (17) I-1 Institutional District. The I-1 Institutional District is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use for public purpose is anticipated to be permanent.
  - (a) Permitted uses.
    - 1. Churches.
    - 2. Hospitals, sanatoriums, nursing homes and clinics.
    - 3. Libraries, community centers, museums and public art galleries.
    - 4. Public administrative offices and public service buildings, including fire and police stations.
    - 5. Public or private schools, colleges and universities.
  - (b) Permitted accessory uses.
    - 1. Garages for storage of vehicles used in conjunction with the operation of a permitted use.
    - 2. Residential quarters for caretakers or clergy, provided occupancy separation is provided per Chs. SPS 361 through 366, Wis. Adm. Code.
    - 3. Roof-mounted solar collectors.
    - 4. Satellite dish antennas located on the roof of the principal structure or in rear yard.
    - 5. Service buildings and facilities normally accessory to the permitted use.
  - (c) Conditional uses. See § 17.02(14).
  - (d) Lot area and width. Lots shall be a minimum of 20,000 square feet in area and not be less than 120 feet in width.
  - (e) Building height and area.
    - 1. No principal building or part of a principal building shall exceed 35 feet in height. No accessory

building shall exceed 15 feet in height.

2. Residential uses permitted in the I-1 District shall comply with the building area requirements of the RS-3 Single-Family Residential District.

(f) Setback and yards.

1. There shall be a minimum setback of 50 feet from the street right-of-way.
2. There shall be a minimum offset from all side and rear lot lines not less than 20 feet in width.

(g) Plans and specifications to be submitted to Plan Commission. To encourage an institutional use environment that is compatible with the residential character of the Town, building permits for permitted uses in the Institutional District shall not be issued without review and approval of the Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscaping and open space utilization. Building plans shall be prepared by a registered architect or engineer and are subject to SPS approval prior to the issuance of a building permit.

**Commented [BH54]:** This is covered under the plan of operation, site plan, and architectural review sections.

(h) Occupancy. All site work shall be completed prior to the issuance of an occupancy permit. A temporary occupancy permit may be issued subject to the deposit of a completion bond in the amount determined by the Building Inspector and approved by the Town Board.

(18) P-1 Park District. The P-1 Park District is intended to provide for areas where the open space and recreational needs, both public and private, of the citizens of the Town can be met without undue disturbance of natural resources and adjacent uses.

(a) Permitted uses.

- Botanical gardens and arboretums
- Exhibition halls
- Fairgrounds
- Golf courses without country club facilities
- Historic monuments or sites
- Hiking, biking and nature trails
- Neighborhood tot lots
- Outdoor skating rinks
- Parks and playgrounds
- Picnicking areas
- Playfields or athletic fields
- Public art galleries

- Sledding, skiing or tobogganing
- Swimming beaches
- Swimming pools
- Tennis courts

(b) Permitted accessory uses.

1. Buildings accessory to the permitted use.
2. Roof-mounted solar collectors.
3. Satellite dish antennas located on the roof of the principal structure or in rear yard.

(c) Conditional uses. See § **17.02(14)**.

- (d) Building height. No building or part of a building shall exceed 45 feet in height. No accessory building shall exceed 15 feet in height.
- (e) Yards. No building or structure shall be erected, altered, or moved closer than 20 feet to a lot line.
- (f) Plans and specifications to be submitted to plan commission. To encourage a recreational use environment compatible with the residential character of the Town, building permits for permitted uses in the Park District shall not be issued without review and approval of the Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading and landscape plans. Municipally owned facilities shall be exempt from site plan review.

Building plans shall be prepared by a registered architect or engineer and are subject to SPS approval prior to the issuance of a building permit.

- (19) C-1 Conservancy District. The C-1 District is intended to preserve, protect and enhance the ponds, streams and wetland areas of the Town. Preservation, protection and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control stormwater runoff, protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use and protect the water-based recreation resources of the Town.

(a) Permitted uses.

1. Hiking, fishing, trapping, swimming and boating, unless otherwise prohibited.
2. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops and does not involve filling, flooding, draining, dredging, ditching, tiling or excavating.
3. Silviculture, including the planting, thinning and harvesting of timber, provided no filling, flooding, draining, dredging, ditching, tiling or excavating is done except for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on silvicultural activities if not corrected.

4. Construction and maintenance of fences.
  5. Existing agricultural uses that do not involve extension of cultivated areas, extension of or creation of new drainage systems and do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
  6. Ditching, tiling, dredging, excavating or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
  7. The construction and maintenance of piers, docks and walkways, including those built on pilings.
  8. The maintenance, repair, replacement and reconstruction of existing streets, roads and bridges.
- (b) Conditional uses. See § **17.02(14)**.
- (20) (Reserved)
- (21) MU-1 Mixed-Use District. The Mixed-Use District is intended to encourage mixed-use development that promotes a range of compatible land uses through appropriate site design. Development is allowed at a higher density than other zoning districts in the Town. The District provides for coordinated development of a variety of uses, such as office, commercial, institutional and residential, and their necessary support functions in the vicinity of key highway intersection and transit corridors. The District is designed to facilitate lively, people-oriented environments that offer a variety of activities that have peak use times throughout the day in order to efficiently utilize infrastructure and keep the area continuously active. The uses may be located in the same building or in separate buildings. The intent is to encourage efficient land use by facilitating compact development and by minimizing the amount of land needed for surface parking. **[Added 10-6-2009; amended 6-1-2010; 7-5-2011]**
- (a) Permitted uses.
1. All permitted uses under the B-1 Neighborhood Business District [§ **17.04(11)(a)**].
  2. All permitted uses under the B-2 Limited General Business District [§ **17.04(12)(a)**].
  3. All permitted uses under the B-3 Office and Professional Business District [§ **17.04(13)(a)**].
  4. Residential dwelling unit structures having a density of up to 7.3 units per acre.
  5. Group homes with capacity to accommodate 15 or fewer individuals.
  6. Storage warehouses are prohibited in the MU Mixed-Use District.
- (b) Permitted accessory uses.
1. Garages used for storage of vehicles used in conjunction with the operation of businesses.
  2. Off-street parking and loading areas, including structured parking.
  3. Satellite dish antennas located on the roof of a structure or in the rear yard.
  4. Roof-mounted solar collectors.
  5. Attached private garages for residential use.
  6. Gardening, tool, and storage sheds incidental to residential uses.

7. Home occupations and professional home offices.
- (c) Conditional uses [integrate with § 17.02(14)(b)].
1. Residential occupancy of dwelling unit structures with a density of up to 14 units per acre.
  2. Governmental and cultural uses, as described in § 17.02(14)(b)2b.
  3. Utility substations, as described in § 17.02(14)(b)2c.
  4. Public passenger transportation terminals, as described in § 17.02(14)(b)2d.
  5. Schools, as described in § 17.02(14)(b)2e.
  6. Community living arrangements for over 15 persons, as described in § 17.02(14)(b)3b.
  7. Rest homes and nursing homes.
  8. Drive-in banks, as described in § 17.02(14)(b)4c.
  9. Drive-through restaurants, as described in § 17.02(14)(b)4d.
  10. Gasoline service stations, as described in § 17.02(14)(b)4f.
  11. Transmitting towers, as described in § 17.02(14)(b)4g.
  12. Detached private garages.
  13. Attached private garages for nonresidential use (other than permitted loading facilities).
- (d) Lot area and width. Lots shall have a minimum area of 20,000 square feet and shall not be less than 120 feet in width.
- (e) Building height and area.
1. No building shall exceed 100 feet in height. This does not include rooftop mechanicals or HVAC systems and any screening of such systems.
  2. Multi-story structures are strongly encouraged to achieve the actual and apparent densities believed necessary to promote a lively, people-oriented environment. Achieving those dynamics is also possible with creative site design, including courts, outdoor dining areas, etcetera. Fake multistory facades are discouraged.
  3. The sum total of the floor area of the principal building and all accessory buildings shall not be less than 50% of the lot area.
  4. The sum total of the floor area of the principal building and all accessory buildings shall not exceed 400% of the lot area. Parking structures shall not be included in the calculation.
  5. Fifteen percent of the lot shall remain usable open space. "Usable open space" means that part of a lot which is unoccupied by driveways, drive aisles, service drives, off-street parking spaces and/or loading berths, principal buildings or accessory buildings, and is unobstructed to the sky. This space shall be available to all occupants of the development and shall be usable for greenery, recreational space and other leisure activities normally carried on outdoors. Balconies and roof areas, designed and improved for outdoor activities, may also be considered as usable open space. Ground level spaces for this purpose may include open terraces (including outdoor dining areas) plazas or courtyards, but may not



include a permanently roofed-over terrace or porch. An open space credit of up to 7.5% is available for building designs utilizing of vegetated roof strategies.

6. A creative use of green building strategies are strongly encouraged in both the building and site design, including green roofs, rain gardens and solar design.

7. Structured parking is strongly encouraged.

(f) Exceptions to height and area limits.

1. The Town Board may grant exceptions to § 17.04(21)(e)1 and § 17.04(21)(e)4, above. Exceptions are subject to the standards and approval process described in § 17.04(21)(f)2a and b, below. The exception shall not exceed two floors (30 feet) in height and shall not add more than an additional 100% of the lot area to the square footage of the proposed building or buildings.

2. The following standards must be met before the Plan Commission and Town Board may consider granting an exception to height and area limits:

a. Exceptions shall not be granted to single-use buildings, such as buildings that only contain office uses. Goods and services that are only available to tenants and/or guests of a building shall not be considered separate from the main use, such as an office cafeteria or a condominium exercise facility.

b. If office uses are included in the project the developer must submit a workable and binding Transportation Demand Management (TDM) plan that will result in at least a 15% reduction in car traffic to the proposed office uses through implementation of such things as carpooling, transit, shared ride programs, paid parking, etc.

c. If residential units are included in the project, the Town may require the inclusion of affordable units for people making less than 80% of the county median income for a family size appropriate to unit. The inclusion of affordable units shall weigh into the decision regarding any exceptions to height or area limits, should they be requested by the developer. Affordable unit size and finish shall be roughly comparable to equivalent market-rate units. The mix of affordable unit layouts (studio, one-bedroom, two-bedroom, three-bedroom) shall be at a ratio comparable to the market-rate unit layouts.

3. An applicant may, at their discretion, request feedback from the Plan Commission and Town Board under § 17.02(7)(a), Conceptual approval, on the potential for granting an exception. Favorable feedback regarding the potential of an exception by the Plan Commission and/or the Town Board does not grant any rights to the developer or property, and shall not be interpreted as guaranteeing final approval to an exception. A request for an exception shall be made as part of the plan review process under section § 17.04(21)(h). The Plan Commission shall forward its recommendation for approval or denial of the request, with accompanying reasons for approval or denial, to the Town Board. Following Plan Commission review, consideration of the request shall be placed upon the next Town Board meeting agenda, and shall be acted upon by the Town Board at said meeting.

(g) Setback and yards.

1. There shall be a minimum building setback of 12 feet from the right-of-way of all streets.

2. There shall be a maximum building setback of 70 feet from the right-of-way of all streets.

3. Buildings that abut a residential district shall be set back a distance that is greater than 50% of their height. If a building steps back, such that floors terminate at different heights, each level shall be treated as a separate building for the purposes of measuring the appropriate setback in relation to height. All buildings and accessory structures shall have a minimum setback of 20 feet from adjoining residential

parcels.

- (h) Plans and specifications to be submitted to the Plan Commission. To encourage a mixed-use environment that is pedestrian-oriented and well-integrated with its surroundings, building permits for permitted uses in the MU Mixed-Use District shall not be issued without review and approval of the development plans, and a proposed Plan of operation, by the Plan Commission. Such review and approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization, building design and materials, and pedestrian and bicycle facilities and mobility. Building plans shall be prepared by a registered architect or engineer and are subject to Wisconsin Department of Commerce (COMM) approval prior to the issuance of a building permit. Buildings and site plans for areas within the MU Mixed-Use District shall comply with the standards in § 17.04(21)(e), in addition to the standards contained in § 17.02(6) of this chapter. In the event that any standards are found contradictory between those two sections, § 17.04(21)(e) shall govern. Projects proposed for the area included in the Redevelopment Plan for the Bluemound Road Corridor, adopted on July 1, 2008 by the Town Board, shall comply with the provisions in that plan. These standards identify the desired height, density and design characteristics of redevelopment projects within this area. The Planning Commission will review and approve all zoning and land use applications, as necessary, for compliance with this chapter and the Redevelopment Plan referenced above. In addition to the standards contained in § 17.02(6) of this chapter, site plans in this district will be reviewed for compliance with the design standards below. In cases where standards identified within the Bluemound Road Corridor Redevelopment Plan are more stringent than this chapter, the plan shall supersede the minimum requirements established by this chapter.

1. Building orientation and access.

- a. Principal buildings within the district shall be oriented toward streets, courtyards or plazas so as to promote a pedestrian-oriented environment. Site design shall accommodate access by auto and pedestrian traffic. Broad parking fields between the building and streets are discouraged.
- b. The design shall utilize a variety of compatible exterior materials, building styles, massing, composition, articulations, and/or prominent architectural features. The street-facing portion of an interior oriented building cannot be built as a solid wall facing the street.
- c. Development that includes a commercial component shall have:
  - i. Storefront windows that provide transparency to the building at the pedestrian level. The design shall provide a traditional urban retail streetscape aesthetic. Glass is to be clear or tinted, not reflective.
  - ii. A prominent location relative to the existing commercial uses located in the surrounding area in order to provide a continuity of the commercial presence in the community.
  - iii. Direct and visible access noticeable from the street to uses (residential or commercial) located above ground level.
  - iv. Built-in flexibility so as to allow conversion from one commercial use to another and to ensure that commercial space that is adequate for retail is also adequate for a variety of other uses.
  - v. Food and drink establishments are encouraged to incorporate outdoor dining opportunities into their plans.
- d. Single-use residential buildings shall be situated so as to not disrupt the continuity of a commercial district or corridor.

2. Pedestrian-oriented design.

- a. Development should be connected to adjacent development with direct, convenient and attractive sidewalks and/or pathways.
- b. Development should provide internal and/or public pedestrian connections that are direct, convenient and pleasant with appropriate amenities (e.g., attractive sidewalks and benches).
- c. Outdoor seating for restaurants is encouraged, and may extend into rights-of-way or access easements of streets or public ways if a minimum sidewalk clearance and/or distance to curbline of five feet is maintained.
- d. Development should incorporate the following criteria listed below, as appropriate:
  - i. Main building entrances that open directly to the outside;
  - ii. A variety of paving colors and textures to encourage way-finding throughout the site;
  - iii. At least one entrance per building that does not require passage through a parking lot or garage to gain access to the building;
  - iv. Corner buildings shall have corner entrances whenever possible;
  - v. Sidewalks and/or plazas with weather protection (e.g., awnings/canopies) and appropriate pedestrian amenities (e.g., street tree grates, outdoor seating, trash cans, mailboxes, sidewalk displays, public art, etc.).
  - vi. Streets and drive-aisles with traffic calming elements such as bulbouts and raised or textured pedestrian crosswalks.
- 3. Parking, loading and access. Development within mixed-use districts shall follow § 17.06 of these ordinances. The design of parking in mixed-use districts shall be subject to the following additional standards.
  - a. Minimum parking standards in § 17.06(3)(h) may be waived by the Plan Commission if the applicant provides a shared parking plan that complies with the criteria below. The amount of parking spaces required shall be based on shared parking criteria, listed below, that is met by the proposed project. In no case shall minimum parking requirements be reduced where, based on substantial evidence, there is insufficient off-street parking to meet the needs of the development.
    - i. Parking spaces proposed for shared parking arrangements shall be within a reasonable distance of all uses they are to serve.
    - ii. The applicant shall submit sufficient data to indicate that the peak hours of operation of uses or activities proposed for shared parking arrangements do not substantially coincide or overlap with each other.
    - iii. Transit alternatives are available as part of the development or within 1,000 feet of the development's boundary.
    - iv. No more than 50% of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use.
    - v. If more than one parcel is involved, the property owner(s) involved in the shared use of off-street parking facilities shall submit a legal agreement approved by the Town Attorney as to form and content guaranteeing that said required parking spaces shall be maintained so long as the use requiring parking is in existence or unless the required parking is provided elsewhere in accordance with the provisions of this article. Such instrument, when approved as conforming to the provisions of this section, shall be

recorded by the property owner in the office of the Waukesha County Register of Deeds and a copy thereof filed with the Zoning Administrator.

- b. Shared access/cross-access shall be provided wherever possible. Within existing and planned retail centers and adjacent properties, provision to preserve future shared access is required if not provided immediately. Easements are required to provide and preserve shared access and shall be recorded in the office of the Waukesha County Register of Deeds.
  - c. If surface parking is located to the side of a building, the parking shall be screened by a decorative fence or hedge.
  - d. Facilities to lock bicycles shall be provided for each building larger than 5,000 square feet. A structured/covered parking area for bicycles shall be provided if structured parking is provided for automobiles.
4. Open space. Developments should provide usable open space, enhance the vitality of existing commercial activity, and recognize and respond appropriately to adjacent existing or planned public spaces (e.g., civic buildings, sidewalks, plazas, and similar spaces.) A shared and interconnected open space network is encouraged between developments to avoid small, unconnected spaces that have the potential of being underutilized. Shared and interconnected spaces could be in the form of pedestrian ways (galleries), courts or plazas.
- (i) Buffer yard required. A minimum twenty-foot buffer yard is required between structures within the MU district and adjoining residential districts to screen activities. Buffer yards shall meet the following requirements:
    - 1. If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height and contain sufficient plant species so as to provide dense visual screening within two years and during all seasons of the year.
    - 2. Where architectural walls or fences are used, sufficient landscaping shall be used with such wall or fence to create an attractive view from the residential side. No wall or fence shall be less than four feet, nor more than six feet in height.
    - 3. Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare. The screening requirement shall be effective prior to occupancy.
    - 4. All landscaping shall be maintained by the property owner or operator to the satisfaction of the Plan Commission.

#### § 17.05 (Reserved)

#### § 17.06 Traffic, loading, parking and access.

- (1) Traffic visibility.
  - (a) No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of 2 1/2 feet and 10 feet above the plane through the mean center line grade of the vision triangle. The vision triangle is formed by connecting a line between points located 30 feet from the intersection of two streets along the right-of-way line.
  - (b) In the case of arterial streets intersecting with other intersecting streets or railways, the corner cutoff distances establishing the vision triangle clearance space shall be increased to 60 feet.
  - (c) In the case of driveways intersecting with other intersecting streets, the corner cutoff distances

**Commented [BH55]:** Since there is a lot more information specific to MU-1 district, we put this section in the zoning district section at the end listed as "additional standards for the MU-1 Mixed-Use Zoning District."

**Commented [BH56R55]:** There are few changes proposed. These changes can be found in the proposed draft.

**Commented [BH57]:** This section will still be a standalone section but will not be 17.07 and titled "Traffic, access, loading, and parking."

**Commented [BH58]:** A good amount of the content is still in the code but may have been relocated or modified. There were also a lot of additions to this chapter. The redlined version can be found in the draft chapters.

establishing the vision triangle clearance space shall be a minimum of 15 feet.

- (2) Loading requirements. On every lot on which a business, trade or industrial use is hereafter established, adequate space with access to a public street or alley shall be provided for the loading and unloading of vehicles off the public right-of-way. At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.
- (3) Parking requirements. In all districts, in connection with every use, there shall be provided at the time any use is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the following:
  - (a) Adequate access to a public street shall be provided for each parking space. **[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]**
  - (b) The minimum dimensions of each parking space shall be nine feet by 18 feet, except for properly signed spaces provided for use by physically disabled persons.
  - (c) Parking spaces for use by physically disabled persons. All open off-street parking areas provided for more than 25 parking spaces, except for parking areas restricted to use by employees only, shall provide properly signed parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the following minimum standards:
    - 1. One properly signed physically disabled parking space shall be provided in parking areas containing 26 to 49 spaces.
    - 2. Two percent of the total number of spaces shall be properly signed physically disabled parking spaces in parking areas containing 50 to 1,000 spaces.
    - 3. In addition to the number of spaces required in Subsection (3)(c)2 above, 1% of each 1,000 spaces over the first 1,000 spaces shall be provided for properly signed physically disabled parking spaces in parking areas containing more than 1,000 spaces.
    - 4. The minimum dimensions for all parking spaces provided for use by physically disabled persons shall be 12 feet by 18 feet.
    - 5. Parking spaces provided for use by physically disabled persons shall be located as close as possible to an entrance which allows persons to enter and leave the parking area without assistance.
    - 6. All parking spaces provided for physically disabled persons shall be marked by a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for physically disabled persons. Such sign shall comply with the requirements of §§ 346.50, 346.503, and 346.505, Wis. Stats.
  - (d) Location. Location of parking spaces shall be on the same lot as the principal use or not more than 400 feet from the principal use. No parking space or driveway, except in residential districts, shall be closer than 25 feet to a residential lot line or a street right-of-way opposite a residential district.
  - (e) Surfacing. All off-street parking areas shall be surfaced with an asphaltic or portland cement pavement in accordance with Town standards and specifications so as to provide a durable and dust-free surface and shall be so graded and drained as to dispose of all surface water. Any parking area for more than five vehicles shall have the aisles and spaces clearly marked. Surfacing of parking areas shall be completed before occupancy is granted. The Plan Commission may, however, recommend a delay in surfacing if surfacing will be completed within 12 months following occupancy. When a delay is permitted, the Town Board shall require appropriate sureties to guarantee that surfacing will be

completed on in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the conservancy area.

- (f) Landscaping. All public off-street parking areas serving five or more vehicles and created or redesigned and rebuilt subsequent to adoption of this chapter shall be provided with accessory landscaped areas totaling not less than 5% of the surface area. The minimum size of each landscaped area shall be 100 square feet. Location of landscaped areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance, shall be subject to approval by the Plan Commission. All plans for proposed parking areas shall include a topographic survey and grading plan showing existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of required minimum landscaped area. Parking areas for five or more vehicles which adjoin residential districts shall be visually screened with a solid wall, fence or evergreen planting of equivalent visual density or other effective means, built and maintained to a minimum height of six feet.
- (g) Curbs or barriers shall be installed at least four feet from a property line so as to prevent parked vehicles from extending over any lot line.
- (h) The following guide specifies the minimum number of parking spaces required. In the case of structures or uses not specified herein, the number of spaces specified as the general standard for the use class or number of spaces specified for similar use shall apply. In developments involving the establishment or addition of two or more uses on one lot or parcel, the cumulative number of spaces required for each use shall determine the total number of spaces required.
1. Residential uses.
    - a. Single-family, two-family and multiple-family dwellings: two spaces per dwelling unit.
    - b. Housing for the elderly: one space per dwelling unit.
  2. Retail sales and customer service uses and places of entertainment.
    - a. General standard for the above uses: one space per 150 square feet of gross floor area of customer sales and service, plus one space per employee.
    - b. Financial institutions: one space for each 150 square feet of gross floor area of customer service, plus one space per employee for the work shift with the largest number of employees. Financial institutions with drive-in facilities shall provide sufficient space for four waiting vehicles at each drive-in service lane.
    - c. Funeral homes: one space for each four patrons at maximum capacity or 25 spaces per chapel unit, whichever is greater.
    - d. Grocery stores or supermarkets: one space per 150 square feet of gross floor area of customer sales and service area, plus one space per employee for the work shift with the largest number of employees.
    - e. Convenience grocery stores: one space per 100 square feet of gross floor area.
    - f. Motels and hotels: one space per room or suite, plus one space per every two employees for the work shift with the largest number of employees, plus one space per three persons, based on maximum capacity, for each public meeting room and banquet room.
    - g. Lodges and clubs: one space per three persons based on the maximum capacity of the facility.
    - h. Restaurants: one space per 100 square feet of gross dining area, plus one space per employee for the

**Commented [BH59]:** Moved this to standalone landscaping section (Section 17.13)

work shift with the largest number of employees.

- i. Restaurants, drive-through or fast-food: one space per 50 square feet of gross dining area, plus one space per two employees for the work shift with the largest number of employees. Restaurants with drive-through facilities shall provide sufficient space for four waiting vehicles at each drive-through service lane.
- j. General merchandise repair services: one space per 300 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees.
- k. Theaters, auditoriums, and other places of public assembly: one space per three patrons based on the maximum capacity of the facility.
- l. Personal services: one space per 200 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees.
- m. Taverns, dance halls, night clubs and lounges: one space per 50 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees.
- n. Motor vehicle sales establishments: two-customer parking spaces per salesperson, plus one space per employee for the work shift with the largest number of employees.
- o. Motor vehicle repair, maintenance, and service stations: three spaces per indoor service bay plus one space per employee for the work shift with the largest number of employees.
- p. Animal hospitals: three patron parking spaces per doctor, plus one space per employee for the work shift with the largest number of employees.
- q. Plant nurseries and lawn and garden supply stores: one space per 200 square feet of gross indoor sales and display area, plus one space per 500 square feet of gross outdoor sales and display area, plus one space per employee for the work shift with the largest number of employees.
- r. Shopping centers (gross leasable area of at least 50,000 square feet): five spaces per 1,000 square feet of gross leasable area.

### 3. Offices.

- a. Medical, dental and similar professional health service offices: five patron spaces per doctor, plus one space per employee for the work shift with the largest number of employees.
- b. Government, professional, and business offices: one space per 250 square feet of gross floor area.

### 4. Commercial/recreational uses.

- a. General standard: one space per four patrons based on the maximum capacity of the facility, plus one space per employee for the work shift with the largest number of employees.
- b. Bowling alleys: five spaces for each lane, plus one space per employee for the work shift with the largest number of employees.
- c. Golf courses: 90 spaces per nine holes, plus one space per employee for the work shift with the largest number of employees.
- d. Golf driving ranges: one space per tee, plus one space per employee for the work shift with the largest number of employees.

- e. Miniature golf course: 1 1/2 spaces per hole, plus one space per employee for the work shift with the largest number of employees.
- f. Indoor tennis, racquetball, and handball courts: three spaces per court, plus one space per employee for the work shift with the largest number of employees.
- g. Skating rinks, ice, or roller: one space per 200 square feet of gross floor area.
- 5. Industrial and related uses.
  - a. Manufacturing, processing, and fabrication operations: one space per employee for the work shift with the largest number of employees.
  - b. Wholesale business: one space per employee for the work shift with the largest number of employees, plus one space per 2,500 square feet of gross floor area.
  - c. Warehousing: one space per employee for the work shift with the largest number of employees, plus one space per 5,000 square feet of gross floor area.
  - d. Mini-warehousing: one space per 10 storage cubicles, plus one space per employee for the work shift with the largest number of employees.
  - e. Extractive and related operations: one space per employee for the work shift with the largest number of employees.
- 6. Institutional and related uses.
  - a. Churches: one space per three seats based on the maximum capacity of the facility.
  - b. Libraries: one space per 250 square feet of gross floor area or one space per four seats based on maximum capacity, whichever is greater, plus one space per employee for the work shift with the greatest number of employees.
  - c. Museums: one space per 250 square feet of gross floor area, plus one space per employee for the work shift with the greatest number of employees.
  - d. Rooming houses and boardinghouses, fraternity and sorority houses, dormitories, and rectories: one space per bed.
  - e. Convents and monasteries: one space per three residents, plus one space per employee for the work shift with the largest number of employees, plus one space per five chapel seats if the public may attend.
  - f. Nursing homes: one space per three patient beds, plus one space per employee for the work shift with the largest number of employees.
  - g. Hospitals: two spaces per three patient beds, plus one space per staff doctor, plus one space per employee, excluding doctors, for the work shift with the largest number of employees.
- h. Schools:
  - i. Elementary, middle and high schools: one space for each teacher and staff member, plus one space for each 10 students 16 years of age or older.
  - ii. Colleges, universities, and trade schools: one space for each teacher and staff member, plus one space for each two students during the highest attendance period.



iii. Children's nursery schools and day-care centers: one space per employee for the work shift with the greatest number of employees, plus one space per six students at the highest class attendance period.

**Commented [BH60]:** Parking requirements are now shown in the Land Use type section 17.05 under each specific land use.

(4) Driveways. All driveways installed, altered, changed, replaced, or extended after the effective date of this chapter shall be designed in accordance with Chapter 8, Public Works, of this Code. **[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]**

(5) Highway access. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways nor to any controlled access arterial street without permission from the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

(a) Arterial streets intersecting other arterial streets within 100 feet of the intersection of the right-of-way lines.

(b) Collector and minor land access streets intersecting an arterial street or another minor land access street within 50 feet of the intersection of the right-of-way lines.

(c) Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above-specified streets or highways.

(d) Temporary access to the above rights-of-way may be granted by the Town Board after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed 12 months.

~~(e) Landscape islands. All off street parking areas which serve 30 vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this chapter shall be provided with landscape islands or peninsulas within the parking lot totaling not less than 5% of the surfaced area. The minimum size of each landscape island shall be 170 square feet. Landscape islands and peninsulas shall consist of landscape areas, type and size of plant materials, protection afforded the plantings, including curbing and provision for maintenance shall be subject to approval by the Plan Commission. Landscape islands shall be dispersed throughout the off street parking area. Islands and peninsulas should be located at the ends of parking rows and aisles; around light poles; signs; existing trees; hydrants; and along entryways. Landscape islands and peninsulas should also be used to break up long aisles of parking. Any island or peninsula that is less than 170 square feet in area shall not be counted towards the 5% required landscaping. All plans for such proposed parking areas shall include a topographic survey of grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.~~

~~(f) Parking lot screening. Those parking areas for five or more vehicles if adjoining a residential zoning district line or public right of way shall be screened from casual view by an earth berm, a solid wall, fence, evergreen planting of equivalent visual density or other effective means approved by the Plan Commission. Such fence or berm and landscaping together shall be an average of three feet in height between the parking and the street right of way and six feet in height between the parking and any adjacent residential property line. All screening materials shall be placed and maintained at a minimum height of three feet. The Plan Commission may require greater screening requirements for parking of large trucks, semi-trailers, and large equipment.~~

**Commented [BH61]:** Moved to landscaping section

#### § 17.07 Modifications.

(1) General. The Town Building Inspector, in reviewing building permits, may grant modifications to the terms of this chapter as provided herein.

**Commented [BH62]:** Moved to Section 17.03(20) under the process section.

**Commented [BH63R62]:** These regulations remained the same except for updated references

- (2) Height. The district height limitations stipulated elsewhere in this chapter may be exceeded, but such modification shall be in accord with the following:
  - (a) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this chapter.
  - (b) Special structures, such as elevator penthouses, grain elevators, radio and television receiving antennas, satellite dish antennas when mounted on the roof of a principal structure, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this chapter.
  - (c) Essential services, utilities, water towers, and electric power and communication transmission lines are exempt from the height limitations of this chapter.
  - (d) Communication structures, such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height their distance from the nearest lot line.
  - (e) Agricultural structures, such as barns and silos, shall not exceed in height their distance from the nearest lot line.
  - (f) Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries and governmental offices and stations, may be erected to a height of 60 feet, provided all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.
- (3) Yards. The yard requirements stipulated elsewhere in this chapter may be modified as follows:
  - (a) Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments, may project into any required yard, but such projection shall not exceed two feet.
  - (b) Accessory structures used for decorating may be placed in the required street yard and side yards. Permitted structures include flagpoles, basketball goals, ornamental light standards, lawn furniture, sundials, and birdbaths.
  - (c) Landscaping and vegetation are exempt from the yard requirements of this chapter, but shall comply with the traffic visibility requirements in § **17.06(1)** of this chapter.
  - (d) Essential services, utilities, and electric power and communication transmission lines are exempt from the yard requirements of this chapter.
- (4) Additions. Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.
- (5) Average street yards. The required street yard or setback may be decreased in any residential district to the average of the existing street yards as measured from the existing principal structures on each side if they are closer than the required street yard, but such modified street yard shall in no case be less than 40 feet.
- (6) Corner lots. Structures shall provide a front yard setback as required by this chapter on each street that the structure abuts as established by the zoning district regulations.
- (7) Double frontage lot. Lots abutting two opposite streets shall provide the front yard setback required by the district in which the lot is located from each street upon which the lot abuts.
- (8) Existing substandard lots.

- (a) A lot which does not contain sufficient area to conform to the dimensional requirements of this chapter but which is at least 75 feet wide and 10,000 square feet in area may be used as a single-family building site if the use is permitted in the zoning district, the lot is of record in the County Register of Deeds Office prior to the effective date of this chapter and the lot is in separate ownership from abutting lands.
- (b) If two or more substandard lots with continuous frontage have the same ownership as of the effective date of this chapter, the lots involved shall be considered to be an individual parcel for the purpose of this chapter.
- (c) Substandard lots granted permits under this section shall be required to meet the setback and other yard requirements of this chapter. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance by the Board of Appeals. A variance shall not be granted if the lot at any time was conveyed to another owner where the common ownership of adjoining lots existed unless a variance was granted for the conveyance.

**§ 17.08 Signs.**

**[Amended 12-7-2004; 11-21-2006; 9-2-2008]**

**Commented [BH64]:** Not updating at this time.

- (1) Purpose and intent. The intent of this chapter is to provide for and regulate the area, number, location, construction, maintenance and overall design of signs in the Town in a manner which is compatible with surrounding land uses, and promotes public welfare and community aesthetics.
- (2) Compliance. No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without first complying with the provisions of this chapter.
- (3) Signs permitted in all districts without a permit. The following signs may not be illuminated in any manner, except as noted, and are subject to the following regulations:
  - (a) Real estate signs which advertise the sale, rental, or lease of the premises upon which the signs are temporarily located, are subject to the following restrictions:
    - 1. Shall be set back a minimum of 10 feet from all lot lines.
    - 2. Shall not exceed eight square feet of sign display area in residential districts, nor 32 square feet in all other districts. Installations at commercial properties proposing signage larger than 32 square feet require review and approval by the Architectural Control Committee.
    - 3. Shall be displayed only on the subject property.
    - 4. Directional signs at entrances to subdivisions may be displayed only during the hours of an open house.
  - (b) Election campaign signs are subject to the following:
    - 1. Shall not be located in a public right-of-way and shall be set back a minimum of 10 feet from all lot lines.
    - 2. Shall not exceed eight square feet of sign display area in residential districts, nor 32 square feet in all other districts.
    - 3. Shall not be erected on any parcel of land without the permission of the property owner, renter or lessee.
    - 4. Shall not be erected prior to the first day of the "election campaign period" as defined by § 12.04 of the Wisconsin Statutes, and shall be removed within seven days following the election.
- (c) Name and warning signs which identify a property or describe a hazardous condition which may exist

on a property, are subject to the following:

1. Shall be set back a minimum of 10 feet from all lot lines.
  2. Shall not exceed two square feet of sign display area.
- (d) Professional home office signs are subject to the following:
1. Shall be mounted flush against the dwelling, on a private light post, or on a mailbox support structure.
  2. Shall not exceed two square feet of sign display area.
- (e) Rummage sale and garage sale signs are subject to the following:
1. Shall not be located in a public right-of-way.
  2. Shall not exceed four square feet in sign display area.
  3. Shall not exceed a seven-day display period, and shall be removed within 24 hours following the sale.
- (f) Bulletin boards which are used for public, charitable or religious institutions are subject to the following:
1. Shall be located on the premises which the sign represents, and shall be set back a minimum of 10 feet from all lot lines.
  2. Shall not exceed 12 square feet of sign display area.
- (g) Employment and "help wanted" signs are allowed in all districts except residential districts, and approved are for installation only in windows and on the interior.
- (h) Official signs which control traffic, parking restrictions, information and notices.
- (i) Flagpoles shall be regulated as signs not requiring a permit, and are subject to the following:
1. Shall be set back a minimum of 10 feet from all lot lines.
  2. Shall not exceed the height restriction for the district in which the flagpole is located.
  3. Shall not exceed three flagpoles on any parcel of land.
  4. Shall be illuminated if intended for nighttime display, with fixture and wattage approved by the Architectural control Committee.
- (j) Directional and informational signs directing on-site traffic to loading docks, service or parts departments, or directions to individual tenant suites are allowed with approval by the Architectural Control Committee. Such signage shall be intended to provide direction to internal traffic within a site. It shall be directional in character, without identification graphics or tag lines, and shall be architecturally consistent with the building design concept and other signage of the property. Font size shall not exceed five inches. Total display area shall not exceed eight inches by 30 inches per tenant, unless approved to provide consistency with design features of the development.
- (k) Temporary promotional window signs which are painted, placed in or affixed to a window are subject to the following restrictions:
1. Shall be placed on the interior of the window surface.

2. Sign display area shall not exceed 25% of the window area in which the sign is displayed.
  3. May not be illuminated in any way.
  4. Shall be maintained in a neat and orderly conditioned, and removed if faded, worn or damaged.
- (1) Illuminated "open" signs may be installed in windows, subject to a maximum area of two square feet.
  - (4) Signs permitted with architectural approval and permit. Each individual sign proposed in accordance with the provisions of this chapter must be applied for and submitted to the Building Inspector pursuant to § **17.08(11)** of this chapter. All applications for permits for such individual signs, except such applications as may be determined by the Architectural Control Committee from time to time, shall be forwarded by the Building Inspector to the Committee for review. The Committee is hereby empowered to:
    - (a) Withhold the application pending the submittal of any additional information which the committee may require.
    - (b) Deny the application based upon nonconformance with the provisions of this chapter, or based upon the Committee's determination that the proposed sign will violate the purpose and intent of this chapter.
    - (c) Approve the application as presented, or approve with additional conditions or restrictions which the Committee may impose based on the purpose and intent of this chapter. In the interest of architectural integrity, this chapter expressly allows regulation of all signs in the Town to be based upon the finding of the Architectural Control Committee that such signage will not violate the purpose and intent of this chapter. This chapter cannot prevent the Committee from establishing more or less stringent requirements and conditions prior to approval of any sign application. All sign applications will be returned to the Building Inspector with the action of the Committee clearly stamped on said application. Applications which have been approved by the Committee shall be reviewed for its completeness and accuracy by the Building Inspector pursuant to § **17.08(11)** of this chapter. All sign permits, unless otherwise specified by the Architectural Control Committee, shall be issued by the Building Inspector. **[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]**
  - (5) Signs permitted in all business, manufacturing, institutional, park and nonresidential PUD districts with architectural approval and permit.
    - (a) Freestanding signs are self-supporting, monument-type signs, not attached to or reliant upon any other structure for support, and are subject to the following restrictions:
      1. Height must be maintained within the geometric shape resulting from a line 10 feet high at a the property line and extending to the building height; or
      - a. Height must be maintained within the geometric shape resulting from a line 12 feet high at the property line and extending to the building height for existing site development conditions where parking is provided immediately adjacent to the proposed sign location, and where the sign could potentially be obstructed by parking.
      - b. A raised landscaping planting bed surrounded by decorative masonry or other high quality finish material, of at least two feet in height, shall form a base for the monument sign.
    2. A five-foot-minimum setback or offset shall be provided.
    3. Shall not exceed 70 square feet of sign display area per side, nor 140 square feet sign display area on all sides, for single-occupant buildings, or up to 120 square feet of sign display area per side for multi-tenant developments. Freestanding signs shall identify the name of the development. **[Amended 4-6-**

**2011]**

4. Placement of the sign on the parcel shall be designed such that it does not obstruct the visibility of signage on adjacent parcels nor result in the appearance of visual clutter.
5. Shall not exceed one freestanding sign per parcel of land.
6. The background of internally illuminated, cabinet-type sign faces shall be opaque or a color other than white.
7. Address numerals shall be included on the sign, of eight inches minimum height.
8. May be illuminated in accordance with § **17.08(8)**.
- (b) Wall-supported signs which require securement to a building or structure for support are subject to the following restrictions:
  1. Shall not extend above the parapet wall or the top of the roof of the building which supports it.
  2. Shall not project more than 12 inches from the wall which supports it.
  3. Area limited to 0.8 square feet of signage for each linear foot of building frontage on a public right-of-way, with a maximum area for any one sign not to exceed 100 square feet.
  4. Maximum of two wall-mounted signs per building, subject to the area limits described above, on buildings principally used as offices.
  5. The background of internally illuminated, cabinet-type sign faces shall be opaque or a color other than white.
  6. May be illuminated in accordance with § **17.08(8)**.
- (c) Changeable copy signs which are designed to allow the display message to be manually changed are subject to the following restrictions:
  1. Shall require a recommendation for approval from the Architectural Control Committee and Plan Commission, and approval by the Town Board. In granting such approval, the Town Board may impose such conditions as it deems reasonable and necessary so as to carry out the purpose and intent of this chapter.
  2. May be illuminated in accordance with § **17.08(8)**.
- (6) Signs permitted in all residential, business, manufacturing, institutional, park, and PUD districts with architectural approval and permit. The following signs are regulated based on the character and nature of the proposed development, as well as the adjacent land uses and context.
- (a) Temporary real estate development signs which are used to designate a new subdivision, development or building are subject to the following restrictions:
  1. Shall be set back a minimum of 10 feet from all lot lines.
  2. Shall be regulated in height, size, design and period of display.
  3. Shall not exceed 48 square feet in sign display area.
  4. May not be illuminated in any way.

- (b) Permanent real estate development signs which are placed at the entrance to a subdivision or development are subject to the following restrictions:
  - 1. Shall display only the name of the subdivision or development.
  - 2. Shall be set back a minimum of 10 feet from all lot lines.
  - 3. Shall be regulated in height, size and design by the Architectural Control Committee.
  - 4. May be illuminated in accordance with § **17.08(8)**.
- (7) Temporary signs permitted in all districts with a permit. The Building Inspector may permit the temporary use of signs, banners, flags, searchlights, balloons, tents, or any approvable form of portable signage for the purpose of promotional sales, advertisement, or any short-term event which is not defined under § **17.02(9)** as a special occupancy use, subject to the following restrictions:
  - (a) Shall be set back a minimum of 10 feet from all lot lines.
  - (b) Shall not pose a potential hazard to traffic or adjacent properties.
  - (c) Shall be permitted for no more than 30 days in any calendar year.
  - (d) Shall be regulated in location, design and construction by the Building Inspector.
  - (e) May not be illuminated.
  - (f) Parked vehicles with identification graphics shall not be parked or stored on a property so as to present as signage. Commercial sign banner trucks are prohibited.
  - (g) Construction trailers with identification graphics shall be regulated per § **17.08(6)(a)** as temporary development signs.
- (8) Sign illumination and nuisance prevention. Illumination of all signs permitted in the Town must conform to the following restrictions:
  - (a) Shall conform to the provisions established in § **10.08** of the Code of the Town of Brookfield relating to nuisance light on residential properties.
  - (b) Signs which are internally illuminated shall not face adjacent lands which are zoned for or used as single-family or duplex use.
  - (c) Shall not resemble, imitate, or approximate traffic or railroad signs, signals, or devices; shall not cause glare, mislead or confuse traffic, or impair driver visibility on public ways, private roadways or adjoining properties; shall not be flashing, revolving, blinking, strobe, or animated, except for the display of the time and temperature as approved by the Town Board.
  - (d) No illuminating element of any kind may be visually exposed, pursuant to the provisions established in § **10.08(4)** of the Code of the Town of Brookfield.
  - (e) The level of illumination as measured at one foot perpendicular to any face of an illuminated sign may not exceed 100 footcandles of daytime (6:00 a.m. to 7:00 p.m.) candle power, nor 45 footcandles of nighttime (7:00 p.m. to 6:00 a.m.) candle power.
  - (f) Shall conform to the requirements of the National Electrical Code, specifically addressing the requirement for an external switch or breaker to open underground conductors (NEC 600-2); every

electric sign shall be listed and installed in conformance with that listing (NEC 600-4); and all signs shall be visible marked with the manufacturer's name, input amperes at full load and input voltage (NEC 600-7).

- (9) Sign construction and maintenance standards.
  - (a) 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.
  - (b) Protection of the public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted, provided the space occupied is roped off, fenced off, or otherwise isolated.
  - (c) Maintenance. The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition, and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds and grass.
  - (d) Supporting members or braces of all signs shall be constructed of galvanized iron, properly treated wood, steel, copper, brass, or other noncorrosive, fire-resistant material. Every means or device used for attaching any sign shall make use of sound engineering practices.
  - (e) No signs or any part thereof or sign anchors, braces, or guy rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and so such sign or any part of any anchor, brace or guy rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department of the Town, as necessity therefore may require.
- (10) Measuring sign display area. In calculating the sign display area to determine whether it meets the requirement of this chapter, the Building Inspector shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the sign display area calculation. Sign display area of irregular shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all the elements of the sign.
  - (a) Electronic message centers which include all signs or monuments capable of displaying messages by use of words, symbols, numbers, figures, and/or images that are electronically, digitally or mechanically changed by remote or automatic means may be permitted as a conditional use in any mixed-use zoning district. Consistent with the purpose and intent of the Zoning Code, electronic message centers are intended to allow for the advertising or display of business-related activities conducted on the site, or products or services offered, but are not intended to be a substitute for the type of advertising that is typically displayed in weekly sales type publications. Changeable and movable copy signs are not included within the definition of an "electronic message center." A conditional use permit allowing for the construction and operation of an electronic message center for the purpose of advertising the name of any business conducted on the site, as well as the business services or business activities conducted by the owners, tenants or occupants of the site on which the electronic message center is located may be issued, as provided herein, subject to the following conditions and limitations: **[Added 9-4-2018]**
- 1. The conditional use permit shall be granted in accordance with the procedure and requirements of § 17.02(14)(b) of the Zoning Code. In addition to the requirement for issuance of conditional use permit contained in § 17.02(14)(b), when considering the application for approval of an electronic message center, the determination to approve, deny or approve with conditions shall take into consideration the requirements and limitations set forth in this section.



2. There shall be only one electronic message center on each lot or parcel of land. The electronic message center may not be incorporated into a wall or building mounted sign.
  3. The electronic message center may be double-faced, but may not exceed 50% of the total sign face area permitted for any lot or parcel of land and must occupy a secondary position to the name of the business or tenant occupying the property.
  4. Each electronic message center shall be permanently installed or located.
  5. Each electronic message center shall be located so that vehicular traffic on any adjoining public right of way can view the electronic message center, but shall not be located so as to interfere with, confuse or present any hazard to pedestrians or vehicular traffic.
  6. Electronic message centers may display static images only. Blinking, flashing, moving, scrolling or animated messages shall not be permitted. Motion display or displays which give the viewer the illusion of motion shall not be permitted.
  7. Electronic message centers may not change messages, images or displays more than once every 15 seconds, or at such other and greater interval as determined by the Town Plan Commission and Town Board when reviewing and acting upon the conditional use permit application.
  8. Electronic message centers may only be used for the purpose of advertising or display related to the business services or business activities of the owner, tenants or occupants of the parcel on which the electronic message center is located. The content of any message shall not include any display or information relating to the pricing of any product or service.
  9. Electronic message centers may not be used for the purpose of displaying political message(s) or any other activity governed by § 12.04, Wis. Stats.
  10. Displays and images shall not exceed 0.3 footcandle above ambient brightness at a distance of 200 feet from the electronic message center. Light levels must be adjustable to compensate for outdoor lighting levels during the day and evening hours. Any conditional use permit may prohibit the use of white background between the hours of sunset and sunrise.
  11. Approval and use of any electronic message center shall be subject to, and contingent upon, compliance with all local, state and federal regulations, as well as all provisions of the Town of Brookfield Zoning Code.
  12. The location of the electronic message center must meet all offset and setback requirements applicable to any building or structure located on the site and may not be located on any area of the property on which a building or structure would be prohibited.
  13. Any electronic message center must be maintained in a good state of repair. In the event the Building Inspector determines that the electronic message center is not being maintained in a good state of repair, or in accordance with the terms of any conditional use permit, notice of the deficiency or deficiencies shall be provided to the holder of the conditional use permit, and in the event the deficiency is not corrected within 10 days of the issuance of such notice, use of the electronic message center shall be suspended until the deficiency has been corrected.
- (b) Changeable and movable copy signs which are designed to allow the display of messages to be changed, whether manually or electronically, may be allowed as a conditional use in any B-2 or B-3 Zoning District, subject to the following conditions and limitations: **[Added 9-4-2018]**
1. The conditional use permit may be granted in accordance with the procedure and requirements of

§ **17.02(14)(b)** of this chapter. In addition to the requirement for issuance of conditional use permit contained in § **17.02(14)(b)**, when considering the application for approval of a changeable and movable copy sign, the determination to approve, deny or approve with conditions shall take into consideration the requirements and limitations set forth in this section.

2. There shall be only one changeable and movable copy sign on each lot or parcel of land. the changeable and movable copy sign shall not be incorporated into a wall- or building-mounted sign.
3. The changeable and movable copy sign may be double-faced, but shall not exceed 50% of the total sign face area permitted for any lot or parcel of land, and must occupy a secondary position to the name of the business or tenant occupying the property.
4. Each changeable and movable copy sign shall be permanently installed or located.
5. Each changeable and movable copy sign shall be located so as not to interfere with, confuse or present any hazard to pedestrians or vehicular traffic.
6. Changeable and movable copy signs shall display static images only. Blinking, flashing, moving, scrolling or animated messages shall not be permitted. Motion display or displays which give the viewer the illusion of motion shall not be permitted.
7. Changeable and movable copy signs shall not change messages, images or displays more than once every 12 hours, or at such other and greater interval as determined by the Town Plan Commission and Town Board when reviewing and acting upon the conditional use permit application.
8. Changeable and movable copy signs shall only be used for the purpose of advertising the name of any individual business, or the business services or activities conducted by that individual business, which business is located on the site or parcel of land for which the sign is located. The content of any message shall be limited to display of numerical (0-9) characters and/or alphabetical (A-Z) characters, and shall not include any display or information relating to any product or service.
9. Changeable and movable copy signs shall not be used for the purpose of displaying political message(s) or any other activity governed by § **12.04** Wis. Stats.
10. Displays and images must be adjustable to compensate for outdoor lighting levels during the day and evening hours. The sign illumination and nuisance prevention standards set forth in § **17.08(8)** of the Zoning Code shall be applicable, and the conditions and requirements of that section are incorporated herein by reference.
11. Any changeable and movable copy sign must be maintained in a good state of repair. In the event the Building Inspector determines that the changeable and movable copy sign is not being maintained in a good state of repair, or in accordance with the terms of any conditional use permit, notice of the deficiency or deficiencies shall be provided to the holder of the conditional use permit, and in the event the deficiency is not corrected within 10 days of the issuance of such notice, use of the changeable and movable copy sign shall be suspended until the deficiency has been corrected.
12. No conditional use permit may be issued for a changeable and movable copy sign unless the parcel on which the sign is located contains at least 20,000 square feet, and unless the location of the sign meets all offset and setback requirements of the applicable zoning district.
- (11) Sign permit. Application for a permit shall be made on forms provided by the Building Inspector and made available in the Town Clerk's office, and shall contain or have attached thereto the following information:

- (a) Name, address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
  - (b) Name of person, firm, corporation, or association erecting the sign.
  - (c) Written consent of the landowner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
  - (d) A scale drawing (and scale sectional drawing) of such a sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
  - (e) A scale site survey indicating the location and position of such sign in relation to nearby buildings, structures, vehicular and pedestrian accessways, public and private rights-of-way, and existing signs on the parcel or on adjacent parcels within 150 feet.
  - (f) Copies of any permit required for said sign, including the written approval by the Electrical Inspector in the case of illuminated signs, who shall examine the plans and specification, reinspecting all wiring and connections to determine if the same complies with the Town Electrical Code.
  - (g) Additional Information as may be required by the Building Inspector or the Architectural Control Committee.
  - (h) Sign permit applications shall be filed with the Building Inspector who shall review the application for its accuracy and completeness. The Building Inspector shall submit all applications to the Architectural Control Committee pursuant to § 17.08(4) of this chapter. Applicants shall be notified of the Committee's decision within 30 days after receipt of the application. A sign permit shall become null and void if work authorized under the permit has not been completed within six months of the date of issuance.
- (12) Legally existing signs.
- (a) Signs lawfully existing as of 9-2-2008 which do not conform with the provisions of this chapter may be continued as an existing nonconforming use as defined in § 17.09 of this chapter.
  - (b) Such signs shall not be structurally altered, enlarged or refaced, except in cases of a new business name under the existing ownership, or new owners of an existing business.

**§ 17.09 Nonconforming premises and structures.**  
**[Amended 11-21-2006]**

- (1) Existing nonconforming premises and structures. The continued use of any building, premises, structure, or fixture for which the building, premises, structure, or fixture was used at the time of the adoption or amendment of this chapter may be continued although the use does not conform with the provisions of this chapter; provided, however:
  - (a) The nonconforming use may not be expanded or enlarged.
  - (b) The expansion or addition to any existing building, premises, structure, or fixture used to carry on an otherwise prohibited trade or industry within the zoning district shall be prohibited.
  - (c) If the nonconforming use is discontinued for a period of 12 months, any future use of the land, building, premises, structure, or fixture shall conform to the requirements of this chapter.
  - (d) The total structural repair or alteration of any nonconforming building, premises, structure, or fixture shall not, during its life, exceed 50% of the assessed value of the building, premises, structure, or fixture

**Commented [BH65]:** This section will remain as 17.09

**Commented [BH66R65]:** Proposed changes are shown in the draft chapters

unless permanently changed to a conforming use.

- (2) Restoration of nonconforming structures.
  - (a) Notwithstanding the restrictions contained in Subsection (2)(b), the restoration of a nonconforming structure which was damaged or destroyed shall not be prohibited if the structure will be restored to the size, location, and use that existed immediately prior to the damage to, or destruction of, the building, premises, structure, or fixture, irrespective of the cost of repair, reconstruction, or improvement, provided all of the following conditions apply:
    1. The nonconforming structure was damaged or destroyed on or after March 2, 2006; and
    2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
  - (b) The size of the structure may be increased where such increase is necessary as a condition of complying with applicable state or federal requirements in effect immediately before the damage or destruction to the structure. Any determination as to the required increase in size shall be determined by the Building Inspector.
  - (3) Existing substandard structures. The use of a structure existing at the time of the adoption or amendment of this chapter may be continued although the structure's size or location does not conform with the established building setback line along streets or the yard, height, parking, loading, access and lot area provisions of this chapter; however, such structure shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.
  - (4) Changes and substitutions. Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Zoning Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Zoning Board of Appeals.
- (5) Purpose. **[Added 10-15-2002]**
  - (a) The purpose of this subsection is to establish legal, conforming status to certain residential structures which would otherwise be nonconforming structures because those structures were constructed within the offset or setback areas of a residential lot.
  - (b) The owner of any property on which a structure, which would otherwise be deemed a nonconforming structure because of its failure to meet the offset and/or setback requirement, may submit a survey establishing the actual offset and/or setback measurements to the Building Inspector.
  - (c) In the event the Building Inspector determines that the existing structure fails to meet the offset and/or setback requirements, but that the encroachment into the offset and/or setback areas is less than 10% of the minimum offset or setback required for that zoning classification, the Building Inspector may, after providing notice as set forth in Subsection (5)(d)3, certify the structure as a legal, conforming structure. In the event the Building Inspector determines that the encroachment into the offset and/or setback area is more than 10%, but less than 20%, the Plan Commission, after providing notice as set forth in Subsection (5)(d)3, may certify the structure as a legal, conforming structure.
  - (d) Modification of offset and setback requirements. Notwithstanding anything contained herein to the contrary, the status of any structure within any portion of a lot designated as the offset or setback area of the lot, may be deemed a conforming structure, provided the construction or erection of the structure

meets the following conditions:

1. The structure was constructed or erected prior to January 1, 1980; and
2. The property on which the structure is located is zoned for residential uses; and
3. Prior to certifying any nonconforming structure as a legal, conforming structure under the provisions of this section, notice of the proposed certification shall be provided to all property owners whose properties are located within 300 feet of the property on which the structure is located, and those property owners shall be afforded a reasonable opportunity to object to the certification. In the event the Building Inspector receives any objection to the proposed certification, the Building Inspector shall then refer the request for certification to the Plan Commission for its review and a recommendation to the Town Board for approval. Upon certification, the offset and/or setback requirements, which apply to such structures, shall be those offsets depicted on the survey in the direction of encroachment into the established minimums, and in all other directions, to the offset and/or setback requirements which would otherwise be applicable to the zoning classification.

§ 17.10 (Reserved)

§ 17.11 Zoning Board of Appeals.

- (1) Established. There is hereby established a Zoning Board of Appeals for the Town for the purpose of hearing appeals and applications and granting variances and exceptions to the provisions of this chapter.
- (2) Membership. The Zoning Board of Appeals shall consist of five members appointed by the Town Chairperson and confirmed by the Town Board.
  - (a) Terms. Terms shall be for staggered three-year periods.
  - (b) Chairperson. The Chairperson shall be designated by the Town Chairperson.
  - (c) Alternate members. The Town Chairperson shall appoint a first alternate and second alternate member to act only when a regular member is absent or refuses to vote because of interest. The second alternate member may act only when the first alternate is unable to act or is already sitting.
  - (d) Qualifications. One member shall be a Town Plan Commissioner and one member shall be a registered architect, registered professional engineer, builder, or real estate appraiser.
  - (e) Secretary. The Board Secretary and Board office shall be the Town Clerk and the Town Clerk's office.
  - (f) Building Inspector. The Building Inspector shall attend all meetings for the purpose of providing technical assistance when requested by the Board.
  - (g) Oaths. Official oaths shall be taken by all members in accordance with § 19.01, Wis. Stats., within five days of receiving notice of their appointment. [Amended 12-7-2021 by Ord. No. 2021-004]
  - (h) Vacancies. Vacancies shall be filled for unexpired terms in the same manner as appointments for full terms.
- (3) Organization. The Zoning Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.
  - (a) Meetings. Meetings shall be held at the call of the Chairperson and shall be open to the public.
  - (b) Minutes. Minutes of the proceedings and a record of all actions shall be kept by the Secretary or other designated person, showing the vote of each member upon each question, the reasons for the Board's determination and its findings of fact. These records shall be immediately filed in the office of the Board

**Commented [BH67]:** This section was moved to Section 17.03(8) and I created a subsection for variances 17.03(18)

and shall be a public record.

- (c) **Vote.** The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official; grant a variance; or make an interpretation.
- (4) **Powers.** The Zoning Board of Appeals shall have the following powers:
  - (a) **Errors.** To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by any administrative official.
  - (b) **Variances.** To hear and grant appeals for variances as will not be contrary to the public interest, when, owing to unique property limitations, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted. **[Amended 12-7-2021 by Ord. No. 2021-004]**
  - (c) **Substitutions.** To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses if no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
  - (d) **Permits.** The Board may reverse, affirm wholly or partly modify the requirements appealed from and issue or direct the issue of a permit.
  - (e) **Assistance.** The Board may request assistance from other Town officers, departments, commissions, and boards.
  - (f) **Oaths.** The Chairperson may administer oaths and compel the attendance of witnesses.
- (5) **Appeals and applications.** Appeals of the decision of the Building Inspector or any administrative official concerning the literal enforcement of this chapter may be made by any person aggrieved or by any officer, department, board, or bureau of the Town. Such appeals shall be filed with the Secretary within 30 days after the date of written notice of the decision or order of the Building Inspector or any administrative official. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the secretary. Such appeals and applications shall include the following:
  - (a) Name and address of the appellant or applicant and all abutting and opposite property owners of record.
  - (b) Plat of survey prepared by a registered land surveyor showing all of the information required under **§ 17.02(8)** for a building permit.
  - (c) Additional information required by the Town Plan Commission, Town Engineer, Zoning Board of Appeals or Building Inspector.
  - (6) **Hearings.** The Zoning Board of Appeals shall fix a reasonable time and place for the hearing, give public notice as required under **§ 17.13** of this chapter and give due notice to the parties in interest, the Building Inspector and the Plan Commission. At the hearing, the appellant may appear in person, by agent or by attorney.
  - (7) **Findings.** No variance to the provisions of this chapter shall be granted by the Board unless it finds that all the following facts and conditions exist and so indicates such in the minutes of its proceedings: **[Amended 12-7-2021 by Ord. No. 2021-004]**

- (a) Preservation of intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use or conditional use in that particular district.
- (b) Exceptional circumstances. There shall be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties of uses in the same district and the granting of the variance shall not be of so general or recurrent nature as to suggest that this chapter should be changed.
- (c) Economic hardship and self-imposed hardship not grounds for variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- (d) Preservation of property rights. The variance shall be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and vicinity.
- (e) Absence of detriment. No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (8) Decision. The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector, and each Town Plan Commission member within five days following the decision.
- (a) Conditions may be placed upon any building permit ordered or authorized by this Board.
- (b) Variances substitutions, or use permits granted by the Board shall expire within six months unless substantial work has commenced pursuant to such grant.
- (9) Review by court of record. Any person aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Zoning Board of Appeals.

#### **§ 17.12 Changes and amendments.**

- (1) Authority. Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Town Board may, by ordinance, change the zoning district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall submitted to the Plan Commission for review.
- (2) Initiation. A change or amendment may be initiated by the Town Board or Plan Commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.
- (3) Petitions. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Town Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
  - (a) Plot plan drawn to a scale of one inch equals 100 feet 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 all properties within 300 feet of the area proposed to be rezoned.
  - (b) Owner's names and addresses of all properties lying within 300 feet of the area proposed to be rezoned.

**Commented [BH68]:** Relocated parts of this section to Section 17.03(16) and (17) and broke them down into zoning map amendment (rezoning) and Zoning Ordinance Amendment

- (c) Additional information required by the Town Plan Commission or Town Board.
- (4) Review and recommendation. The Town Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified and granted, or denied.
- (5) Hearings. The Town Board shall hold a public hearing upon each petition giving public notice thereof as specified in § 17.13 of this chapter, listing the time, place, and the changes of amendments proposed. The Town Board shall also give at least 10 days' prior written notice to the Clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.
- (6) Town Board's action. As soon as possible after such public hearing, and after careful consideration of the Town Plan Commission's recommendations, the Town Board shall act on the petition either approving, modifying and approving or disapproving of the same.
- (7) County Board approval. No change or amendment to this chapter shall be effective until approved by the Waukesha County Board. The Town Clerk shall transmit three signed and attested copies of any change adopted by the Town Board to the Waukesha County Clerk for County Board approval.

#### **§ 17.13 Public hearings.**

- (1) Notice. Notice of any public hearing which the Town Board, Plan Commission or Zoning Board of Appeals is required to hold under the terms of this chapter shall specify the date, time and place of hearing and the matter to be presented at the hearing. Under Ch. 985, Wis. Stats., the notice shall be published as a Class 2 notice in a newspaper of general circulation in the Town at least once each week for 2 consecutive weeks, the last publication of which shall be at least one week before the public hearing.
- (2) Parties-in-interest. Notice of the public hearing shall be mailed to all parties-in-interest at least 10 days before the hearing. Parties-in-interest shall be defined as the petitioner, the Clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the petition and the owners of all lands included in the petition and all lands lying within 300 feet of lands included in the petition. Failure to give any notice to any property owner shall not invalidate the action taken by one of the above-mentioned bodies.

**Commented [BH69]:** Moved to Section 17.03(9) and no changes were made

#### **§ 17.14 Wireless telecommunications facilities in the right-of-way.** **[Added 4-8-2020]**

- (1) Definitions.
- (a) For the purposes of this chapter, the terms below shall have the following meanings:

##### **ADMINISTRATOR**

The Zoning Administrator or his or her designee.

##### **APPLICANT**

A person filing an application for placement or modification of a wireless telecommunications facility in the right-of-way.

##### **APPLICATION**

A formal request, including all required and requested documentation and information, submitted by an applicant to the Town for a wireless permit.

##### **BASE STATION**

The same as in 47 CFR § 1.6100(b)(1), which defines the term to mean a structure or wireless

**Commented [BH70]:** Relocated to 17.11 but did not change much of the content except for relocating the definitions to Section 17.02 (definitions section).



telecommunications equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. This definition does not include towers.

#### **ELIGIBLE FACILITIES REQUEST**

The same as in 47 CFR § 1.6100(b)(3), which defines the terms to mean any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower base station, involving i) co-location of new transmission equipment; ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

#### **FCC**

The Federal Communications Commission.

#### **RIGHT-OF-WAY**

The surface of, and the space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane, landscape terrace, shoulder, side slope, and public sidewalk over which the Town exercises any rights of management and control or in which the Town has an interest.

#### **SMALL WIRELESS FACILITY**

Consistent with 47 CFR § 1.6002(l), means a facility that meets each of the following conditions:

**[Amended 12-7-2021 by Ord. No. 2021-004]**

1. The structure on which antenna facilities are mounted:
  - a. Is 50 feet or less in height; or
  - b. Is no more than 10% taller than other adjacent structures; or
  - c. Is not extended to a height of more than 50 feet or by more than 10% above its preexisting height, whichever is greater, as a result of the co-location of new antenna facilities.
2. Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume;
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any preexisting associated equipment on the structure, is cumulatively no more than 28 cubic feet in volume;
4. The facility does not require antenna structure registration;
5. The facility is not located on Tribal lands; and
6. The facility does not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified by federal law.

#### **SUPPORT STRUCTURE**

Any structure capable of supporting wireless telecommunications equipment.

#### **TOWER**

The same as in 47 CFR § 1.6100(b)(9), which defines the term as any structure built for the sole or primary purpose of supporting any Federal Communications Commission (FCC) licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and the

associated site. This definition does not include utility poles.

#### **UNDERGROUND AREAS**

Those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right-of-way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages more than 35,000 volts.

#### **UTILITY POLE**

A structure in the right-of-way designed to support electric, telephone, and similar utility distribution lines and associated equipment. A tower is not a utility pole.

#### **WIRELESS INFRASTRUCTURE PROVIDER**

A person that owns, controls, operates, or manages a wireless telecommunications facility or portion thereof within the right-of-way.

#### **WIRELESS PERMIT or PERMIT**

A permit issued pursuant to this chapter and authorizing the placement or modification of a wireless telecommunications facility of a design specified in the permit at a particular location within the right-of-way, and the modification of any existing support structure to which the wireless telecommunications facility is proposed to be attached.

#### **WIRELESS REGULATIONS**

Those regulations adopted pursuant to Subsection (5)(b)1 to implement the provisions of this chapter.

#### **WIRELESS SERVICE PROVIDER**

An entity that provides wireless services to end users.

#### **WIRELESS TELECOMMUNICATIONS FACILITY or FACILITY**

A facility at a fixed location in the right-of-way consisting of a base station, antennas and other accessory equipment, and a tower and underground wiring, if any, associated with the base station.

- (b) Definitions in this section may contain quotations or citations to 47 CFR §§ 1.6100 and 1.6002. In the event that any referenced section is amended, creating a conflict between the definition as set forth in this chapter and the amended language of the referenced section, the definition in the referenced section, as amended, shall control
- (2) Purpose. In the exercise of its police powers, the Town has priority over all other uses of the right-of-way. The purpose of this chapter is to provide the Town with a process for managing, and uniform standards for acting upon, requests for the placement of wireless telecommunications facilities within the right-of-way consistent with the Town's obligation to promote the public health, safety, and welfare; to manage the right-of-way; and to ensure that the public's use is not obstructed or incommoded by the use of the right-of-way for the placement of wireless telecommunications facilities. The Town recognizes the importance of wireless telecommunications facilities to provide high-quality communications and internet access services to residents and businesses within the Town. The Town also recognizes its obligation to comply with applicable federal and state laws regarding the placement of wireless telecommunications facilities in the right-of-way including, without limitation, the Telecommunications Act of 1996 (47 U.S.C. § 151 et seq), Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Wis. Stat. § 182.017, and Wis. Stat. § 196.58, and this chapter shall be interpreted consistent with those provisions.
- (3) Scope.

- (a) Applicability. Unless exempted by Subsection (3)b, below, every person who wishes to place a wireless telecommunications facility in the right-of-way or modify an existing wireless telecommunications facility in the right-of-way must obtain a wireless permit under this chapter.
- (b) Exempt facilities. The provisions of this section [other than Subsections (10) through (14)] shall not be applied to applications for the following:
  - 1. Installation of a small wireless facility on the strand between two utility poles, provided that the cumulative volume of all wireless facilities on the strand shall not exceed one cubic foot, and provided further that the installation does not require replacement of the strand, or excavation, modification, or replacement of either of the utility poles.
  - 2. Installation of a mobile cell facility (commonly referred to as "cell on wheels" or "cell on truck") for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.
  - 3. Placement or modification of a wireless telecommunications facility on structures owned by or under the control of the Town. See Subsection (13) of this section.
  - 4. Placement or modification of a wireless telecommunications facility by Town staff or any person performing work under contract with the Town.
  - 5. Modification of an existing wireless telecommunications facility that makes no material change to the footprint of a facility or to the surface or subsurface of a public street if the activity does not disrupt or impede traffic in the traveled portion of a street, and if the work does not change the visual or audible characteristics of the wireless telecommunications facility.
- (4) Nondiscrimination. In establishing the rights, obligations, and conditions set forth in this section, it is the intent of the Town to treat each applicant and right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, while taking into account the unique technologies, situation, and legal status of each applicant or request for use of the right-of-way.
- (5) Administration.
  - (a) Administrator. The Administrator is responsible for administering this section.
  - (b) Powers. As part of the administration of this chapter, the Administrator may:
    - 1. Adopt wireless regulations governing the placement and modification of wireless telecommunications facilities in addition to but consistent with the requirements of this section, including regulations governing co-location, the resolution of conflicting applications for placement of wireless telecommunications facilities, and aesthetic standards.
    - 2. Interpret the provisions of this section and the wireless regulations.
    - 3. Develop forms and procedures for submission of applications for wireless permits consistent with this section.
    - 4. Collect any fee required by this section.
    - 5. Require, as a condition of completeness of any application, notice to members of the public that may be affected by the placement or modification of the wireless telecommunications facility that is the subject of the wireless permit application.

6. Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations.
  7. Issue notices of incompleteness or requests for information in connection with any wireless permit application.
  8. Select and retain an independent consultant or attorney with expertise in telecommunications to review any issue that involves specialized or expert knowledge in connection with any permit application.
  9. Coordinate and consult with other Town staff, committees, and governing bodies to ensure timely action on all other required permits under Subsection (6)(b)8 of this section.
  10. Subject to appeal as provided in Subsection (8)(d) of this chapter, determine whether to grant, grant subject to conditions, or deny an application.
  11. Take such other steps as may be required to timely act upon wireless permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.
- (6) Application.
- (a) Format. Unless the wireless regulations provide otherwise, the applicant must submit both a paper copy and an electronic copy (in a searchable format) of any application, as well as any amendments or supplements to the application or responses to requests for information regarding an application, to the Administrator. An application is not complete until both the paper and electronic copies are received by the Administrator.
  - (b) Content. In order to be considered complete, an application must contain:
    1. All information required pursuant to the wireless regulations.
    2. A completed application cover sheet signed by an authorized representative of the applicant, listing all standard permit conditions.
    3. The name of the applicant (including any corporate or trade name), and the name, address, email address, and telephone number of a local representative. If the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider(s) that will be using the wireless telecommunications facility must also be provided.
    4. A statement of which shot clock or shot clocks apply to the application and the reasons the chosen shot clocks apply.
    5. A separate and complete description of each proposed wireless telecommunications facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the facility and technical specifications for each element of the facility, clearly describing the site and all structures and facilities at the site before and after installation or modification and identifying the owners of such preexisting structures and facilities; and describing the distance to the nearest residential dwelling unit. Before and after 360° photo simulations must be provided for each facility.
    6. Proof that the applicant has mailed to the owners of all property within 300 feet of the proposed wireless telecommunications facility a notice that the applicant is submitting an application to the Town for placement or modification of a wireless telecommunications facility in the right-of-way, which notice must include i) the proposed location of the facility, ii) a description and scale image of the proposed facility, and iii) an email address and phone number for a representative of the applicant who will be

available to answer questions from members of the public about the proposed project.

7. A copy of the FCC license for the facility or a sworn written statement from the applicant attesting that the facility will comply with current FCC regulations.
  8. To the extent that filing of the wireless permit application establishes a deadline for action on any other permit that may be required in connection with the wireless telecommunications facility, the application must include complete copies of applications for every required permit (including without limitation electrical permits, building permits, traffic control permits, and excavation permits), with all engineering completed and with all fees associated with each permit.
  9. A certification by a registered and qualified engineer that the installation can be supported by and does not exceed the tolerances of the structure on which it will be mounted and that all elements of the wireless telecommunications facility comply with applicable safety standards.
  10. Payment of all required fees.
  11. If an applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all evidence on which the applicant relies in support of that claim. Applicants are not permitted to supplement this evidence if doing so would prevent the Town from complying with any deadline for action on an application.
  12. If the application is an eligible facilities request, the application must contain information sufficient to show that the application qualifies as an eligible facilities request under 47 CFR § 1.6100(b)(3), including evidence that the application relates to an existing tower or base station that has been approved by the Town. Before and after 360° photo simulations must be provided with detailed specifications demonstrating that the modification does not substantially change the physical dimensions of the existing approved tower or base station.
- (c) Waivers. Requests for waivers from any requirement of this Subsection (6) shall be made, in writing, to the Administrator. The Administrator may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of the waiver, the Town will be provided with all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the wireless permit sought.
  - (d) Fees. Applicant must provide an application fee and shall be required to pay all costs reasonably incurred in reviewing the application, including costs incurred in retaining outside consultants. Fees shall be reviewed periodically and raised or lowered based on the costs the Town expects to incur, with a review commencing by the first anniversary of the effective date of this chapter.
  - (e) Public records. Applications are public records that may be made publicly available pursuant to state and federal public records law. Notwithstanding the foregoing, the applicant may designate portions of the application materials that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and the Town shall endeavor to treat the information as proprietary and confidential, subject to applicable state and federal public records law and the Administrator's determination that the applicant's request for confidential or proprietary treatment of the application materials is reasonable. The Town shall not be required to incur any costs to protect the application from disclosure.
- (7) General and aesthetic standards.
  - (a) Generally. Wireless telecommunications facilities shall meet the minimum requirements set forth in this chapter and the wireless regulations, in addition to the requirements of any other applicable law or

regulation.

- (b) Regulations. The wireless regulations and decisions on wireless permits shall, at a minimum, ensure that the requirements of this chapter are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of a telecommunications or personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this chapter and the wireless regulations may be waived, but only to the extent required to avoid the prohibition.
- (c) General standards.
  - 1. Wireless telecommunications facilities shall be installed and modified in a manner that:
    - a. Minimizes risks to public safety;
    - b. Ensures that placement of facilities on existing structures is within the tolerance of those structures;
    - c. Avoids placement of aboveground facilities in underground areas, installation of new support structures or equipment cabinets in the public right-of-way, or placement in residential areas when commercial areas are reasonably available;
    - d. Maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;
    - e. Ensures that installations are subject to periodic review to minimize the intrusion on the right-of-way;
    - f. Ensures that the Town bears no risk or liability as a result of the installations; and
    - g. Ensures that applicant's use does not inconvenience the public, interfere with the primary uses of the right-of-way, or hinder the ability of the Town or other government entities to improve, modify, relocate, abandon, or vacate the right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right-of-way.
  - 2. No wireless permit shall be issued unless i) the wireless service provider applicant has immediate plans to use the proposed facility or ii) the wireless infrastructure applicant has a contract with a wireless service provider that has immediate plans to use the proposed facility.
  - 3. In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic and at all times must comply with the requirements of the Americans with Disabilities Act of 1990.
- (d) Aesthetic and location standards. Wireless communication facilities shall be installed subject to the following aesthetic and location standards.
  - 1. Preferred locations. The following locations, in the order listed from most to least preferred, are the preferred locations for installations of facilities in public rights-of-way:
    - a. Industrial area;
    - b. Commercial areas; and,
    - c. Other nonresidential areas.
  - 2. Nonpreferred locations. The applicant should avoid locating new support structures, towers, or utility poles within residential neighborhoods, designated open space, conservation areas, or historic districts. A facility may be permitted in a location other than a preferred location if the applicant provides

evidence showing that:

- a. Adequate coverage can be maintained, existing services can be improved, or new services can be added only if facilities are placed in a nonpreferred location; or
  - b. The proposed facility will meet all applicable requirements for the nonpreferred location and will complement the character of the surrounding area.
3. Co-location.
- a. Co-location generally. Subject to the provisions of this section, co-location of facilities is generally preferred over new support structures if it can be accomplished in a way that better complements the character of the surrounding area.
  - b. Co-location with nonmunicipal facilities. Co-location on facilities or support structures owned by parties other than the Town is subject to the following:
    - i. Where an existing facility or support structure can potentially accommodate co-location of a new wireless facility, co-location will be required unless:
      - [i] The applicant submits substantial evidence supporting the unsuitability of the co-location;
      - [ii] The owner of the existing facility or support structure is unwilling to accommodate the applicant's equipment and cannot be required to cooperate; or
      - [iii] The Administrator determines that installing a new support structure or co-location with a Town facility is preferable to co-location with another facility or support structure.
4. General location restrictions. In addition to regulating location among districts, site-specific restrictions and requirements shall be followed:
- a. Obstruction of traffic. Facilities and support structures, towers, and utility poles must be at least three feet from the curb or nearest traffic lane edge to reduce the risk of being struck by a motor vehicle or bicycle. No aboveground equipment may be placed within five feet of the back of curbs or edge of the nearest traffic lane. **[Amended at time of adoption of Code (see Ch. 25, General Provisions, Art. II)]**
  - b. Obstruction. To the extent possible, a facility, support structure, tower, or utility pole should be located and designed so as to avoid interference with right-of-way maintenance activities, such as:
    - i. Grass mowing, brush collection, tree trimming, and landscaping maintenance;
    - ii. Trash collection;
    - iii. Maintenance of streets, pavement, sidewalks, and bicycle lanes; and
    - iv. Maintenance of other facilities in the rights-of-way.
  - c. ADA. Facilities and support structures, towers, and utility poles at all times must comply with the requirements of the Americans with Disabilities Act of 1990.
  - d. Alignment. Facilities and support structures, towers, and utility poles must be located in alignment with existing trees, facilities, support structures, towers, utility poles and streetlights.
  - e. Spacing. A support structure, tower, or utility pole for a wireless facility must be at least 500 feet from any other support structure in a public right-of-way. **[Amended at time of adoption of Code (see Ch.**

## **25, General Provisions, Art. II]**

- f. Frontage. Facilities and support structures, towers, and utilities poles must not be located along the frontage of any building deemed to be of historic significance on a federal, state, or local level.
  - g. Use of lighting elements. A combination support structure and streetlight pole should only be located where an existing pole can be removed and replaced, or at a new location where the Town has identified that a streetlight is necessary.
5. Height restrictions and requirements. The wireless telecommunication facilities shall be installed in accordance with the following height restrictions and requirements:
- a. Support structures, towers, and utility poles. The height of a support structure, tower, or utility pole in the right-of-way may not exceed the greater of 50 feet above ground level or 10 feet above the tallest existing support structure, tower, or utility pole that is in place on the effective date of this chapter and that is located in the same right-of-way and within 500 feet of the facility that is the subject of the application.
  - b. Small wireless facility. The height of a small wireless facility in the right-of-way may not exceed the greater of 50 feet above ground level or 10 feet above the tallest existing support structure, tower, or utility pole that is in place on the effective date of this chapter and that is located in the same right-of-way.
6. Underground and ground-mounted equipment. The wireless telecommunication facilities shall be installed in accordance with the following height restrictions and requirements:
- a. Underground equipment. To conceal the nonantenna equipment, applicants shall install all nonantenna equipment underground when proposed in an area where utilities or other equipment or in the right-of-way is primarily located underground. In all other areas, applicants shall underground its nonantenna equipment to the extent feasible. Additional expense to install and maintain an underground equipment enclosure does not exempt an applicant from this requirement, except where the applicant demonstrates by clear and convincing evidence that this requirement will effectively prohibit the provision of personal wireless services. Nothing in this subsection is intended to require the applicant to install any electric meter required by the applicant's electrical service provider underground.
  - b. Ground-mounted equipment. To the extent that the equipment cannot be placed underground as required, applicants shall install ground-mounted equipment in the location so that it does not obstruct pedestrian or vehicular traffic. The Town may require landscaping as a condition of approval to conceal ground-mounted equipment. Ground-mounted equipment shall not be permitted in connection with a streetlight, traffic signal, utility pole or other similar infrastructure in the public right-of-way. In the event that the Town approves ground-mounted equipment, the applicant shall conform to the following requirements.
    - i. Self-contained cabinet or shroud. The equipment shroud or cabinet shall contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment shall be concealed from view.
    - ii. Concealment. The Town may require the applicant to incorporate concealment elements into the proposed design, including but not limited to public art displayed on the cabinet, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.
7. Concealment. Permits for wireless telecommunications facilities shall incorporate specific concealment elements to minimize visual impacts, and design requirements ensuring compliance with all standards for noise emissions. Unless it is determined that another design is less intrusive, or placement is required



under applicable law;

- a. Antennas located at the top of support structures shall be incorporated into the structure, or placed within shrouds of a size such that the antenna appears to be part of the support structure.
  - b. Antennas placed elsewhere on a support structure shall be integrated into the structure, or be designed and placed to minimize visual impacts.
  - c. Radio units or equipment cabinets holding radio units and mounted on a utility pole shall be placed as high as possible on a support structure, located to avoid interfering with, or creating any hazard to, any other use of the public rights-of-way, and located on one side of the utility pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on utility poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the support structure on which they are placed.
  - d. Wiring and cabling shall be neat and concealed within or flush to the support structure, ensuring concealment of these components to the greatest extent possible.
  - e. Ground-mounted equipment associated with a wireless communications facility shall be permitted only where consistent with the portion of the corridor in which it is to be placed, and may be required to be underground, located in alleys or otherwise shielded. In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic.
  - f. No support structures, towers, or utility poles shall be permitted in the public rights-of-way, and no wireless telecommunications facilities shall be permitted aboveground, in underground areas, provided that the Town may permit placements where all elements of the wireless communications facility are concealed and the facility does not appear to a casual observer as a wireless telecommunications facility.
  - g. Unless appropriately placed, and concealed, so that the size of the facility cannot be increased except with the discretionary approval of the Town, no wireless telecommunications facility is permitted in rights-of-way in alleys.
  - h. Wireless communication facilities must be designed to minimize visual impacts. When feasible, the facilities must be concealed or camouflaged, and shall have subdued colors and nonreflective materials that blend with the materials and colors of the surrounding area and structures so as to minimize visibility and obstruction of views.
  - i. Facilities may not be illuminated except in accordance with state or federal regulations or if incorporated as part of a streetlight pole.
  - j. Signage is not permitted except to comply with FCC or Wisconsin regulations to provide safety warnings.
- (e) Standard permit conditions. All wireless permits under this chapter are issued subject to the following minimum conditions:
- 1. Compliance. The permit holder shall at all times maintain compliance with all applicable federal, state, and local laws, regulations, and other rules.
  - 2. Term. A wireless permit issued pursuant to an eligible facilities request shall expire at the same time the permit for the underlying existing wireless telecommunications facility expires. All other wireless permits shall be valid for a period of five years from the date of issuance unless revoked pursuant to § 17.14(9)(b).

3. Contact information. The permit holder shall at all times maintain with the Town accurate contact information for the permit holder and all wireless service providers making use of the facility, which shall include a phone number, mailing address, and email address for at least one natural person.
  4. Emergencies. The Town shall have the right to support, repair, disable, or remove any elements of the facilities in emergencies or when the facility threatens imminent harm to persons or property.
  5. Indemnities. The permit holder, by accepting a permit under this chapter, agrees to indemnify, defend, and hold harmless the Town, its elected and appointed officials, officers, employees, agents, representatives, and volunteers (collectively, the "indemnified parties") from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs, and expenses of whatsoever kind or nature in any manner caused in whole or in part, or claimed to be caused in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of the permit holder or anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on one or more of the Indemnified parties. The obligation to indemnify, defend, and hold harmless the indemnified parties shall be applicable even if the liability results from an act or failure to act on the part of one or more of the indemnified parties. However, the obligation does not apply if the liability results from the willful misconduct of an indemnified party.
  6. Adverse impacts on adjacent properties. The permit holder shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.
  7. Graffiti removal. All graffiti on facilities shall be removed at the sole expense of the permit holder within 48 hours after notification from the Town.
  8. Relocation. At the request of the Town pursuant to Subsection (10) of this section, the permit holder shall promptly and at its own expense permanently remove and relocate any wireless telecommunications facility in the right-of-way.
  9. Abandonment. The permit holder shall promptly notify the Town whenever a facility has not been in use for a continuous period of 60 days or longer and must comply with Subsection (11) of this chapter.
  10. Restoration. A permit holder who removes or relocates a facility from the right-of-way must restore the right-of-way in accordance with Section (12) of this chapter.
  11. Record retention. The permit holder shall retain full and complete copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation all conditions of approval, approved plans, resolutions, and other documentation associated with the permit or regulatory approval. In the event the Town cannot locate any such full and complete permits or other regulatory approvals in its official records, and the permit holder fails to retain full and complete records in the permit holder's files, any ambiguities or uncertainties that would be resolved through an examination of the missing documents will be conclusively resolved against the permit holder.
  12. Radio frequency emissions. Every wireless facility shall at all times comply with applicable FCC regulations governing radio frequency emissions, and failure to comply with such regulations shall be treated as a material violation of the terms of the permit.
  13. Certificate of insurance. A certificate of insurance sufficient to demonstrate to the satisfaction of the Administrator that the applicant has the capability to cover any liability that might arise out of the presence of the facility in the right-of-way.
- (8) Application processing and appeal.

- (a) Rejection for incompleteness. Notices of incompleteness shall be provided in conformity with state, local, and federal law, including 47 CFR § 1.6003(d), as amended.
- (b) Processing time line. Wireless permit applications [including applications for other permits under Subsection (6)(b)8 necessary to place or modify the facility] and appeals will be processed in conformity with the shot clocks set forth in state, local, and federal law, as amended.
- (c) Written decision. In the event that an application is denied [or approved with conditions beyond the standard permit conditions set forth in Subsection (7)(d)], the Administrator shall issue a written decision with the reasons therefor, supported by substantial evidence contained in a written record.
- (d) Appeal to the Town Board. Any person adversely affected by the decision of the Administrator may appeal that decision to the Town Board, which may decide the issues de novo, and whose written decision will be the final decision of the Town. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless telecommunications facility.
- (e) Deadline to appeal.
  - 1. Appeals that involve eligible facilities requests must be filed within three business days of the written decision of the Administrator.
  - 2. All other appeals not governed by Subsection (8)(e)1, above, must be filed within 10 business days of the written decision of the Administrator, unless the Administrator extends the time therefor. An extension may not be granted where extension would result in approval of the application by operation of law.
- (f) Decision deadline. All appeals shall be conducted so that a timely written decision may be issued in accordance with the applicable shot clock.
- (9) Expiration and revocation.
  - (a) Expiration. A wireless permit issued pursuant to an eligible facilities request shall expire at the same time the permit for the underlying existing wireless telecommunications facility expires. All other wireless permits shall be valid for a period of five years from the date of issuance. Upon expiration of the wireless permit, the permit holder must either:
    - 1. Remove the wireless telecommunications facility; or
    - 2. Submit an application to renew the permit at least 90 days prior to its expiration. The facility must remain in place until the renewal application is acted on by the Town and any appeals from the Town's decision are exhausted.
  - (b) Revocation for breach. A wireless permit may be revoked for failure to comply with the conditions of the permit or applicable federal, state, or local laws, rules, or regulations. Upon revocation, the wireless telecommunications facility must be removed within 30 days of receipt of written notice from the Town. All costs incurred by the Town in connection with the revocation, removal, and right-of-way restoration shall be paid by the permit holder.
  - (c) Failure to obtain permit. Unless exempted from permitting by Subsection (3)(b) of this chapter, a wireless telecommunications facility installed without a wireless permit must be removed within 30 days of receipt of written notice from the Town. All costs incurred by the Town in connection with the notice, removal, and right-of-way restoration shall be paid by entities who own or control any part of the wireless telecommunications facility.

- (10) Relocation. Except as otherwise prohibited by state or federal law, a permit holder must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate any of its wireless telecommunications facilities in the right-of-way whenever the Town requests such removal and relocation. The Town may make such a request to prevent the facility from interfering with a present or future Town use of the right-of-way; a public improvement undertaken by the Town; an economic development project in which the Town has an interest or investment; when the public health, safety, or welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way. Notwithstanding the foregoing, a permit holder shall not be required to remove or relocate its facilities from any right-of-way that has been vacated in favor of a nongovernmental entity unless and until that entity pays the reasonable costs of removal or relocation to the permit holder.
- (11) Abandonment.
- (a) Cessation of use. In the event that a permitted facility within the right-of-way is not in use for a continuous period of 60 days or longer, the permit holder must promptly notify the Town and do one of the following:
1. Provide information satisfactory to the Administrator that the permit holder's obligations for its facilities under this chapter have been lawfully assumed by another permit holder.
  2. Submit to the Administrator a proposal and instruments for dedication of the facilities to the Town. If a permit holder proceeds under this Subsection (11)(a)2, the Town may, at its option:
    - a. Accept the dedication for all or a portion of the facilities;
    - b. Require the permit holder, at its own expense, to remove the facilities and perform the required restoration under Subsection (12); or
    - c. Require the permit holder to post a bond or provide payment sufficient to reimburse the Town for reasonably anticipated costs to be incurred in removing the facilities and undertaking restoration under Subsection (12).
  3. Remove its facilities from the right-of-way within one year and perform the required restoration under Subsection (12), unless the Administrator waives this requirement or provides a later deadline.
- (b) Abandoned facilities. Facilities of a permit holder who fails to comply with Subsection (11)(a) and which, for one year, remain unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the Town may, at its option:
1. Abate the nuisance and recover the cost from the permit holder or the permit holder's successor in interest;
  2. Take possession of the facilities; and/or
  3. Require removal of the facilities by the permit holder or the permit holder's successor in interest.
- (12) Restoration. In the event that a permit holder removes or is required to remove a wireless telecommunications facility from the right-of-way under this chapter [or relocate it pursuant to Subsection (10)], the permit holder must restore the right-of-way to its prior condition in accordance with Town specifications. However, a support structure owned by another entity authorized to maintain that support structure in the right-of-way need not be removed but must instead be restored to its prior condition. If the permit holder fails to make the restorations required by this Subsection (12), the Town

at its option may do such work. In that event, the permit holder shall pay to the Town, within 30 days of billing therefor, the cost of restoring the right-of-way.

- (13) Placement on Town-owned or-controlled structures. The Town may negotiate agreements for placement of wireless telecommunications facilities on Town-owned or-controlled structures in the right-of-way. The agreement shall specify the compensation to the Town for use of the structures. The person or entity seeking the agreement shall reimburse the Town for all costs the Town incurs in connection with its review of and action upon the request for an agreement.
- (14) Severability. If any section, subsection, clause, phrase, or portion of this chapter is for any reason held to be illegal or otherwise invalid by any court or administrative agency of competent jurisdiction, such illegal or invalid portion shall be severable and shall not affect or impair any remaining portion of this chapter, which shall remain in full force and effect.

**§ 17.15 Mobile tower siting regulations.**  
**[Added 12-16-2003; amended 8-5-2017]**

**Commented [BH71]:** Relocated to 17.12 and content didn't change much

- (1) Purpose. The purpose of this section is to regulate by zoning permit 1) the siting and construction of any new mobile service support structure and facilities; 2) with regard to a Class 1 co-location, the substantial modification of an existing support structure and mobile service facilities; and 3) with regard to a Class 2 co-location, co-location on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.
- (2) Authority. The Town Board has the specific authority under §§ 62.23 and 66.0404, Wis. Stats., to adopt and enforce this section.
- (3) Definitions. All definitions contained in § 66.0404(1), Wis. Stats., as the same currently exist or as the same may be amended hereafter, are hereby incorporated by reference.
- (4) Siting and construction of any new mobile service support structure and facilities.
- (a) Application process.
1. A Town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Town obtainable with this permit.
  2. A written permit application must be completed by any applicant and submitted to the Town Planner. The application must contain the following information:
    - a. The name and business address of, and the contact individual for, the applicant.
    - b. The location of the proposed or affected support structure.
    - c. The location of the proposed mobile service facility.
    - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
    - e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

- f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- 3. A permit application will be provided by the Town upon request to any applicant.
- 4. If an applicant submits to the Town an application for a permit to engage in an activity described in this section, which contains all of the information required under this section, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant, in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- 5. Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree, in writing, to an extension of the ninety-day period:
  - a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
  - b. Make a final decision whether to approve or disapprove the application.
  - c. Notify the applicant, in writing, of its final decision.
  - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- 6. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicant's search ring and provide the sworn statement described under Subsection (4)(a)2.f.
- 7. If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
- 8. The fee for the permit is \$3,000.
- (5) Class 1 co-location.
  - (a) Application process.
    - 1. A Town zoning permit is required for a Class 1 co-location. A Class 1 co-location is a conditional use in the Town obtainable with this permit.
    - 2. A written permit application must be completed by any applicant and submitted to the Town Planner. The application must contain the following information:
      - a. The name and business address of, and the contact individual for, the applicant.
      - b. The location of the proposed or affected support structure.

- c. The location of the proposed mobile service facility.
  - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
  - e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- 3. A permit application will be provided by the Town upon request to any applicant.
  - 4. If an applicant submits to the Town an application for a permit to engage in an activity described in this section, which contains all of the information required under this section, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant, in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
  - 5. Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree, in writing, to an extension of the ninety-day period:
    - a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's Building Code and, subject to the limitations in this section, zoning ordinances.
    - b. Make a final decision whether to approve or disapprove the application.
    - c. Notify the applicant, in writing, of its final decision.
    - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  - 6. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicant's search ring and provide the sworn statement described under Subsection (5)(a)2.f.
  - 7. If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
  - 8. The fee for the permit is \$3,000.
- (6) Class 2 co-location.

(a) Application process.

1. A Town zoning permit is required for a Class 2 co-location. A Class 2 co-location is a conditional use in the Town obtainable with this permit.
2. A written permit application must be completed by any applicant and submitted to the Town Planner. The application must contain the following information:
  - a. The name and business address of, and the contact individual for, the applicant.
  - b. The location of the proposed or affected support structure.
  - c. The location of the proposed mobile service facility.
3. A permit application will be provided by the Town upon request to any applicant.
4. A Class 2 co-location is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
5. If an applicant submits to the Town an application for a permit to engage in an activity described in this section, which contains all of the information required under this section, the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant, in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
6. Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree, in writing, to an extension of the forty-five-day period:
  - a. Make a final decision whether to approve or disapprove the application.
  - b. Notify the applicant, in writing, of its final decision.
  - c. If the application is approved, issue the applicant the relevant permit.
  - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
7. The fee for the permit is \$500.
- (7) Penalty provisions. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this section shall, upon conviction, pay a forfeiture of not less than \$100 nor more than \$500, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this section. In addition, the Town board may seek injunctive relief from a court of record to enjoin further violations.
- (8) Severability. If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and, to this end, the provisions of this section are severable.