

TOWN OF GENESEE

ZONING CODE

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ARTICLE I: IN GENERAL

Section-1: Authority and Intent.

(A) This Code is adopted under the authority granted by Chapters 59, 60, 62, 87, 145, 236 and 281 of the Wisconsin State Statutes and amendments thereto. Except as otherwise provided in this Code, the current and future provisions of the State Statutes adopted herein are adopted and made a part of this Code by references as if fully set forth herein. A violation of any such provisions shall constitute a violation of this Code. Any further amendments, revisions, modifications, or additions of the current or future statutes incorporated herein are intended to be made part of this Code in order to secure unified statewide regulation.

(B) For the purpose of promoting health, safety, morals or the general welfare of the community, this Code is enacted to regulate the height, location and size of buildings; to classify and regulate the use of buildings and lands according to their specific characteristics; to regulate the density of population and the use of lot area; to regulate and determine the areas of open space surrounding buildings; to divide the Town into districts of such number, shape and area to carry out the regulations of this Code; to provide for the administration and enforcement of this Code; and to prescribe penalties for the violation of the provisions of this Code.

(C) In order to adopt this Code known as the Zoning Code of the Town of Genesee adopted March 23, 2015, and all amendments thereto, the Town Board of the Town of Genesee, Waukesha County, Wisconsin, does ordain their adoption and does ordain the following:

Section-2: Purpose.

The provisions of this Code shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Town. Among other purposes, such provisions are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to encourage the protection of groundwater resources; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to preserve burial sites, as defined in Wis Stat. s. 157.70(1)(b). The provisions within this Code have been made with reasonable consideration, among other things, of the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

Section-3: General information.

It is not intended by this Code to: repeal, abrogate, annul, impair or interfere with any existing easement, covenants or agreements between parties, or with any rules, regulations or permits previously adopted or issued pursuant to law; provided, however, that where this Code imposes a greater restriction upon the use of building or premises, or upon the height, location, or size of a building, or upon the open space requirements, the provisions of this Code shall govern.

Section-4: Definitions.

- (A) **General interpretation.** For the purpose of this Code and when not inconsistent with the context; words used in this Code, in the present tense include the future, in the singular number include the plural, and in the plural number include the singular and the term "shall" is always mandatory, not merely permissive.
- (B) **Specific words and phrases.** The following words, terms and phrases, when used in this Code shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Administrative Officer: Any officer such as a Clerk, Building Inspector, Engineer, Attorney, Planner, or Town Administrator, or his agent, who is appointed, elected or is officially designated by the Town, and does not include any Committee, Commission or Board or its individual members.

Adult book store: A commercial establishment that has a significant or substantial portion of its stock-in trade, or derives a significant or substantial portion of its revenues from books, magazines and other periodicals, videos, streaming videos, DVDs, tapes, and other similar items, which are distinguished or characterized by their emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment. This definition excludes films, motion pictures, video cassettes, streaming videos, DVDs, slides or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America.'

Adult cabaret: A commercial establishment, such as a nightclub, dance hall, bar, restaurant, or similar establishment, that regularly features (1) persons who appear semi-nude; (2) live performances that are characterized by the exposure of specific anatomical areas or by specified sexual activities; or (3) film, motion pictures, video cassettes, streaming videos, DVDs, slides or other photographic reproductions, which are characterized by the exhibition or display of specified sexual activities or specified anatomical

areas. This definition excludes films, motion pictures, video cassettes, slides, or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America

Adult entertainment: Any exhibition of any motion pictures, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated specified sexual activities or specified anatomical areas as defined in this section.

Adult family home: A place licensed by the state under s. 50.033(1m), Wis. Stats.

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

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

Adult-oriented establishments: Includes, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments or adult cabarets. The term "adult-oriented establishments" further includes any premises to which public patrons or members are invited or admitted and which are physically arranged to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

Agricultural or farm use: The use of the land by tilling the ground, and growing, raising, cultivating, fertilizing, producing, and harvesting field crops; by feeding, watering, grazing, breeding, managing, pasturing, or producing livestock, poultry, fur-bearing animals, or dairy animals; by the sale, barter or trade of products related to livestock, poultry, fur-bearing animals, or dairy animals; by any other horticultural, floricultural, or viticulture use; by animal or poultry husbandry; or by any combination thereof.

Agricultural sales and service: A place where equipment, products, byproducts, or materials primarily associated with agricultural operations are sold, processed, handled, repaired, or stored. Examples include agricultural implement sales, storage, or repair operations; feed and seed stores; agricultural chemical dealers and/or storage facilities; animal feed storage facilities; food processing facilities; and canning and other packaging facilities

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

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shall also generally define a dwelling unit (DU).

Apartment house: See **Dwelling**, multiple.

Applicant: Any person or entity applying for any permit, variance, special exception, conditional use, site plan, plan of operation, rezoning, license, or other application for governmental approval under this Code. An applicant shall be a landowner, specifically a person or entity holding fee title to the parcel as set forth below or such other person having an interest in the parcel where the landowner has authorized such application:

- (1) In the case of corporation, an officer or member of the corporation who has overall responsibility for the operation of the site for which the permit is sought
- (2) In the case of a limited liability company, a member or manager.
- (3) In the case of a partnership, a general partner
- (4) In the case of sole proprietorship, the proprietor.
- (5) For a unit of government, by an elected official or other duly authorized representative.
- (6) In the case of an individual, by the individual, the individual's attorney, or one allowed to act as power of attorney.

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

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

Base setback line: The ultimate street line as established by the building location provisions of this Code, and from which all required setbacks shall be computed.

Basement: That portion of a building that is partly or completely below the average level of the adjoining ground. If the basement is occupied for living purposes or has six (6) feet of exposure on at least one side, it is defined as a story per this Code.

Bed and breakfast facility: An owner-occupied residence often in a building with landmark or historical significant qualities where lodging for paying guests is offered and which offers breakfast to those guests as its only meal.

Beekeeping: The act of cultivation of bees as a commercial venture or hobby for the production of honey.

Boarding house: A building or premises where meals or meals and lodging are offered for compensation

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

Breezeway: An aboveground, roofed area for passage for the purpose of connecting two structures or buildings, as between a house and a garage, with either open or enclosed sides, with or without a foundation, and must be designed and constructed in keeping with the existing structures or buildings.

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

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

Building, height of: The vertical distance from the lowest exposed point to the highest point of any roof line.

Building inspector: A person who has been designated, or appointed by the Town Board, to fulfill the obligations of construction inspections within the Town of Genesee.

Building, principal: The main building on a lot, intended for primary use as permitted by the regulations of the district in which it is located. Any building intended to be used for human habitation shall constitute the principal building. Where the construction of the building constitutes one or more than one structure it shall be determined by the Building Inspector based upon the above-ground elements, if there is a separation between the above-ground elements so that they appear to be separate structures, the above ground elements shall be regulated as separate structures, and such separate structures may be restricted or prohibited as regulated herein. This shall be true even if the above ground elements are connected below ground, or by insubstantial means that do not dispel the above ground appearance of separate structures. Insubstantial means include, without limitation: unenclosed connections; connections that lack a roof or floor; connections that are not heated, ventilated or air conditioned in the manner of the main structure; connections that lack substantial structural elements that are present in the main structure; and connections that lack a foundation or footing.

Code: Means the Town of Genesee Zoning Code.

Community living arrangement: Any one of the following facilities (1) residential care centers for children and youth, as defined in s. 48.02 (15d), Wis. Stats., operated by a child welfare agency licensed under s. 48.60, Wis. Stats.; (2) group homes for children, as defined in s. 48.02 (7), Wis. Stats.; and (3) community-based residential facilities, as defined in s. 50.01 (l g), Wis. Stats. The term does not include adult family homes, as defined in s. 50.01, Wis. Stats., day care centers, nursing homes, general hospitals, special hospitals, prisons, and/or jails

Composting facility: A place where vegetation (including food wastes) may be collected and composted. The term includes the storage and manipulation of materials prior to, during, and following composting.

Condominium: Property subject to a condominium declaration established under Chapter 703 of the Wisconsin Statutes as amended and renumbered from time to time.

Contractors yard: An exterior premises on which construction and maintenance materials (i.e., salt, sand, cement, stone, etc.), bulk materials (i.e., sand, gravels, stone, timbers, wood chips, etc.), or construction or maintenance equipment (i.e., bulldozers, front-end loaders, backhoes, trucks, trailers, etc.) are stored to be utilized for off-site construction and/or maintenance purposes. Where landscape materials are stored or sold for retail or wholesale markets, and not as an accessory to an otherwise permitted use by right, such use shall not be considered a contractors yard.

Dance hall: A facility including any room, place or space in which a public dance, public ball with live or amplified music (not including a jukebox) and live entertainment including shows, disc jockeys, comedy or dramatic acts, is conducted excluding any public or parochial school or church hall when used for public dances sponsored by the school or church authority or of a parent-teachers association.

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

District: A section of the Town for which the regulations governing the height, area and the use of building and premises are the same.

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

Dwelling, multiple: A building or portion thereof designed for and occupied by more than one family, including duplexes, row houses, condominiums, apartment houses and apartment hotels.

Dwelling, Single-family: A detached or semi-detached building designed for and occupied exclusively by one (1) family.

Dwelling, two-family: A detached or semi-detached building designed for and occupied exclusively by two families.

Emergency shelter: A place where primarily indigent, needy, homeless, or transient individuals are temporary housed and provided with ancillary services

Entrance gate or entrance monument: A structure, usually built with a decorative feature or landscape feature located at the entrance to a property such as walls which are often constructed in conjunction with lights, fencing, gates, pillars with lights, property identification signage, or raised planting boxes.

Environmental corridors (primary and secondary and isolated natural resources areas): Environmental Corridors: Environmental corridors (Primary, Secondary, and Isolated Natural Resource Areas) are concentrations of key significant natural resource elements including surface water such as lakes, streams, and rivers and their associated undeveloped floodlands and shorelands; woodlands, wetlands, and wildlife habitat; prairie remnants; areas of groundwater discharge and recharge; unfarmed wet, poorly drained and organic soils, rugged terrain and high relief topography; and significant geological formations and physiographic features. In general, Primary Environmental Corridors are concentrations of significant natural resources at least 400 acres in area, at least two miles in length, and at least 200 feet in width. Secondary Environmental Corridors are concentrations of significant natural resources at least 100 acres in area and at least one mile in length (possibly smaller and shorter if considered a primary link). Isolated Natural Resource Areas are concentrations of significant natural resources at least five acres in area and at least 200 feet in width. Generalized environmental corridor boundaries are mapped by the Southeastern Wisconsin Regional Planning Commission, typically at five-year intervals, and precise boundaries are field delineated by or reviewed and approved by the Southeastern Wisconsin Regional Planning Commission Staff. A description of the processes for further defining and delineating Primary and Secondary Environmental Corridors and Isolated Natural Resource Areas is set forth in the Southeastern Wisconsin Regional Planning Commission's Technical Record, Volume 4, No. 2 and is incorporated herein by reference.

Environmental significant areas: Are lands which are zoned as C-1 Conservancy District, A-E Exclusive Agricultural Conservancy District, or E-C Environmental Corridor District or designated as primary environmental corridor, secondary environmental corridor or isolated natural areas in the Town of Genesee Comprehensive Land Use Plan – 2035 or SEWRPC Environmental Corridor Inventory.

Family: One or more persons who live together in one dwelling unit (DU) as a single housekeeping entity.

Farm or Agricultural Operation: One or more parcels of land owned and managed by a single entity and zoned for agricultural or farm use upon which natural fibers, animals, or food for human or animal consumption is produced.

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

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

Farm, pig: A of land devoted principally to the raising and feeding of pigs and hogs.

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

Feed lot: A lot or facility used or proposed to be used for the confined feeding and/or holding of animals where the number and kind of animals exceed 75 units per acre of confined area. One animal unit shall be equivalent to 1,000 pounds of live animal weight, and the acreage used to compute the density shall include all fenced areas, pens, yards or similar uncovered structures and all covered enclosures where the

animals are enclosed for 30 or more continuous 24-hour days per year. Dairy farm operations utilizing seasonal winter confinement of livestock are excluded from this definition unless the Town Board determines that the operations of a particular dairy farm meet the provisions of this section and the intent of this Code will be furthered by regulation of such operations under this definition. The intent of this definition is to clearly distinguish the feed lot type of farming situation which concentrates large numbers of livestock on small acreage from the more general type of farm operation in which cultivation and livestock grazing or feeding is conducted on a smaller scale. It is not the intent of this definition to prohibit these kinds of operations, but to recognize the potential as a pollution source and to effectively control it.

Finding: A written conclusion or determination that is made in connection with reaching a decision.

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

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

Floor area: The sum of the horizontal areas of each floor of an enclosed building as measured to the outside edges of the outside walls. This definition does not include basements or exterior balconies and as further described in this Code.

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

Foster and treatment home: A place licensed by the state for the care of foster children and which is operated by a corporation, child welfare agency, church, or other such entity.

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

Funeral home: 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. The term includes mortuaries.

Fur-bearing animals: Animals which are specifically raised for their pelts, including, but not limited to badger, beaver, bobcat, coyote, fisher, fox, lynx, marten, mink, muskrat, opossum, otter, raccoon, skunk, weasel and wolf.

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

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

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

Grade, established: The elevation of the finished street at the centerline or curb as fixed by a licensed engineer or by such authority as shall be designated by law to determine such an elevation.

Greenhouse: An enclosed building or structure constructed mainly of glass, glasslike or translucent material, cloth or lath, and a support frame and which is devoted to the protection or cultivation of flowers, vegetables, or other tender plants.

Green space: A natural or man-made land area not occupied by any structure or impervious surface.

Group day care center: A place licensed as a day care by the state where care is provided for 9 or more children. This use may include outdoor play areas, playhouses, and related recreational equipment, such as swings, slides, basketball hoops, and jungle gyms.

Guesthouse: A structure used principally for occasional occupancy by guests of the owners, and shall not be leased or rented for human occupancy.

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

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

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

Horticulture: The culture of growing and cultivating fruits, flowers and related plant material.

Hot tub: An outdoor warm water reservoir usually with hydro massage jets. A hot tub may be built in or portable. The term includes spa.

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

Housekeeping entity: A housing or lodging unit where all of the amenities of bathing and sanitary facilities, eating, cooking, living, sleeping and storage are provided the person or body of persons occupying and living together as a single entity within the unit. A single-family residence or dwelling unit in a multiple family structure is deemed to be a single housekeeping entity.

Human habitation: Utilization of a building or structure for overnight living or longer periods of time, and including the aggregate of normal occupancy activities such as lounging, cooking, eating, sleeping, bathing, sanitation, etc.

Hunting preserve: A place where the public or those with a membership can, for a fee or other consideration, hunt game animals not confined within a fenced enclosure. This use may include one or more buildings and other structures directly related to operation of this use, such as an office, structures and enclosures for rearing game animals for hunting purposes, and buildings for housing maintenance equipment, supplies, and related materials.

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

Inhabit: Means to be present in or occupy any building or structure which is designed or intended to be occupied, used, for human habitation.

Impervious surface: Land area and surfaces where precipitation is unable to infiltrate into the soil. Such surfaces include, but are not limited to roadways and pathways that are paved with concrete or asphalt, roofs, patios, and similar surfaces.

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

Junk: Junk means garbage, waste, refuse, trash, any motor vehicle upon which no current license plate is displayed, any inoperable or abandoned motor vehicle, any used tire or used motor vehicle part, and any scrap material such as metal, lumber, furniture, paper, cans or bottles. Any trailer which is required to be licensed by the State of Wisconsin, but which is unlicensed or any trailer which is abandoned or inoperable is considered junk under this Code.

Kennel, commercial: An establishment, structure or premises where dogs or other household pets are raised, sold, bred or boarded for any length of time for commercial purposes or exceeds five (5) dogs. The raising and selling of three or more litters of animals per year shall constitute a commercial kennel. This definition includes businesses termed “doggy day care” and dog rescue operations or any similar operations. The training or grooming of dogs without other related kennel activities, as listed above, is not considered a commercial kennel, but those activities are considered commercial type uses which are otherwise regulated in this Code.

Kennel, hobby: A non-commercial establishment, structure, premises, or pursuit accessory to the principal use of the property where three (3) or more household pets of six (6) or more months of age are permitted by right are kept for such private purposes as pets, field trials, shows or hobby. The raising of not more than two litters of dogs per year on a premise and the sale or disposal of said dogs, within six months of their birth shall not be considered a hobby kennel. More than five (5) dogs on a single property shall constitute a Commercial Kennel.

Land-altering activity: Any man-made change of the land surface, including removing vegetative cover which changes the land surface, cutting of trees which changes the land surface, excavating, soil removal, filling, grading, dredging and channel improvements in excess of those limits set forth in this Code, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens and harvesting of trees, and tree nurseries.

Landscaping, lawn and garden business: Means any property on which or from which landscaping equipment (other than one riding mower and/or one push lawnmower) consisting of trucks, trailers, materials and equipment to be stored and maintained on the site for the purpose of taking to the clients’ properties to perform landscaping construction and landscaping maintenance services, such as lawn installation, plant installation, hardscaping, water feature installation, landscape lighting installation, snow plowing and removal and other traditional landscape construction services, the growing of trees, shrubs, bulbs, annuals, perennials and other plants imported to the site which are to be installed by the business on the clients’ properties, storage of bark, mulch, grass seed, cover straw, lawn fertilizer, boulders, modular block, pond and waterfall kits, landscape lighting, natural stone and brick, and other items to be imported to the site and then installed on the clients’ properties; wholesale or retail nursery sales of trees, shrubs, bulbs, annuals, perennials and other plant material grown and/or imported and sold to wholesale customers, (i.e., other landscapers) or of hardwood, bulk bark, mulch, grass seed, cover straw, lawn fertilizer, boulders, modular block, pond and waterfall kits, and landscaping natural materials, shall be imported and sold to wholesale customers

Lighting, high intensity: Lighting that is greater than 0.5 foot candles, measured at a property line.

Lighting, low intensity: Lighting that is 0.5 foot candles or less, measured at a property line.

Living area: The occupied or usable floor area in a building designed and built with necessary ceiling,

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flooring, and electrical, heating and plumbing facilities to accommodate human habitation.

Lodging house: A building where lodging only is provided for compensation and having not more than five sleeping rooms for this purpose.

Lot: A parcel of contiguous land with described boundaries and abutting or having access via an approved easement to a public street or other approved way and exclusive of any land lying in any public right-of-way, mill tax roads, or below the ordinary highwater mark of navigable waters. Where public rights-of-way divide a single described parcel into two or more parts, such severed portions shall be considered separate individual Lots if such separate parcels individually meet the use regulations, building location and area regulations of the zoning district in which they are located. Where such separate parcels do not meet those requirements and have been described as a single parcel of record, together such severed portions shall be considered to be a single lot for regulatory purposes, under the provisions of this Ordinance, and such severed areas shall not be sold separately.

Lot area: The area of a lot as defined herein bounded by lot lines exclusive of land provided for public rights-of-way, mill tax roads, and lands below the ordinary high water mark any navigable waters.

Lot depth: The mean horizontal distance measured between the street line and the opposing rear line(s) of the lot.

Lot, legal nonconforming: A lot that at the time it was legally created, conformed to then existing rules and regulations, but is now inconsistent with the dimensional requirements set forth in this Code.

Lot lines: The lines bounding a lot.

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

Lot of record: A platted lot or lot described in a Certified Survey Map, which has been approved by the Town and has been recorded in the office of the Waukesha County Register of Deeds, or a metes and bounds description of a lot which has been recorded in the Waukesha County Register of Deeds Office prior to the adoption of the original Waukesha County Zoning Code on February 26, 1959.

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

Lowest floor or level: The lowest floor or level of the enclosed area in a building, including a basement

Master grading plan: A detailed plan that depicts the existing and proposed elevations or topography of a subdivision or other unified development site. A Master Grading Plan contains components that depict site drainage patterns, erosion control measures, road and lot elevations, and other data deemed appropriate by the Waukesha County Department of Parks and Land Use or Town Engineer.

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

Mobile home park: Any plot or plots of ground upon which two (2) or more mobile home units occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations. Wisconsin Statutes, Section 66.0435 and amendments thereto.

Modular home: A principal structure which is partially pre-assembled at a manufacturing plant and placed together or erected on a lot or parcel as a dwelling unit or units (also called a "pre-fabricated" or "pre-cut" homes or "double-wide" units) meeting the requirements of all applicable state and local building codes.

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

Motor vehicle: Motor vehicle means any automobile, truck, tractor, bus, vehicle or other conveyance that is self-propelled by an internal combustion engine or motor, and for the purposes of this Zoning Code shall include but not be limited to boats, recreational vehicles, all-terrain vehicles, motorized farm equipment and mobile machinery, motorcycles and snow mobiles.

Nursery: Any parcel of land used to cultivate, grow, raise, and harvest trees, bushes, shrubs, vines, ornamental plants, flowers, and other plants in the outdoors or in greenhouses and for sale to retail or wholesale outlets or garden centers.

Nursery, retail: The sale of trees, bushes, shrubs, vines, ornamental plants, flowers, and other plants on the premises where they are grown, or the place of business where the nursery stock is received after being transported from an off-site location.

Nursery, wholesale: The cultivation of trees, bushes, shrubs, vines, ornamental plants, flowers, and other plants on a property and where the nursery stock is transported to market and is not offered for sale on site.

Nursing home: A place where 5 or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their mental or physical condition, require 24-hour nursing services, including limited nursing care, intermediate level nursing care, and skilled nursing services. The term does not include (1) a convent or facility owned or operated exclusively by and for members of a religious order that provides reception and care or treatment of an individual; (2) a hospice as defined in state law; or (3) a residential care complex

Occupy: Means to commence use of any building or structure which is designed or intended to be occupied, used, or inhabited.

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

Offsite parking lot: A place where motor vehicles associated with an offsite use may be parked for a short duration. It may be available to the public or reserved to accommodate parking for a specific purpose or special event.

Open space: Land area used for recreation, agriculture, and resource protection, amenities for recreational purposes or buffers.

Open space, common: Lands which are open space and owned in common by individuals within a development or land trusts or other private conservation organizations, if access is available to the public, and as may be agreed to in the approval of the development by the Town Plan Commission or Town Board.

Open space, public: Lands which are open space, dedicated and owned by a public entity, such as a Town, city, village or other public entity, and used for any public purpose other than streets or highways.

Code: Means the Town of Genesee Zoning Code.

Outdoor/Indoor recreational facilities: Land and structures, along with accessory equipment, designed and utilized for leisure time activities of a predominantly “outdoor or indoor” nature and of having a more specific purpose such as tennis courts, swimming pools, basketball or racquetball courts, ice arenas, facilities used for sports orientated and/or cultural events, etc., other than passive park-like open areas, and further classified as follows:

- (1) **Public:** Facilities owned and operated by a governmental agency for limited or general public use.
- (2) **Private commercial:** Facilities owned and operated by an individual, group or corporation for profit as a business whether or not open to the general public use.
- (3) **Private non-commercial group:** Facilities owned and operated by a group for the exclusive use of the members of such group and their guests and not for profit as a business.

Outdoor shooting range: An outdoor area where patrons shoot guns, such as pistols, rifles, and shotguns, and bow and arrows for target practice. The term includes archery ranges, trap and skeet clubs, target ranges, and the like

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

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considered part of the overhang.

Parking space: An area permanently reserved and maintained for the parking of one motor vehicle which meets the dimensional standards of this chapter

Patio: A structure characterized by a flat, open, horizontal surface or platform which is semi- pervious or impervious and usually constructed of materials including, but not limited to concrete, brick, flagstone, crushed stone, compacted stone, gravel, wood, or other natural or man-made materials. A patio is located on the surface of the ground or at the average grade of the ground surface. This definition includes sport courts such as tennis courts, basketball courts, and similar structures on non-commercial properties that are not associated with normal driveway construction.

Person: Means an individual, association, partnership, limited liability company, or corporation.

Personal storage facility: A place, building or portion thereof, or a group of buildings where storage units are offered to the general public for rent, lease, sale, or other arrangement for the storage of personal property and the units are not for commercial storage purposes. The term includes a tract of land used to store vehicles and/or watercraft such as, for example, a car, truck, recreational vehicle, boat, or other conveyance that is self-propelled by an internal combustion engine.

Plan of operation: Plan of Operation is a statement of operation, prepared and signed by the owner and tenant or operator of the business or use and approved by the Plan Commission that includes a detailed description of the request, number of employees, hours of operation, and types of uses, products or services offered and any special events which are to be conducted on the property.

Planned unit development (PUD): A development strategy, process or procedure whereby a relatively large parcel of land is developed for a specific use in such a way as to provide specific benefits to the community as well as to the developer and future citizens who will reside within the development, and when the normal application of standards and requirements are waived or made more flexible, and which shall contain substantial amounts of common open space for aesthetic, natural preservation or recreational purposes.

Planned unit development mixed: A Planned Unit Development which is a mixture of retail, service uses, industrial or residential uses. Buildings associated with open space and recreational uses, either public or private, shall be considered part of the open space use.

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

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

Pool, kiddie/wading: means an above ground water pool that is designed to be no deeper than twenty-four (24) inches at its deepest point, that does not exceed that maximum depth at any time, that is temporarily located on a lot, without electricity, filter, or heater,

Pool, relaxation/floating: means a structure above or below ground level, or combination thereof, designed to hold water that is more than twenty-four inches and no more than 30 inches deep at its deepest point, which does not exceed that maximum depth at any time, to be used for recreation or relaxation purposes, such as a hot tub.

Pool, swimming: means a structure above or below ground level, or combination thereof, designed to hold water more than 30 inches deep at its deepest point, to be used for recreation or relaxation purposes. Also included in this definition is any water pool structure that is not a relaxation/floating pool or kiddie/wading pool as defined herein.

Porch/Stoop: A functional element of the ingress/egress of a principal structure allowing for easy and convenient passage between the exterior and interior of said structure. For the purposes of regulation in this Code, a stoop is considered to be twenty (20) feet or less whereas a porch exceeds twenty (20) square feet in area.

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

Portable on-demand storage structures (PODS and SAM): Means any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements

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

Poultry: Poultry means domesticated birds kept for eggs or meat or as pets.

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

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

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

Public notice: The means that a governmental body uses, or is required to use, in accordance with applicable law to formally notify people and other interested entities of a pending governmental hearing or proposed action

Quarrying: The removal of rock, slate, gravel, sand, topsoil, or other natural material from the earth by excavating, stripping, leveling, or any other such process, including the mining of non-metallic minerals for commercial purposes and personal gain.

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

Recreational vehicle: A vehicle including, but not limited to, a recreational vehicle (RV), motor home, camper vehicle, truck camper, all-terrain vehicle (ATV), or snowmobile which is commonly used for recreational entertainment, travel and touring. Vehicles included in this category include, for example, travel trailers, tent trailers and camping trailers, all of which must be towed by another vehicle, as well truck campers, motor homes and camper vehicles, all of which have a motor within the body of the vehicle and are self-propelled.

Recycling center: A place where recoverable materials, which have been previously removed from the waste stream, may be stored prior to shipment to others who use those materials to manufacture new products. Typical recoverable materials include glass, paper, metal, wood, rubber, asphalt/concrete, and plastic.

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

Regulated household pets: All dogs, cats and birds are regulated household pets.

Remodeling: Any structural alteration(s), addition(s), modification(s), or lateral enlargement(s) of any such existing structure(s), principal or accessory. The term "remodeling" shall also refer to the conversion

of living spaces of other floor areas into space for living purposes; such as converting a part of the living into a bedroom or bathroom regardless of whether such change(s) require structural alteration(s) to the basic structures. Ordinary maintenance repairs, including painting, decorating, paneling, replacement of doors, shingles, siding, windows, and other nonstructural components shall not be considered remodeling.

Resort: A place with lodging facilities and on-site amenities primarily intended for the use of overnight guests. Guest rooms may be located in one or more buildings and may include kitchen facilities. In addition to lodging facilities and recreational amenities, such as golf, horseback riding, or lake/beach access, a resort may also include a lodge or other gathering place for guests, dining facilities, administrative facilities, and maintenance and storage facilities.

Restaurant: Any building, room or place where meals are prepared or served or sold to transients or the general public, and all places used in connection with it and includes any public or private school lunchroom for which food service is provided by contract. "Meals" does not include soft drinks, ice cream, milk, milk drinks, ices and confections. "Restaurant" does not include:

- (A) Taverns that serve free lunches, consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish, or bread and butter.
- (B) Churches, religious, fraternal, youths or patriotic organizations, service clubs and civic organizations which occasionally prepare, serve or sell meals to transients or the general public.
- (C) Any public or private school lunchroom for which food service is directly provided by the school or a private individual selling foods from a movable or temporary stand.
- (D) Any bed and breakfast establishment that serves breakfasts only to its lodgers.
- (E) The serving of food or beverage through a licensed vending machine.
- (F) Any college campus, as defined in s. 36.05(6m) Wis. Stats., institution as defined in s. 36.51 (1)(b), Wis. Stats., or technical college that serves meals only to the students enrolled in the college campus, institution or school or to authorized elderly persons under 36.51 or 38.36, Wis. Stats.
- (G) A concession stand at a locally sponsored sporting event, such as a little league game.
- (H) A potluck event.

Retaining wall: A structure more than 36 inches in height as measured from finished grade or a combination or series of multiple structures more than 36 inches in height from finished grade, constructed of man-made or natural materials for the main purpose of retaining land or stone and resisting the lateral pressure of the land or stone. For the purposes of this Code, outcroppings are also considered retaining walls if they meet the retaining wall definition

Retirement home: A place where individuals, generally of retirement age or older, may occupy independent dwelling units. The units may be rented or owned as in a condominium. This use may include limited on-site commercial and medical facilities for the exclusive use of residents.

Right-of-way: A strip of land dedicated or acquired for public or private use.

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

Road, Local: A public road that is not a county, state, or federal Highway.

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

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

Salvage yard: A place where salvage materials, such as scrap metal, rubber tires, junk vehicles, and used timber and lumber, or similar materials, that may be bought, sold, exchanged, stored, baled, packed, disassembled, or handled. (Note: In contrast see recycling center.)

Sand or gravel pits. See **Quarrying.**

Seasonal product sales: An outdoor area where merchandise typically associated with a seasonal 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. The term does not include fireworks sales for the Fourth of July.

Selective vegetative cutting or removal: The process of selectively cutting or removing vegetation which would include a determination by a forester or naturalist of which plants, including woody vegetation and trees, middle layer species and ground layer vegetation is to be removed or cut based upon the species type, quality, indigenous character (alien, invasive or native) or otherwise of poor quality (dead, diseased, dying).

Self-service storage facility and mini warehouses: A building or a portion thereof, or a group of buildings, divided into separate, self-contained, self-service storage units that are rented or leased by the owner and used to meet the storage needs of a household or for the storage of personal property of the general public. The units are not for commercial storage purposes.

Setback: The horizontal distance between the "base setback line" and the nearest roofed or enclosed portion of a building, excluding the 24-inch roof overhang defined herein.

Setback, Wetland: The horizontal distance between the closest point of a structure or Building and the wetland boundary, excluding a roof Overhang measuring twenty-four inches (24") or less.

Service oriented business: A business operated by a single person or family where personal services are performed or assistance is given, as opposed to products, and involves predominantly professional operations as outlined in this Code regarding a limited family business.

Screening: A feature such as a wall, fence, hedge, berm, or similar feature used to shield or obscure elements of a development from adjacent sites

Sign: means any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to goods, products, services, promotions, events, occasions, facilities, persons, property interest, or business either on the lot or on any other premises. All signs shall comply with the Town of Genesee Sign Ordinance.

Sign area: That part of a total sign structure which encompasses the sign message exclusive of a structure upon which the sign area is affixed or which supports the sign area. However, for the purpose of computing square footage of a sign area, any exposed structure which supports a sign may not comprise more than one-third of the visible or exposed surface of one side of a total sign structure.

Signable area: The area of the façade of the building facing or abutting upon a street right of way up to the ceiling line of the top floor which is free of windows and doors or major architectural detail on which signs may be displayed.

Sign structure, total: The sign area, plus any exposed area or members of the supporting structure on or to which the sign, or sign message, is affixed. Decorative, landscaped earthen berms or structures which are composed principally of exposed earth and/or landscape (plant) materials is not included as part of the total sign structure.

Site plan and/or plat of survey: A map of the property (in standard engineering or mapping scale which provides a clear representation of the property to a scale not to exceed two hundred (200) feet to one (1) inch), in quadruplicate, showing the location and dimensions of all existing and proposed buildings and structures and other attributes on the site, the location, number and arrangement of parking spaces or loading areas, lighting fixtures, easements, dumpsters, signs, landscaping and screening, and any other factors affecting the development of the site. The site plan shall also indicate all areas which are to be used as special event parking on the parcel.

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

Solid waste landfill: A place where solid waste from municipal and/or industrial sources may be

permanently buried consistent with environmental protection standards. Typically, the solid waste is spread in layers, compacted, and covered with a fresh layer of earth materials each day. The term does not include land application units, surface impoundments injection wells, or waste piles.

Solid waste transfer station: A place where solid waste may be temporary stored prior to transport to a processing plant or to final disposal.

Special event: An event of limited duration approved by the Plan Commission, which is open to the public and is not otherwise, permitted in the district. Examples include auctions, art fairs, festivals, and fundraisers.

Special event parking: place where parking for motor vehicles is allowed when specifically related to a special event of regional significance as designated by the Town Plan Commission.

Special exception: means a request for a minor adjustment to the requirements of the Zoning Ordinance only where specifically authorized by this Ordinance, owing to special conditions of the property. The special exception must be necessary and desirable and must not adversely affect adjacent property owners. A special exception differs from a variance in that a special exception does not necessarily require the demonstration of an unnecessary hardship or practical difficulty. In the granting of a special exception, the approving body must still consider whether the proposed special exception would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects and may impose such restrictions or conditions they deem necessary for the protection of adjacent properties and the public interest and welfare.

Specified anatomical areas means:

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

Specified sexual activities: Simulated or actual:

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

Stables:

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

Story: that portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and the ceiling or roof,

next above it, including basements that are exposed at least six (6) feet on at least one side.

Street. See Road.

- (1) **Street, arterial:** Arterial Street means a road providing for efficient, safe and direct connection to or separation of developed areas for circulation to destinations outside the developed area and deemed as such on the "Established Street and Highway Width Map for Waukesha County" or other official map adopted by the Town.
- (2) **Street, collector:** Collector Street means a road providing for circulation to serve local traffic moving between minor streets and arterial streets as designated on the "Established Street and Highway Width Map for Waukesha County" or other official map adopted by the Town.
- (3) **Street, minor:** Minor Street means any other road not deemed as a collector or arterial street on the "Established Street and Highway Width Map for Waukesha County" or other official map adopted by the Town.

Street frontage: means a street contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property.

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

Structural alteration: Any change(s) in the supporting members of a building or any substantial change(s) in the roof structure or in the exterior walls.

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

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

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 meet would accept in support of a conclusion.

Sustained yield forestry: The management of forested lands, including planting, thinning, and harvesting to provide annual or periodic crops of forest products.

Tavern: A place where alcoholic beverages are offered for retail sale for on-site consumption pursuant to a license or permit issued under the Wisconsin Statutes and where food consumption, if any, is clearly secondary and subordinate to the sale of alcoholic beverages. The term includes bars, drinking establishments, microbreweries, and lounges

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

Town: The Town of Genesee, County of Waukesha, State of Wisconsin.

Town Attorney: A person who has been designated or appointed by the Town Board to handle legal obligations or matters of the Town of Genesee.

Town Board: Means the Town of Genesee board of supervisors under the jurisdiction of this Code

Town Board of Appeals: An officially constituted body established pursuant to Section 62.23(7)(e) of the Wisconsin Statutes whose principal duties are to hear appeals and, where appropriate, grant variances from the literal requirements of this Code.

Town Clerk: Means the Town of Genesee Clerk who is appointed or otherwise designated by the Town Board.

Town Engineer: A person or engineering firm who has been designated or appointed by the Town Board to handle engineering matters for the Town of Genesee.

Town Park Board: A body established pursuant to Wis. Stats. § 60.66 or any other agency created by the Town Board and authorized by statute to plan land use.

Town Plan Commission: Means the Town of Genesee Town Plan Commission established under village powers pursuant to Wis. Stats. § 62.23.

Town Planner: A person or planning firm who has been designated or appointed by the Town Board to handle planning matters for the Town of Genesee.

Trailer park and mobile home park: A site containing spaces with required improvements and utilities that are leased for the long-term placement of manufactured houses. The site may include services and facilities for the residents.

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

Tower: A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, and monopole towers. The term includes personal communication service towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

Traffic artery. See **Highway.**

Truck terminal: A place where goods carried by motor transport are received and temporarily stored until transferred to another truck for delivery.

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

Use, legal nonconforming: Means the use of a building or land lawfully carried on at the time of the passage of the Code from which this Section is derived or amendments thereto, but which does not conform to the use regulations of this Code.

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

Utility cabinets: Means pedestals, loaders, junction boxes, cross connect boxes and any similar facilities which relate to the provisions of telephone, electric, natural gas, cable television, cable Internet, or similar public services, and which are owned by the providers of such services.

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

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

Variance: An authorization granted by the Town Board of Appeals pursuant to State Law and the terms of

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this Code to depart from the literal requirements of this Code.

Vision setback: means an unoccupied triangular space at the street corner of a corner lot, as established by this Code.

Vision triangle: The unoccupied triangular space at the street corner of a corner lot which is created by a line joining points on the lot lines located a minimum 15 feet from the intersection of said lot lines. Corner lots located on arterial streets shall be increased to 30 feet.

Warehouse: A building where goods, merchandise, and other materials are temporarily stored for eventual shipment. The term includes moving and storage facilities. The term does not include bulk fuel storage.

Wetlands: Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

Yard sale: A temporary event where used household items are offered for sale.

Zoning district, overlay: A type of zoning district that is superimposed over one or base zoning districts, or portions thereof and thereby imposes additional requirements, modifies existing requirements of the underlying base zoning district, or both.

Section-5: Compliance.

Except as may be otherwise specifically provided, the use, size, height and location of structures or buildings now existing or hereafter erected, converted, enlarged, or structurally altered, and the use of land, shall be in compliance with the applicable provisions of this Code and all other applicable Town Codes and Ordinances. All prior zoning/use approvals issued by Waukesha County Department of Parks and Land Use authorized under the Waukesha County Zoning Code prior to the enactment of this Code shall remain applicable unless modified, changed, amended, or deleted by the Town of Genesee Board, Town of Genesee Plan Commission or where applicable, the Town Planner. If all of or a portion of a property lies within 1,000 feet of the ordinary high water mark of a lake, pond or flowage; or 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater, then the Waukesha County Shoreland Ordinance applies.

Section-6: Building and zoning permit.

- (A) **Required.** No building or structure shall be erected, structurally altered, or relocated until a building and zoning permit has been issued by the building inspector, certifying that such building, as proposed, would be in compliance with the provisions of this Code and with the applicable building codes, regarding buildings and building regulations.
- (B) **Application.** An application for a building and zoning permit shall be made to the building

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inspector. Such application shall be in accordance with the building/zoning code.

- (C) **Issuance.** Building and zoning permits shall be issued by the building inspector and Zoning Administrator, respectfully and conform to the provision of this Code and the applicable building code.

Section-7: Use permit.

- (A) **Required.** No vacant land shall be occupied or used except for agricultural purposes, and no building shall be hereafter erected, structurally altered, relocated, used, or occupied until a use permit has been issued certifying that any such building, use, or occupancy complies with the provisions of this Code and applicable Town Ordinances. This permit shall be obtained before any change is made in the type of use or before any nonconforming use is resumed, changed, extended or granted conditional use status pursuant to this Code and all other applicable Town Ordinances.
- (B) **Application.** All permits shall be applied for from the zoning administrator. Application for a use permit shall be made to the Town Planner, prior to or at the same time as the application for a building and zoning permit. All necessary (building and/or zoning) permits shall be prepared in quadruplicate, signed by the applicant and shall include for the purpose of proper enforcement of this Code the following data:
- (1) A statement by the applicant as to the intended use of the premises and of any existing or proposed buildings thereon.
 - (2) An accurate map of the property drawn to a reasonable scale and properly dimensioned showing:
 - (a) The boundaries of the property involved.
 - (b) The location of the centerline of any abutting streets.
 - (c) The location on the lot of any existing structures or buildings, proposed additions or new structures or buildings, including the measured distances between such structures or buildings, lot lines and street lines measured to the nearest portion of such structure or building.
 - (d) The proposed floor elevation of any proposed buildings in relation to the existing and/or established grade of any abutting streets.
 - (e) The high water line of any stream or lake, conservancy or wetland and/or floodplain which the property abuts.
 - (f) The proposed locations of the septic systems, including tank, drain field, and/or mound, and private wells or the location(s) of any soil borings on the property and within fifty (50) feet of the property lines.
 - (3) Where the use involves human occupancy, a plan of the proposed sewage disposal system approved by Waukesha County through issuance of a county sanitary disposal

permit when a private system is proposed.

- (4) Fees shall be fully paid by the applicant at the time of filing of each application for a permit in accordance with the fee schedule established by the Town Board from time-to-time, and such payment shall be made to the Town of Genesee. Waukesha County shall be exempt from fees for Waukesha County projects.
 - (5) Accommodations for persons with disabilities: The Zoning Administrator may issue a permit to modify the standards of this Ordinance in order to provide reasonable accommodations as required by provisions of federal and state law. Such modification shall be the minimum necessary to be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer used by the disabled person(s). A person applying for a permit for construction under the section shall establish the nature and extent of the disability and that the modification requested is the minimum necessary to provide reasonable use of the facility. The reasonable accommodations shall be evidenced by an instrument that is reviewed and approved by the Zoning Administrator and recorded in the Office of the Register of Deeds.
- (C) **Issuance.** Building and zoning permits shall be issued by the Building Inspector and Zoning Administrator after adequate investigation as to compliance. Use permits shall be issued by the Town Planner after adequate compliance with all applicable conditions of approval.
 - (D) **Building and zoning permit.** Provided the application is in order, the applicable application fee has been paid, and any building, occupancy, or use as proposed would be in compliance with the provisions of this Code and all other applicable Town Ordinances, a certification that such permit has been issued shall be displayed/posted in a prominent place on the premises during the period of any construction involved in readying the land or buildings for occupancy.
 - (E) **Use permit.** Within ten days after the notification of the completion of the erection, alteration, or relocation of a building, or of intent to commence a use, the Zoning Administrator or his deputy shall make an inspection of the premises and any buildings thereon, and if such building, use, or occupancy comply with the requirements of this Code and the Town building code, regarding buildings and building regulations, a use permit shall be issued.
 - (F) **Expiration.** If, within six months of the date of issuance of a building and zoning permit, the proposed construction has not commenced, or if within 24 months an occupancy permit has not been issued, such building and zoning permit shall expire, except that, upon showing of valid cause, the Town Board may grant one (1) extension of such zoning permit for a period not to exceed six months. In the Town's Board's review of the property, it must determine by majority vote that the incomplete construction does not adversely impact the health, safety prosperity and general welfare of the Town and the neighborhood. If the permit is extended the Town Board may impose and enforce conditions of approval of the zoning/building permit including but not

limited to, (1) the removal of all construction materials and debris stored outdoors; (2) the removal of all dumpsters; (3) the installation of all enclosure systems (i.e., entry doors, windows, garage doors); and (4) the installation of construction materials related to all exterior surfaces. In addition, a Letter of Credit or some other form of financial assurance in an amount and form acceptable to the Town Board is required by the Town in an amount sufficient for the Town to have the construction completed per the conditions of approval for the zoning and building permit and the property owner shall grant the Town an easement in a form acceptable to the Town Attorney to permit the Town to complete such construction. The second and any subsequent permits shall not be eligible for any extensions. Subsequent permits are subject to all fees in effect at the time of permit issuance and are subject to the Code in effect at the time of such subsequent permit issuance.

(G) **Zoning and Occupancy and Use Permits – Site Plans and Plans of Operation:**

Certain permitted uses as well as certain conditional uses require the submission of a detailed Site Plan and a Plan of Operation which provides a detailed description of the proposed use and serve as a basis for consideration prior to approval of the Town Plan Commission. The purpose of said Site Plan and Plan of Operation review is to document the permit file, determine adequacy of the data submitted to describe the permitted and accessory uses and buildings proposed and document the plan and method of operation to enable a determination on compatibility with the requirements of this Code and consideration of approval. A Site Plan and Plan of Operation shall include the following information, as well as any other specific information requested by the Town Plan Commission, or Town Planner to review the plans and determine compliance with the regulations of this Code.

- (1) A Plan of Operation is a statement of operation, signed by the owner and tenant or operator of the business or use, including a detailed description of the request, number of employees, hours of operation, and types of uses, products or services offered and any special events which are to be conducted on the property.
- (2) Two (2) copies of a Site Plan and/or Plat of Survey of the property (in standard engineering or mapping scale which permits a clear representation of the property to a scale not to exceed two hundred (200) feet to one (1) inch), showing the location and dimensions of all existing and proposed buildings and structures and other attributes on the site, the location, number and arrangement of parking spaces or loading areas, lighting fixtures, easements, dumpsters, signs, landscaping and screening, and any other factors affecting the development of the site. The site plan shall also indicate all areas which are to be used as special event parking on the parcel.
- (3) A storm water management and erosion control plan consistent with the requirements of the Waukesha County Construction Site Erosion Control and Storm water Management Code. A Grading plan, where required, shall be submitted in the same scale as the Site Plan, including existing and proposed contours at a maximum of two(2) foot vertical intervals for slopes less than twelve (12) percent and at no more than five (5) foot intervals for slopes twelve (12) percent or greater, existing and proposed features (i.e.

berms, swales, ponds, ditches, storm sewers, inlets, etc.), vegetative plan, timetable for completion, the name of the responsible party and a letter of credit, if deemed necessary. The Town Plan Commission, Town Planner, or Town Engineer have the discretion to request a grading plan in a scale different than the Site Plan in order to show with sufficient detail the contours and features of the property.

- (4) Two (2) sets of building plans, State approved if required, at a standard architectural scale, including exterior elevation drawings of all sides of all buildings proposed.
- (5) A detailed colored rendering of all signs visible from the exterior, along with the location, dimensions, overall height and illumination of the signs.
- (6) Lighting or photometric plan, including cut sheets of each type of exterior light fixture proposed or existing.
- (7) A detailed landscaping plan showing the location, sizes and types of proposed vegetation, including seeding mixtures and the amount of topsoil and mulch, the timetable for completion, and any surfacing plan for parking and loading areas.

ARTICLE II: LAND USE REGULATIONS – USES, STRUCTURES & BUILDINGS

Section-10: Site regulations; building must be on a lot.

Building on a lot: Every building hereafter erected, structurally altered, or relocated shall be located on a lot as defined in this Ordinance. Any building used for the Principal Use permitted in a particular District shall constitute the Principal Building and in no case, except in Restricted Business, Limited Business and General Business Districts and Planned Unit Developments, shall there be more than one (1) principal building on a lot unless otherwise stated in this Ordinance. An accessory Building is considered attached to and part of a Principal Building only if the attachment consists of a breezeway that is at least six (6) feet in width and contains an entire roof structure as determined by the Town Building Inspector. The principal building, as herein described, shall be built first in all districts. In any residential district where a building other than a residence is considered principal, such construction shall be subject to the prior approval of the Town Plan Commission. The Town Plan Commission may allow the issuance of a new residential home building permit and the occupancy of an existing residential structure on a parcel for one continuous two-year period, subject to specific Town Plan Commission approval and the following conditions:

- (1) Subject to the occupancy of the existing single-family residential structure being made by the same person who will occupy the new single-family residential structure for which the new residential home building permit is issued.
- (2) Subject to the applicant submitting to and receiving approval from the Town Plan Commission written proof that the waste disposal system for the property upon which the current residence exists conforms to the applicable sanitary ordinances of the county environmental health division or is otherwise allowed to be used by the county environmental health division.
- (3) Subject to the applicant submitting to the Town Board and receiving approval as to form from the Town Attorney and as to amount from the Town Building Inspector or Town Engineer, a letter of credit or cash in the amount of 115 percent of the removal and restoration costs relative to the existing single-family residence as determined by the Town Building Inspector or Town Engineer; and also submitting to and receiving approval from the Town Attorney and the Town Building Inspector or Town Engineer, an agreement which would allow the Town to access the property and remove the existing structure at the applicant's expense if the new applicant fails to do so within sixty (60) days of issuance of an occupancy permit for the new residence; upon either of the following occurrences:
 - (a) Prior to the issuance of a new residential home building permit for any lot on which an existing residential home is occupied; or
 - (b) Prior to occupancy of any existing residential home on any lot for which a new residential home building permit has been issued.

- (4) Subject to such additional conditions as the Town Plan Commission may require in the interest of the health, safety and welfare of the Town.

Section-11: Building or creation of lots on a private street or way:

- (A) The intent of this provision is to discourage the creation of lots and placement of structures which do not have adequate access for emergency vehicles and equipment and to provide a right-of-way width which could accommodate a public right-of-way, if necessitated in the future.
- (B) Subject to the approval of the Town Plan Commission and the Town Board, a parcel may be created and a building may be permitted on a tract of land which does not abut or have direct frontage on a public street or officially approved way (frontage on a controlled access highway or a freeway where vehicular access is prohibited does not constitute access or frontage for the purposes of this provision) if all of the following conditions are satisfied:
1. Such tract of land is at least three (3) acres in area and has a minimum average width of two hundred (200) feet,
 2. Access to the tract of land shall be by a recorded permanent easement at least thirty-three (33) feet in width to a public street or way,
 3. Access to the tract will be via a paved or gravel driveway having a width of at least twelve (12) feet, and
 4. The proposed access does not conflict with Town, County, or State plans for the future development of streets in the area.
- (C) Typical or normal lots with lot lines radiating from the terminus or center of a public cul-de-sac street are not affected by this provision that requires minimum road frontage on a public street.
- (D) In a situation where more than one (1) principal residence or parcel is proposed, the easement for access shall be at least sixty-six (66) feet in width and the paved or gravel drive shall be sixteen (16) feet in width, unless required to be greater, pursuant to another local Town Ordinance.
- (E) Where such a lot has a narrow strip of land as part of the lot (not as an approved easement) extending to the public road from the main part of the lot where the building could lawfully be placed (flag lot), such a narrow portion shall not constitute frontage or part of the three (3) acre lot size requirement unless that narrow portion of the lot is as wide as the required minimum average width for the district in which it is located.
- (F) Not more than two (2) such parcels or buildings shall be permitted on an easement unless the Plan Commission and Town Board find that:
1. The requested additional parcel(s) are necessitated by exceptional circumstances, and
 2. Permitting more than two (2) such parcels will not violate the intent of this section.

Section-12: Junk or undesirable buildings or structures or uses.

- (A) **Junk:** As defined by this Code, junk shall at all times be stored in an enclosed building thereby securing it from the view of the public and adjacent property owners.
- (1) This subsection is not intended to regulate or place limitations on any properly zoned junk yard, salvage dealer, or other junk, waste disposal or storage activity for which a valid license from the State of Wisconsin or other necessary municipal issuing authority is required and proper permits have been issued and all such licenses and permits are in full force and effect and the operation is in full compliance therewith.
 - (2) This subsection is not intended to regulate or place limitations on the storage of idle, but operable farm equipment on farms greater than 35 contiguous acres or the storage of inoperative or abandoned farm equipment on farms greater than 35 contiguous acres if such inoperative or abandoned farm equipment is screened from view of the public and adjacent property owners by a natural or man-made visual barrier.
 - (3) This subsection is not intended to regulate or place limitations on the storage of idle but operative snow removal vehicles or equipment or lawn mowing equipment if such idle but operative snow removal vehicles or equipment or lawn mowing equipment are screened from view of the public and adjacent property owners by a natural man-made visual barrier.
 - (4) This subsection is not intended to regulate or place limitations on the orderly storage of firewood for fuel or personal use.
 - (5) This subsection is not intended to regulate the temporary storage of construction materials which are for use on the site for the project authorized by an active zoning permit and which are stacked, stored and secured on the site in an orderly method.
- (B) **No undesirable structures:** No building or structure shall be erected, structurally altered or relocated in a manner which shall be of such character as to adversely affect the nearby properties or general desirability of the neighborhood.
- (1) If a question arises about a building or structure, the issue shall be submitted by the Zoning Administrator to the Town Plan Commission for its review.
 - (2) A determination by the Town Plan Commission shall be made and stated in writing, including the reason for denying a permit or conditions of approval for a permit, and may be based upon considerations that the design or appearance is of such an unorthodox or abnormal character as to have an adverse effect on the nearby properties or general desirability of the neighborhood.

Section-13. Junked vehicles.

A motor vehicle, as defined herein, which is no longer licensed, which has been abandoned, disassembled, is non-operable or incapable of self-propulsion on a public highway, disabled, junked, or wrecked shall not be stored anywhere on any premises except in an authorized salvage yard, or is completely enclosed in a structure.

Section-14: Street grade.

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

Section-15. Use regulations.

- (A) **Uses restricted.** In any district, no building or land shall be used and no building or structure shall be hereafter erected, structurally altered or relocated except in conformance with the regulations hereinafter established for the district in which the property is located, or as otherwise provided in this Code. Where a change in use or a new use of a building, structure or premises is proposed in any Business, Industrial District or Public and Institutional District or at the site of a legal non-conforming use or a conditional use, a Site Plan and Plan of Operation shall be prepared for review and approval pursuant to this Code. Where a change in ownership or operator of a building, structure or premises is proposed in any Business, Industrial District or Public and Institutional District or at the site of a legal non-conforming use or a conditional use, a Plan of Operation shall be prepared for review and approval pursuant to this Code.
- (B) **Accessory uses.** In any district, accessory buildings, structures, and uses customarily incident to the permitted uses in that district shall be permitted subject to such requirements as may be designated for that district in which they are located, or as further regulated in this Code.
- (D) **Unclassified uses.** Any use not specifically listed as a permitted use shall be considered to be prohibited except as may be otherwise specifically provided for. In case of question as to the classification of a use, the question shall be submitted to the Town Plan Commission and Town Board for determination.
- (E) **Additional requirements.** For any use or structure in any district, which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, the owner or occupant may be required to correct, improve or abate such conditions by such measures as may be mutually directed by the Town Plan Commission and Town Board consistent with reasonable technology and economic practicality and in conformance with reasonable standards as may be determined by the Town Plan Commission and the Town Board as may be contained in this Code. Any building determined to be unfit for human habitation or which may endanger health, safety and welfare of the public as may be determined by the Town Board after recommendation by the

Town Plan Commission shall be removed pursuant to the procedures outlined by the Wisconsin Statutes.

Section-16. Building location.

(A) Setbacks.

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

setback lines, which are located 60 feet from the intersection.

- (c) Across each sector between any other intersecting streets a vision setback line shall be established by a straight line connecting two points on the intersecting base setback lines which are located 30 feet from the intersection.
- (3) No principal building or its accessory buildings shall be erected, altered, horizontally added to, relocated or placed so that any roofed or enclosed portion is closer to the base setback line than the setback distance hereinafter specified by the regulations for the district in which such building is located with the following exceptions applicable only where the setback requirements of the properties involved are identical:
- (a) If there is a building which is non-conforming with respect to road setback, with a similar use as the proposed building, located on an adjacent parcel on one side of the proposed building or within two hundred (200) feet of the proposed building, the average road setback of that building of similar usage and the required minimum road setback shall apply.
 - (b) If there are two (2) buildings which are non-conforming with respect to road setback, with similar uses as the proposed building, located on adjacent parcels on each side of said building or within two hundred (200) feet of the proposed building, the average of the road setbacks of those buildings of similar usage shall apply.
 - (c) In the case of a proposed addition to an existing building which has less than the required road setback, the road setback of such existing building may be used to determine the required road setback for the proposed addition, as set forth above.
 - (d) On corner lots of record, as of the date of adoption of this Code, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than thirty (30) feet. Where such reduction would result in an area narrower than thirty (30) feet after applying the offset reduction, the Town Plan Commission shall have the authority to modify the setback or offset provision to the extent necessary to minimize the encroachment on both the offset and setback standard while maintaining the thirty (30) feet area required herein.
- (4) No other structures of any kind, except as necessary highway and traffic signs, open stairs extending six (6) feet or less from the enclosed portion of the structure, open stairs in combination with stoops and/or porches which are unenclosed and provide no more than twenty (20) square feet in area and extend no more than six (6) feet from the enclosed portion of the structure, public utility lines, rural mailboxes, and those signs permitted in a residential or agricultural district shall be hereafter erected, altered or placed within such base setback area. Monuments and entrance gates are structures which require a

zoning permit and shall be located at least ten (10) feet from the base setback line and shall not restrict safe access and visibility of the intersecting drive and the road and shall be subject to review and approval by the Town Plan Commission.

- (5) In the vision setback area, no structure of any kind shall be permitted which exceeds a height of three feet above the elevation of the center of the intersection, except for necessary highway and traffic signs, public utility lines and open fences through which there is clear vision, nor shall any plant material be permitted which obscures safe vision of the approaches to the intersection.
- (6) Additions to and replacements of existing structures may be made within the established setback areas, subject to approval of the Town Board and the Board of Appeals provided the owner will file, with the Waukesha County Register of Deeds Office an agreement in writing to the effect that the owner will remove all new construction, additions and replacements created after the adoption of the Code from which this Section is derived at his expense, when necessary for the improvement of the highway. A revocable occupancy permit may be required by the Town Board.
- (7) In all cases where any of the highways for which setback lines are established by this Section are located on municipal boundaries, such establishment shall apply only within the Town of Genesee.
- (8) Every structure shall have a setback of at least fifty (50) from a Conservancy District and seventy-five (75) feet to the 100-year floodplain, whichever is greater, unless excepted by another section of this Code, or as follows:
 - (a) A principal building or an addition to a principal building immediately adjacent to a principal building may be located as close as fifty (50) feet from the 100-year floodplain if the existing natural ground elevation adjacent to the lowest level of the principal building, including an exposed basement, is at least three (3) feet above the 100-year floodplain elevation.
 - (b) A deck or patio may be located as close as fifty (50) feet to the 100-year floodplain.
- (9) A retaining wall shall be setback at least twenty-five (25) feet from the Conservancy District or 100-year floodplain. A retaining Wall may be located closer than twenty-five (25) feet to the Conservancy District or 100-year floodplain if the Plan Commission determines that the retaining wall is necessary to abate a known and identified soil erosion and sedimentation problem.
- (10) In the case of an addition to a principal building into the minimum required road setback area and where such addition would not extend closer to the established setback line,

than the existing building to which it is attached or immediately adjacent and said addition may be closer than the required distance would allow when using the setback averaging formula set forth in this Section above, the board of appeals may grant a special exception to the addition so long as the extension does not encroach closer to the setback line than the existing building to which it is attached.

- (11) In the case of an extension or addition of a structure into the minimum required road, 100-year floodplain or conservancy setback and where such extension would not extend closer to the established setback line, one-hundred year floodplain or Conservancy District than the existing structure to which it is attached and said extension may be closer than the required distance would allow, using the averaging formula, a Variance would be required by the Board of Appeals for such an extension or addition.
- (12) Where an overhang exceeds two (2) feet as defined herein, the additional overhang is not allowed unless the building is relocated the additional distance from the base setback line or lot line that the amount the overhang exceeds two (2) feet unless a variance is granted by the Board of Appeals.
- (13) Retaining walls do not need to meet the road setback requirements of the individual zoning district.

(B) Offsets.

- (1) No principal building or its accessory buildings shall be erected or altered so that any roofed or enclosed portion thereof is closer to any lot line than the offset distance hereinafter specified by regulations for the district in which such building is located, with the following exceptions:
 - (a) In the case of any lot of record which has a minimum average width of less than the required minimum average width of the district in which it is located, the side lot offset may be reduced proportionately to the ratio between the actual minimum average width and the required minimum average width, provided that no offset shall in any case be less than ten feet. Exceptions to these offsets may be permitted for detached accessory buildings, up to 200 square feet in size, on lots of 100 feet in width or less which may be reduced to five feet; provided, that no detached accessory building shall be located closer than ten feet to any structure used for residential purposes. Attached open decks and patios shall be permitted to within 40 percent of the limits in this subsection.
 - (b) The offset may be reduced on lots 1 1/2 acres or less for one detached accessory building, which is less than 200 square feet, to a minimum of five feet from the lot line, unless otherwise regulated under any other provisions of this Code.

- (2) A lot that abuts a district boundary line; the offset from such lot line shall be not less than the offset applicable to the district in which the lot is located.
- (3) Minimum offsets for buildings housing livestock, fur bearing animals, pigeons, swine, goats and poultry shall be not less than fifty (50) feet from an adjacent property line. This does not include dog houses.
- (4) When a detached accessory structure lies on an adjacent lot and closer than five (5) feet of the common lot line, a new detached accessory structure may be located the same distance from the common boundary as the existing detached structure on the adjacent lot, as long as they are within ten (10) feet of each other. In such a case, the new detached accessory structure shall contain a firewall sufficient to meet the one-hour fire rating contained in the building code. However, unless a common wall with a one-hour fire rating is constructed with agreement of both property owners, building sidewalls may be no closer than three (3) feet in order to accomplish proper maintenance. A deed restriction shall be recorded prior to issuance of the zoning permit prohibiting the construction of fences between said buildings and permitting maintenance of said buildings from adjacent properties.
- (5) One detached accessory building, which is less than two hundred (200) square feet in area, may be located five (5) feet to the side lot line unless otherwise excepted under any other provision.
 - (a) In the case of an extension or addition of a structure into the minimum offset distance, and where such extension would not extend closer to the side lot line than the existing structure to which it is attached, a Special Exception may be granted by the Town Plan Commission to allow such an extension or addition as long as said extension or addition does not encroach closer to the side lot line closer than an existing structure to which it is attached.
 - (b) Offsets on decks and patios may be reduced to 60% of the distance between the principal structure and the lot line, otherwise required for the principal structure, but shall in no case be located closer than five (5) feet of a lot line. This includes any reduction allowed in other provisions of this Code.
 - (c) Retaining walls do not need to meet the offset requirements of the individual zoning districts if they comply with the provisions of this Code.
- (6) In the case of multiple family or commercial use structures, the offsets may be modified as follows:
 - (a) Two or more buildings on adjoining lots may be erected with common or directly adjoining walls, provided the requirements of the applicable state administrative

code relative to such construction are complied with, and provided that at both ends of such "row" type buildings the applicable offset requirements shall be complied with.

- (7) Maintenance and use of setback and offset areas. Any such required setback or offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse and shall not be used for placement of compost bins, storage or display of equipment, products, vehicles or any other material.
- (8) Accessory building location. No detached accessory building shall be erected, structurally altered, or placed on a lot so that any roofed or enclosed portion thereof is closer than ten feet to the principal building on such lot, or as otherwise permitted by the building code, relative to buildings and building regulations.
- (9) Vertical Locations: No building intended for human habitation shall be located so that its lowest floor, including any basement floor, is less than one (1) foot above the highest seasonal ground water level.

Section 17 - Height regulations.

- (A) **Maximum height.** Principal Structures: The following height provision applies to principal structures in all Districts except for the P-I, Q-1, M-1 and M-2 Districts, where height regulations are specified in each respective District section: Overall Maximum building height, forty-four (44) feet. A structure with a flat roof is limited to an overall height of thirty-five (35) feet.
- (B) **Maximum height.** Accessory Structures: The following height provisions apply to accessory structures in all Districts except for A-E, A-B, P-I, Q-1, M-1 and M-2 Districts, where height regulations are specified in each respective District section:
 - (1) Maximum overall height is limited to eighteen (18) feet, or
 - (2) Maximum overall height is limited to sixty (60) feet if the structure is used for farm or agricultural purposes in the A-5 and A-1 Districts.
- (C) **Exceptions; no Town Plan Commission approval required.** The following should be excepted from the height regulations of all districts, but are subject to all other regulations of the Town:
 - (1) Chimneys and flues.
 - (2) Electrical transmission and distribution facilities.
 - (3) Roof-mounted television and radio receiving antennas not exceeding ten feet in height from the roof and roof-mounted licensed amateur radio operator antennas not exceeding ten (10) feet in height from the roof.

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- (D) **Exemptions; Town Plan Commission approval required.** The following shall be exempted from the height regulations of all districts, subject to the approval of the Town Plan Commission, but are subject to all other regulations of the Town: Cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, wind towers, spires, masts, free standing towers, roof-mounted licensed amateur radio operator antennas ten (10) feet or more in height from the roof, aerial and necessary mechanical appurtenances.
- (E) **Increase permitted.** All other buildings or structures not exempted by subsections (C) and (D) of this Section may be increased by not more than ten (10) feet, subject to satisfying the following conditions:
- (1) All required offsets and setbacks are increased by one foot for each foot which such building or structure exceeds the height limit of the district in which it is located.
 - (2) Subject to all other regulations of the Town.

Section - 18. Area regulations.

(A) **Floor area.**

- (1) Any building intended in whole or part for residential purposes shall provide a minimum floor area as specified by the regulations for the district in which such building is located. Such minimums are stated in terms of the minimum total floor area required for a building and that portion of the total which must be provided on the first-floor level. Such minimum total shall be increased by 200 square feet for any building not having a basement of at least 300 square feet in area.
- (2) The maximum total floor area of the buildings on a lot shall not exceed that permitted under the floor area ratio as specified by the regulations for the district in which such buildings are located unless allowed per other Sections of this Code. The finished basement or exposed basement area used for living space shall not be computed in the maximum floor area ratio requirements but the floor area of an exposed basement may be used in computing the minimum floor area requirement. Garage space in an exposed basement is not required to be computed in the maximum floor area ratio.
- (3) Floor area shall be measured at each level from the outside edge of a wall to the outside edge of wall and for purposes of computing total minimum floor area shall not include garages; other outbuildings, open porches or basements. Breezeways, exposed basements, split levels and the secondary floors of multistoried residences may be included in computing total minimum floor area according to the following schedule:
 - (a) All of the breezeway may be included if walled-in from floor joists to rafters and

heated by the central heating system. Open breezeways shall not be included.

- (b) That portion of the basement of an exposed basement residence or split level which has been designed as an integral part of the living area of the home may be included in computing total minimum floor area when at least one side is exposed and access has been provided to the outside at grade level by means of at least one door. Such computations shall maintain a minimum basement floor area of 300 square feet.
 - (c) That portion of the secondary floors of multistoried buildings, which have a minimum distance between the ceiling face and the top of the lower floor ceiling joist of seven (7) feet, may be included in computing the total minimum floor living area, provided there are permanent stairways leading from each floor to the next floor.
 - (d) In a split level building the first-floor area shall include all area which is not over another living area of the building.
- (4) In split level units, the floor area shall be computed as follows:
- (a) If less than one-half of the lower level(s) is above ground, such level shall be considered a basement and cannot be included in total floor area of the building unless such basement qualifies as an exposed basement.
 - (b) If more than one-half of the lower level(s) is above ground, such areas can be included in determining floor area. If there is no basement below this level(s), two hundred (200) square feet of floor area shall be required in addition to the floor area requirement of the zoning district. This required floor area shall be finished as an integral part of the dwelling unit within six (6) months of the date upon which the building permit is issued.
- (5) The Town Plan Commission may grant an exception to permit a building of less than the required minimum floor area; where such grant would not be contrary to the spirit or intent of the Code, would not be of such character or quality as to depreciate the property values of the surrounding area, and provided that in no case shall a minimum floor area of less than 1000 square feet be permitted.
- (B) **Lot size.**
- (1) No lot shall be created, and no building shall be erected on a lot of less area or of minimum average width less than specified by the regulations of the district in which such building is located, except as may be provided in subsections 18(B)(5), 33(D), 40(B)(27) and 40(B)(30) of this Code or is a preexisting legal lot of record.

- (2) For the purpose of this Section, the lot area shall be measured from the base setback line.
- (3) The lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the lot depth.
- (4) No lot area shall be reduced by any means to create a lot of less than the required size, or so that the existing offsets, setbacks or lot area would be reduced below that required by the regulations for the district in which such lot is located, except as provided by Subsection 33(D).
- (5) Where a lot has less land area or width than required for the district in which it is located and was of record as of February 26, 1959, such lot may be used for any purpose permitted in such district, but not for residential purposes for more than one family; provided, however, that building location, height regulations, and area regulations shall comply with the R-3 Residential District except where otherwise specified in other sections of this Ordinance.

Section-19. Accessory Uses and structures.

(A) Size and location.

- (1) No accessory buildings shall be erected, structurally altered or placed on a lot in any district so that any portion thereof is closer than ten (10) feet to the principle building or other accessory buildings and structures on such lot unless it complies with all local building code requirements. All requests for accessory structures in excess of one thousand six hundred (1,600) square feet shall be submitted to the Town Plan Commission prior to the erection of the building and the Town Plan Commission may approve, conditionally approve or reject the request based upon the following standards. In reaching its decision, the Town Plan Commission shall consider the purposes of the Zoning Code, the extent to which the structure would exceed the limits of the Zoning District requirements and the development patterns in the surrounding area, and the structure might have on neighboring properties.
- (2) Square Footage and Number of Accessory Buildings
 - (a) In all Districts, the aggregate floor area of accessory buildings shall not exceed the maximum per lot square footage as outlined in the following table. Accessory buildings shall also not exceed the floor area ratio requirements for the applicable district. Temporary buildings shall be included in calculating the square footages for any lot.

AE	500 square feet
AT	500 square feet
A-5	2 Percent of Lot

	Size
EC	1,000 square feet
A-1, A-2	2 Percent of Lot Size
A-3	2 Percent of Lot Size
R-1	1,000 square feet
R-2	900 square feet
R-3,	500 square feet
B-1	1,000 square feet
B-2	1,000 square feet

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

(i) Except in the "EC" Environmental Corridor District and subject to the applicable district floor area ratio requirements, the maximum square footage for accessory buildings shall be increased by 50 sq. ft. for every ½ acre of land that the subject property exceeds the district minimum lot size.

(ii) For parcels of three (3) acres or more in size in any zoning district other than the Environmental Corridor District, the accessory building areas may be greater than those requirements set forth in subsection 2(a), if the Town Board in its discretion, upon consideration of a recommendation from the Town Plan Commission, grants a special exception and makes all of the following findings:

- 1 That one or more rural accessory buildings(s) as defined herein, are located on the property;
- 2 That such rural accessory building(s) is (are) not a nuisance or detriment to the existing neighborhood;
- 3 That the property is in compliance with the floor area ratio requirements of the District in which it is located; and
- 4 That the total floor area of all accessory buildings, excluding the floor area of such rural accessory building(s), is in compliance with the requirements set forth in subsection 2(a).

(iii) Environmental Corridor District Accessory Buildings

- 1 For any size parcel in the EC Environmental Corridor District, the Town Plan Commission, may in its discretion, grant a special exception to the maximum square footage requirements for accessory building set forth in subsection 2(a) where all of the following criteria have been met;
 - a The Zoning administrator determines that no more than 32,600 sq. ft. of land disturbance has or will occur for all structures, septic systems, driveways and parking areas, patios, decks, pools, lawns and play areas. For purposes of this Section, the areas of disturbance shall include any area where, due to development, the natural vegetation has previously been removed or land altering activities have previously occurred and areas where, due to any proposed accessory building(s), natural vegetation will be removed or land altering activities will occur.
 - b Only one accessory building will be allowed on a parcel which is entirely within the Environmental Corridor District.
 - c The use of the accessory building is for personal use only by the person(s) occupying the subject parcel.
 - d The location of the proposed accessory building is not high-quality environmental corridor or wildlife habitat area. The Town Plan Commission may require the applicant to provide an environmental assessment by a qualified professional as to the impact the proposed accessory building and any associated vegetative disturbance or land altering may have on the environmental quality of the corridor.
- 2 If a special exception is granted under subsection (2) (b) above for a parcel in the EC Environmental Corridor District, the Town Plan Commission may designate a specific location for the accessory building to eliminate any unnecessary vegetative disturbance or land altering activity.
- 3 If a special exception is granted under subsection (2)(b) above, a Deed Restriction shall be filed in the Waukesha County Register of Deeds Office prior to the issuance of a building permit setting

forth the square footage of the allowable disturbance along with a detailed map designating the allowable area of disturbance for all improvements. Said Deed Restriction shall also restrict and set forth any additional conditions of approval of the special exception by the Town Plan Commission and/or Town Board and shall be approved by the Town Attorney as to form.

- (iv) On parcels of 15-acres or more, in area, the building areas may be greater than those set forth in subsection 2(a) when used solely for agricultural purposes and when consistent with the floor area ratio requirements of the Zoning Code.

(B) Number of Accessory Structures.

- (1) No more than two (2) accessory buildings per parcel are permitted in any district except as follows:
 - (a) On parcels of fifteen (15) acres or more, in area used solely for agricultural purposes, more than two (2) accessory buildings may be permitted by the Town Plan Commission subject to compliance with the floor area ratio requirements of the Zoning Code.
 - (b) In all Business, Industrial, Public and Institutional and Quarrying Districts (B-1, B-2, B-3, B-4, BP, Q-1, M-1, M-2 and P-I, when approved by the Town Plan Commission as part of a site plan and plan of operation review, and where said buildings are used accessory to the principal use on the Lot, and when consistent with the maximum overall Floor Area Ratio requirements of this Ordinance.
 - (c) Where a Conditional Use Permit has been issued for the lot that expressly permits more than two accessory buildings/structures.
 - (d) Where more than two (2) accessory buildings are proposed, the Town Plan Commission shall review the request and render a finding to allow or disapprove said structure.
- (2) In no case shall any accessory structure be used for purposes not allowed in the underlying zoning district or as may be authorized by a conditional use permit.
- (3) A polystructure, subject to the dimensional regulations of this Code, shall only be allowed for the purposes of housing plant materials associated with a nursery or greenhouse operation, whether retail, wholesale or private and shall not be used for storage of any other types of materials not directly related to the nursery or greenhouse operation unless otherwise specifically authorized as part of a conditional use. This subsection does

not apply to the use of a polystructure as part of a general farm operation as defined in this Code on a parcel of 35 acres or more.

(C) **Garages.**

- (1) **Required.** A private garage at least 240 square feet in area shall be required for each dwelling unit hereinafter erected. Such structures shall be either attached or detached and conform to the offset and setback requirements of the district involved.
- (2) **Special exception.** Upon petition from a property owner, the Town Plan Commission may grant a special exception to the minimum attached garage size limitations of subsection (C)(1) of this Section or maximum accessory building square footages allowed in the table in subsection (A)(2)(a) of this Section as follows:
 - (a) The petitioner shall submit a petition to the Town clerk. The petition shall include building and site plans, which include elevations, along with such additional information as the Town Plan Commission may require. The building and site plans shall depict the proposed construction and the location of the proposed construction on the lot, including the location in relation to existing structures on the lot and adjacent lots. The petition shall be accompanied by payment of such application fees as may be established from time to time by the Town Board by separate resolution.
 - (b) Upon receipt of the complete petition, required plans, and application fees, the Town clerk shall provide a copy of the petition and plans to the zoning administrator and the Town Plan Commission, and shall place the matter upon an upcoming Town Plan Commission agenda for consideration. The Town clerk shall notify the petitioner of the date.
 - (c) Prior to the Town Plan Commission meeting where the matter will be heard, the zoning administrator shall review the request, shall view the proposed location, and shall submit a written recommendation to the Town Plan Commission. Along with the recommendation, the zoning administrator shall advise the Town Plan Commission whether detached accessory structures are prohibited on the lot by applicable laws and deed restrictions.
 - (d) The following limitations apply:
 - (i) Special exceptions may be granted under this subsection only in regard to the maximum size limitation of subsections (A)(2)(a) and (A)(2)(b) of this Section.

- (ii) Special exceptions are prohibited if the requested location, structure, or use thereof, would conflict with any applicable federal, state, county codes, statutes, rules, ordinances or lawful orders, or with any Town ordinances other than the maximum size limitations of subsection (A)(2)(a) or (A)(2)(b) of this Section.
 - (iii) Special exceptions are prohibited from allowing garages that would have doors for more than four side-by-side vehicles facing the right-of-way from which the dwelling unit has street access.
 - (iv) The architecture of the attached or detached structure shall be compatible with the residence. Special exceptions are prohibited if the Town Plan Commission finds that the architecture is not compatible.
 - (v) In no case shall any accessory structure be used for purposes not allowed in the underlying zoning district or as may be authorized by a conditional use permit.
- (e) After reviewing the petition, the plans submitted, the zoning administrator's recommendation, and all additional information received in the matter, the Town Plan Commission shall either grant or deny the special exception, or grant the special exception upon specified reasonable conditions including screening and landscaping if appropriate. To grant or conditionally grant the special exception, the Town Plan Commission must find that the requested attached garage or accessory structure will not be adverse to the public health, safety or welfare; will not be in conflict with the spirit or intent of this Code; and will not otherwise be detrimental to the Town or the immediate neighborhood where the structure would be located. The Town Plan Commission shall issue its decision in writing, including any conditions of approval, and shall provide a copy of the decision to the petitioner.
 - (f) In the case of the granting of a special exception to the square footage requirements of an attached garage, the grant shall be subject to an equivalent reduction being made in the square footage of accessory structures that are allowed on the lot, in accordance with subsection (2)(a) of this Section.

(D) **Swimming pools.**

- (1) **Uses Permitted:** Above and below ground Swimming Pools, as defined herein, are permitted in any district except A-E, or C-1 as accessory to a residential use, upon the issuance of a building/zoning permit, and an electrical permit if applicable, subject to the following:
 - (a) All swimming pools shall be surrounded by a fence (that is not merely a planting or hedge) not less than four (4) feet nor more than six (6) feet in height designed

to prevent unguarded entry to the swimming pool. Sidewalls of above-ground swimming pools which are at least four (4) feet high above ground all around the swimming pool may be used in lieu of a fence and decks extending at least five (5) feet from the walls of the pool, but only if entry to the swimming pool or swimming pool deck can only be made by a tip up ladder or a self-closing and self-latching gate that prevents unsupervised access by young children. If an access ladder is provided, it shall be so designed that it can be locked, tipped or otherwise placed to prohibit unsupervised access to the pool by children.

- (b) Access to swimming pools shall be controlled to prevent unguarded entry to the swimming pool. Access to in-ground swimming 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 swimming pool. For an above-ground swimming pool, if a tip-up ladder is used to prevent unsupervised access by young children, such tip-up ladder shall be kept up in a position that prevents access by young children at all times when the owner is not present at the swimming pool.
- (c) The application for a building permit shall include a plat of survey drawn to scale showing the location of the swimming pool, the location of any fence, deck, patio and any accessory heating, pumping and filtering units that may be placed outside the swimming pool. The survey shall also show the lot lines of the lot, the location of the residence on the lot, the location of the well and septic system, the location of any other structure(s) on the lot, the location of any electrical transmission lines on the lot and the location of residences and structures on neighboring lots.
- (d) Swimming pools shall not be constructed directly under or over electric transmission lines or within 15 feet of such lines. The Town Plan Commission may permit a swimming pool to be located within 5 feet of an underground electric transmission line when the permit applicant has written approval from Wisconsin Electric Power Company. 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 and in full compliance with all applicable aspects of the electrical code.
- (e) No water drained from swimming pools shall be discharged onto adjacent properties, without written consent of the adjacent property owner, or on to a public road right-of-way, or into a municipal sewerage system, or directly into a navigable body of water.
- (f) Equipment shall be provided by the owner for the disinfection of all swimming pool water. No gaseous chlorination shall be permitted.

- (g) 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 in compliance with the setback and side yard requirements for a building in the district in which it is located and no closer than 10 feet to a lot line, whichever requirement is greater.
 - (h) There shall be an unobstructed areaway around all swimming pools of at least three (3) feet in width.
 - (i) No swimming pool shall be located closer than 10 feet to a principal building and shall be in compliance with the setback and side yard requirements for a building in the district in which it is located and no closer than 10 feet to a lot line, whichever requirement is greater and not be located on the street side of a residence.
 - (j) No areaway, patio or deck surrounding a swimming pool shall be located closer than the required offset to a lot line.
 - (k) Swimming pools are accessory structures, subject to all provisions of this Code that regulate accessory structures. In the event of a conflict between the requirements of this Section and any other requirements of this Code, the more restrictive shall apply.
 - (l) The swimming pool must be intended to be used solely by the occupants of the principal use of the property on which the swimming pool is intended to be located and their guests. Operation of a business, including but not limited to swimming lessons for persons who do not reside on the property, is prohibited unless allowed by the district regulations for the district in which the swimming pool is located and all approvals required by this Code and other applicable laws are granted.
 - (m) All applicable Town of Genesee, County of Waukesha and State of Wisconsin codes, ordinances, regulations and rules must be strictly followed at all times, including but not limited to any setback and offset requirements and sanitary and environmental regulations.
- (2) **Relaxation/floating pools**, as defined herein, are permitted in any district except A-E and C-1 as accessory to a residential use, subject to the issuance of a building/zoning permit, issuance of an electrical permit if applicable and subject to the following:
- (a) Access to relaxation/floating pools shall be controlled to prevent unguarded entry to the relaxation/floating pool. This shall be done by completely covering the

relaxation/floating pool in a manner that is secure and prevents unauthorized access, or by any manner that would be required by this Code if this were a swimming pool.

- (b) No water drained from relaxation/ floating pools shall be discharged onto adjacent properties, without written consent of the adjacent property owner, or on to a public road right-of- way, or into a municipal sewerage system, or directly into a navigable body of water.
 - (c) The relaxation/floating pool shall be located in compliance with the setback and side yard requirements for a building in the district in which it is located and not closer than 10 feet to a lot line, whichever requirement is larger and not on the road side of a residence.
 - (d) Relaxation/floating pools are accessory structures, subject to all provisions of this Code that regulate accessory structures. In the event of a conflict between the requirements of this Section and any other requirements of this Code, the more restrictive shall apply.
 - (e) 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 in compliance for a building in the district in which it is located, and not closer than 10 feet to a lot line, whichever requirement is greater.
 - (f) The relaxation/floating pool must be intended to be used solely by the occupants of the principal use of the property on which the relaxation/floating pool is intended to be located and their guests. Operation of a business, including but not limited to swimming lessons, is prohibited unless allowed by the district regulations for the district in which the relaxation/floating pool is located and all approvals required by this Code and other applicable laws are granted.
 - (g) All applicable Town of Genesee, County of Waukesha and State of Wisconsin codes, ordinances, regulations and rules must be strictly followed at all times, including but not limited to any setback and offset requirements and sanitary and environmental regulations.
- (3) **Kiddie/Wading Pools** as defined herein, are permitted in any district except A-E or C-1 as an accessory to a residential use, without the issuance of a Building/zoning permit, and are not subject to the regulations of this Code that apply to swimming pools and relaxation/floating pools.

(E) **Fuel tanks.** All accessory structures involving the utilization or storage of flammable and explosive

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materials shall be provided with adequate safety devices against the hazard of fire and explosion and comply with all the requirements of the fire department and/or zoning administrator. The above ground storage capacity of materials that produce flammable or explosive vapors shall not exceed 500 gallons unless approved by the Town Plan Commission or located within an agricultural or industrial district. All above and below ground storage tanks shall be compliant with all Federal and State rules and regulations.

(F) **Special use systems.**

(1) **Types of special uses.**

- (a) **Solar energy conversion system.** Solar energy conversion system commonly referred to as "active" or "passive" solar collection and heating systems and including systems defined by Wis. Stats. § 13.48. Except that photovoltaic array solar systems mounted to the roof of a structure shall only require a zoning permit and building permit. A public hearing is not required for a roof mounted photovoltaic solar system.
- (b) **Wind energy conversion systems.** Wind energy conversion systems commonly referred to as "windmills", which are used to produce electrical power and as regulated by Chapter PSC 128 and amendments thereto.
- (b) **Exterior Fuel-Fired Heating Devices,** any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source that is not located in the structure for which it is producing heat or energy. All Exterior fuel-fired heating devices shall comply with Town of Genesee Ordinance No. 06-12 and No. 07-04 and are not required to comply the requirements of this section.

(2) **Use permitted.** Special use systems (Wind and Solar Conversion Systems) are permitted in any district other than A-E or C-1, when used solely by the occupants of the principal use, and subject Wis Stats. 66.0401 and the following:

- (a) **Permit required.** A separate special use permit shall be required for each system. Such permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (b) **Basis of approval.** The Town Board shall base their determination on general considerations as to the effect of such grant on the health, general welfare and safety of the Town and specifically of the immediate neighborhood in which such use would be located. These considerations shall include the effect on the established character and quality of the area, the demand for related services,

the possible hazardous, harmful, noxious, offensive, or nuisance effect as a result of noise, glare, dust, smoke or odor, and such other factors as would be appropriate to carrying out the intent of this Code.

- (c) **Fees.** The Town Board shall by resolution establish fees for the processing and issuance of special use permits.

- (d) **Permit procedure.**

- (i) The Town Board is the agency which approves special use permits and further designates the Town Planner as the official to receive, process and, following approval by the Town Board, issue special use permits.
- (ii) The permit application shall be made to the Town Planner on forms provided by the Town and include the name and address of the applicant, a site plan, a plan of operation, proposed improvements to site, and any additional information deemed necessary by the Town Planner for proper review of the application.
- (iii) The Town Planner shall review the application and, if the application is complete and contains all required information, shall refer it to the Town Board.
- (iv) Determination: Following public hearing per Section 102, and necessary study and investigation, the Town Board shall as soon as practical render its decision in writing. Such decision shall include an accurate description of the special use permitted, of the property on which permitted and any and all conditions made applicable thereto, or if disapproved, shall indicate the reasons for disapproval. The Town Board may impose any conditions or exemptions necessary to minimize any burden on any persons affected by granting the special use permit.
- (v) Termination: When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Town Board following a public hearing per Section 102.
- (vi) Special Requirements:
 - (1) No Exterior Fuel-Fired Heating Devices shall be allowed on any

parcel one (1) acre or less in size.

- (2) In addition to the general standard requirements as stated in this Section, such Special Uses shall be subject to more specific standards and requirements pertinent to the particular use, which standards and requirements may be set in a supplementary guide for a Special Use regulation adopted by the Town Board, and modified from time to time in order that they reflect the best and most contemporary regulatory practices.
- (3) **Standard requirements.**
 - (a) Except as may be specifically otherwise provided, any such special use shall conform to the building location, height and building size regulations of the district in which it is located.
 - (b) Building, site and operation plans of the proposed use shall be submitted for approval of the Town Board. Such plans shall be in sufficient detail to enable the Town Board to evaluate the suitability of architectural and landscape treatment; the proper location of the building or buildings on the lot; the satisfactory provision for parking and circulation needs, for drainage and sewage disposal, for adequate planting screens where necessary, and for operational control devices where necessary to eliminate noise, glare, dust, odor, smoke or other objectionable operating condition; and the general compatibility of the proposed use with the area in which it is located.
- (4) **Modification of regulations.** Requirements applicable to uses by the regulations of this Code may be modified or waived by the Town Board of Appeals pursuant to Section 100 (C)(1), if in the Board of Appeals opinion, they are not appropriate or necessary to the proper regulation of the special use, and where such modification or waiver would not, in the Board of Appeals opinion, result in adverse effect upon the surrounding properties and makes all of the following findings:
 - (a) The proposed use is compatible with the Town of Genesee Comprehensive Development Plan – 2035 and the Waukesha County Development Plan and the designated future uses and with the existing natural environment.
 - (b) The setbacks and offsets distances are large enough to control any adverse effects of noise, odor, light, or other potential nuisances.
 - (c) The granting of a special exception for the proposed use will not be detrimental to the health, safety, or appearance of the neighborhood or other adjacent uses.
 - (d) The proposed use will be consistent with the definition of a Special Exception and

will meet the standards and criteria of the Zoning District in which such use is proposed to be located.

- (5) **Approval does not waive permit requirements.** The approval of a permit under this Section shall not be construed to waive the requirement to obtain a building or plumbing permit prior to installation of any system.
- (G) **Guesthouses.** Guesthouses are permitted in any district in which a single-family dwelling is permitted subject to the following:
 - (1) **Permanent habitation prohibited:** A guesthouse must be used only for occasional occupancy by guests of the owner, and shall not be leased or rented for human occupancy.
 - (2) **Accessory to a single-family dwelling:** No guesthouse is permitted unless a single-family dwelling is already present on the lot. Only one (1) guesthouse per lot is allowed.
 - (3) **Area requirements:** No guesthouse is allowed unless the lot upon which the guesthouse is to be located is at least double the minimum area and lot width requirements of the district. This requirement is intended to prevent the creation of a non-conforming lot in the event that the guesthouse is sold.
 - (4) **Building location:** A guesthouse must be able to meet minimum setback and offset requirements of the district in which it is located. This requirement is intended to prevent the creation of a non-conforming structure in the event that the guesthouse is sold.
 - (5) **Floor area:** The floor area of a guesthouse may be any size. In order to sell a guesthouse as a separate unit, its floor area must conform to the district regulations in which it is located.
 - (6) In the event that a guest house is sold as a parcel separate from the single-family dwelling, the parcel must be lawfully created and recorded and, there must be direct access to a public road. If this is impossible, the Town Plan Commission and Town Board may approve a private easement to a public road if the following requirements are met:
 - (a) The private easement is at least thirty-three (33) feet wide for one (1) family and sixty-six (66) feet wide for two families.
 - (b) The creation of a private drive would not adversely affect the existing or future development of the area.
- (H) **Portable-on-demand storage structures (PODS or SAM)**

- (1) A portable-on-demand storage structure may be utilized as a temporary structure within the Town when in compliance with the standards of this subsection. Any use of such structures within the Town not in compliance with this subsection shall be unlawful.
- (2) Length of time structures may be on property;
 - (a) A portable on-demand storage structure may be located as a temporary structure on property within the Town for a period not exceeding thirty (30) days in duration from time of delivery to time of removal. No more than two portable on-demand storage structures may be located on a specific piece of property within the Town at one time; such structures shall be individually limited to the duration time period established herein. Such temporary structure may not be located on a specific property more than two times in any given calendar-year period. Such structure may not exceed eight feet six inches in height, 10 feet in width or 20 feet in length. It shall be the obligation of the owner or user of such temporary structure to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary structure. In the event of high winds or other weather conditions in which such structure may become a physical danger to persons or property, the appropriate law enforcement officers may require the immediate removal of such temporary structure.
 - (b) In the event of fire, tornado, flood, natural disaster, or another uncontrollable event causing substantial damage to the structure, the property owner may apply to the Town Building Inspector for permission to extend the time that a portable on-demand storage structure may be located as a temporary structure on the property. Application for such extended duration shall be made in writing and filed with the Town Clerk's office and shall give sufficient information to determine whether such extended duration should be granted. The Town Building Inspector shall determine whether or not to grant such extended duration and the length of such extension. In the event of an adverse decision by the Town Building Inspector, the applicant may appeal such decision to the Town Board. In the event of such appeal, the decision of the Town Board shall be final.
 - (c) Any portable on-demand storage structure which is not removed at the end of the time for which it may lawfully remain in place, or immediately upon the direction of a Town Building Inspector or law enforcement officer for removal of such temporary structure for safety reasons, the Town may obtain a court order for the removal of such temporary structure, and all of the Town's costs and expenses associated with obtaining the removal of the structure, may be assessed as a special charge against the property on which the temporary structure was located and may be filed as a lien against such property by the Town Clerk.

- (3) Placement of portable on-demand storage structures shall only be placed on the property owner's driveway or a parking area or, if access exists at the side or rear of the site, the side or rear yard. Such storage structure shall be located no closer than 10 feet to the property line unless placed on an existing impervious driveway. The required parking space(s) shall at all times be maintained if temporary portable-on-demand storage structures are placed in parking areas.
- (4) The owner, as well as the Supplier, shall be responsible for ensuring that the portable-on-demand storage structures is maintained in good condition, free from evidence of deterioration, weathering, discoloration, graffiti, rust, ripping, tearing or other holes or breaks, at all times.
- (5) No portable-on-demand storage structures shall be used to store solid waste, construction debris, demolition debris, recyclable materials, business inventory, commercial goods, goods for property other than at the residential property where the portable-on-demand storage structures is located (i.e., used for retail sales) or any other illegal or hazardous material. Upon reasonable notice to the owner of the property the Town may inspect the contents of any portable-on-demand storage structures at any reasonable time to ensure that it is not being used to store said materials. At no time shall temporary portable-on-demand storage structures be used for any of these purposes.

(I) Hobby Kennels

- (1) Number of dogs limited. The keeping of dogs by right, and the keeping of dogs by hobby kennel use permit, is limited to the number of dogs described as follows:
 - (a) No more than two dogs required to be licensed by statute shall be kept on a parcel, unless a hobby kennel permit has been issued by the Town Plan Commission.
 - (b) No more than five (5) dogs required to be licensed by statute shall be kept on a parcel with a hobby kennel permit.
 - (c) Where there are six (6) dogs or more required to be licensed by statute on a single parcel of land, the property owner shall be required to obtain a commercial kennel license as required per Section 40 (B)(4).
- (2) Hobby kennel use permits procedures. All hobby kennel use permits are subject to the following application procedures and requirements:
 - (a) A hobby kennel must be accessory to an otherwise permitted use

- (b) A hobby kennel must have the specific approval of the Town Plan Commission.
 - (c) Prior to approval of a hobby kennel use permit, the Town Plan Commission must hold a public hearing.
 - (d) The application fee for a hobby kennel use permit shall be set by separate resolution of the Town Board.
 - (e) Written notice of the public hearing shall be sent by regular mail to the last known address of all landowners within 300 feet of the subject property.
 - (f) The issuance of the hobby kennel use permit is subject to the Town Plan Commission finding that such hobby kennel will not adversely affect the use of adjacent lands and is compatible with surrounding and nearby land uses.
 - (g) The Town Plan Commission may require such measures or provisions by the applicant as may be deemed necessary to provide adequate protection of surrounding property.
 - (h) The Town Plan Commission may deny the request for a hobby kennel use permit on the basis of a finding that such use would be incompatible with surrounding and nearby land uses, a possible nuisance, and/or not in the public interest.
 - (i) Any person aggrieved by a decision of the Town Plan Commission relative to a hobby kennel use permit may appeal such decision to the Board of Appeals within 30 days of the decision.
- (3) One hobby kennel use permit per parcel. There shall be no more than one hobby kennel use permit allowed on any one parcel in the Town.
 - (4) Nuisances. In all cases, regardless of the number of dogs on a parcel, if the keeping of any number of dogs accessory to the principal use becomes a nuisance to the neighborhood as may be determined by the Town Plan Commission or Town Board, such use shall be terminated or the nuisance abated. The keeping of more dogs than are permitted by right on a property without a hobby kennel use permit, is declared to be a public nuisance. Where necessary, the Town Plan Commission or Town Board may take appropriate steps to abate such nuisance.

(J) **Home Occupations** Home occupations and professional offices as defined in this Code, when incident to the residential use and when situated in the same dwelling, subject to the following conditions:

- (1) No nameplate exceeding three (3) square feet in area shall be permitted.

- (2) Such home occupation or professional office shall not occupy more than twenty (20) percent of the floor area of the dwelling.
- (3) Such home occupation shall not employ more than one (1) person not a resident on such lot.
- (4) Adequate off-street parking facilities are provided adjacent to the building housing such occupation or office.
- (5) Such permitted uses shall not include the conduct of any retail or wholesale business on the premises, or the removal of sand, gravel or stone for commercial purposes.
- (6) Such use shall not include the use of any machinery, tools or appliances which can reasonably be construed as creating a nuisance to surrounding property owners.
- (7) Such use conducted in an attached garage or accessory building requires a conditional use to be granted in accordance with Section 40(B) (24) of this Code.

Section-20. Utility cabinets.

- (A) **Definitions.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section 4 of this Code, except where the context clearly indicates a different meaning:
- (B) **Small utility cabinets.** Small utility cabinets shall be considered a permitted use by right regardless of whether they are in fact accessory to other uses on the property or whether there are principal structures on the lots where they will be located; and will not require a building permit; and will not have to meet the setback and offset requirements of this Code; provided that the small utility cabinet shall either
 - (1) Be placed within a Town road right-of-way in compliance with all applicable Town ordinances and regulations, including any amendments that may be made thereto in the future; or
 - (2) Be placed within a public road right-of-way under the jurisdiction of the county or the state, in compliance with all applicable laws and subject to obtaining all necessary approvals as required by the governing bodies having jurisdiction; or
 - (3) Be placed within a private road right-of-way with the proper easements; or
 - (4) Be placed on private property with proper lease or easements.

- (C) **Large utility cabinets.** Large utility cabinets shall be considered a conditional use, will require a conditional use permit as described in this section 40(B)(37).
- (D) Cabinets associated with cell towers shall be permitted as permitted in Wis. Stats. 66.0404.

Section-21. Off-street parking.

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

(A) **Parking Requirements:**

- (1) All business, industrial, or multi-family residential parking area plans shall obtain approval of the Town Plan Commission.
- (2) **Adequate Access:** A driveway access to a public street, road or highway shall be provided for each lot and every driveway access shall be at least 10 feet wide for one- and two-family dwellings and a minimum of 22 feet wide for all other land, buildings and structures.
- (3) **Location:** Parking shall be located on the same lot as the principal use unless the Town Plan Commission specifically approves the parking being located on an adjoining parcel with the recording of appropriate access and parking easements and any necessary maintenance agreements and also providing that all parcels involved meet the requirements of this Section.
- (4) **Dimensional Requirement:** parking spaces, driveways and aisles for access to parking spaces shall have the following minimum dimensions unless specifically varied by the Town Plan Commission.

Stall width:	9 feet
Stall depth:	20 feet
Parking aisle width:	
Two-Way Traffic (90 degrees)	24 feet
One-Way Traffic (60 degrees)	18 feet

- (5) **Parking Spaces for use by the Physically Disabled Persons:** Parking spaces for use by physically disabled persons shall be in accordance with State and Federal requirements.
- (6) **Surfacing:** All off-street parking areas, and driveways, except parking areas accessory to single-family and two-family dwellings, shall be surfaced in a dust-free condition. All

paved parking areas shall be kept free of dust, loose stones, and gravel. Parking areas shall be so arranged and marked to provide for orderly and safe parking and storage of vehicles and must be completed within one (1) year of issuance of the building and zoning permit.

(7) **Flexibility in Application:**

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

(8) **Changes in occupancy or intensity of use:** When parking needs of a building, structure or site is increased due to additional employees, gross floor area, seating capacity or due a change of occupancy, additional parking spaces shall be constructed in the amount necessary to conform to this Section, as determined by the Town Plan Commission.

(9) **Required number of stalls:**

(a) **Number of Parking spaces:**

- (i) Unless waived or modified by the Town Plan Commission parking spaces shall be provided on the same lot in sufficient number to accommodate the motor vehicles of all occupants, employees, suppliers, customers, and

persons normally visiting the premises at any one time or as specified in the table below.

- (ii) The Town Plan Commission shall determine the required number of parking spaces for all uses not included in the table based on those criteria.
- (iii) Where two or more different principal or accessory uses are located on the same premises the parking requirements for the different uses shall be computed separately and cumulatively.
- (iv) When computation of required parking spaces results in a fraction of a car space the required number of the spaces shall be increased to next whole number of spaces.
- (v) No area shall be credited as a parking space that is in any part credited or used as a loading space or travel way.
- (vi) No required parking space shall be used for the sale, storage, or display of goods.

PARKING REGULATIONS TABLE:

USE	MINIMUM PARKING REQUIRED
Automobile Repair garages	1 space per 200 ft. of gross floor area used and service garages (see for repair work, plus 1 per employee Fuel stations)
Bowling Alleys	4 spaces for each alley, plus any required for other uses such as restaurant or bar.
Churches, theaters auditoriums, community centers and other places of public assembly.	1 space per 4 seats
Colleges, secondary schools, Elementary schools, vocational and night schools	1 space for each employee plus one (1) space for each 5 students 16 yrs. of age or older.
Daycare facilities	1 space per 10 children and 1 space per Employee
Financial Institutions, business, Government and professional office	1 space per 200 ft. of gross floor area
Funeral Homes	25 spaces for each viewing room
Fuel Stations	1 space per 300 sq. ft. of gross floor area plus any required for other uses such as Repair garages or restaurants.
Golf courses	4 spaces per golf hole and an additional 6 spaces for every 9 holes, plus any additional spaces required for

	other uses which is part of the facility such as restaurants, bars or banquet facilities.
Health Clubs	1 space per 150 sq. ft. of gross floor area
Hospitals, sanitariums, Institutions, rest and nursing homes	1 space for each 3 beds plus 1 space for each day shift employee
Lodges, clubs and banquet facilities	1 space for every 3 persons allowed within the maximum occupancy load
Manufacturing and processing plants (including meat and food processing plants, laboratories, and warehouses)	1 space per each employee or 1 space per 200 sq. ft. of gross area.
Medical or dental clinics	6 spaces for each doctor or professional service provider
Motels, hotels, rooming houses, and boarding houses, fraternities, and sorority houses, dormitories, and rectories	1 space for each guest room, and 1 space for every 3 employees, plus any required spaces for other uses such as restaurant, bars or banquet facility
Motor vehicle sales (new/used)	1 space for each 600 sq. ft. of gross floor area plus 1 space per 500 sq. ft. of outdoor display area for each motor vehicle to be displayed, plus any required spaces for other uses such as service garages
Repair shops and retail and Service Stores	1 space per 150 sq. ft. of gross floor area
Restaurants, bars and clubs	7 spaces per 1,000 sq. ft. of primary floor area devoted to the principal use of the property.
Retirement homes, orphanages, Convents and monasteries	1 space per 1,000 sq. ft. of gross floor area
Shopping Centers	1 space per 175 sq. ft. of gross floor area

(10) **Reduction of parking facilities:**

- (a) **Temporary change in use reduction:** The Town Plan Commission may waive the requirement for the installation of additional spaces when a temporary change in the use of the premises results in a parking deficit of less than the number of required spaces.
- (b) **Temporary Installation Reduction:** The Town Plan Commission may waive the immediate installation of the required parking spaces where sufficient evidence has been presented, in the judgment of the Town Plan Commission, to show that the reduced parking facilities will adequately serve the proposed use. Before approval of a waiver by the Town Plan Commission, the applicant shall show upon the Site Development Plan the complete layout for the full parking requirements. The owner shall file that plan in the Office of the Town Clerk, stipulating that the owner, or the successor and assigns of the owner will install as many of the waived parking spaces as the Town Plan Commission deems

necessary within six months of the Town Plan Commission's request, when, in the opinion of the Town Plan Commission, such installation is needed.

- (c) **Permanent Shared Use Reduction:** The Town Plan Commission may allow a reduction of the required parking spaces due to shared use of parking facilities when the parking needs of the joint users occur at different hours of the day.
 - (d) **Permanent Compact Space Reduction:** In parking lots in excess of 50 spaces in the Industrial Zoning Districts, the Town Plan Commission may allow the installation of compact spaces, not to exceed 25% of the total number of spaces installed, at 8 feet by 16 feet. These spaces shall be clearly designated as compact car parking. This reduction may only be considered for single-tenant buildings where there is reasonable assurance of private control.
- (11) **Residential parking.** Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests. Vans, motor homes, recreational vehicles, or pick-up trucks used for private and recreational use, or one similar vehicle used in a business for transportation to and from a place of employment, may be parked on a residential property as long as such use does not become a nuisance to the neighborhood.
- (12) **Parking of trucks and equipment.** No other vehicular equipment of a commercial or industrial nature, as excepted in subsection (12)(b) of this Section, shall be parked or stored for more than three (3) consecutive hours and six (6) cumulative hours during any 24-hour period on any lot in any zoning district, except business or industrial districts, or as follows:
- (a) Agricultural equipment (such as farm tractors, plows, seeders, combines, cultivators, farm trucks, etc.) used in a farm operation and located within an agricultural or rural home district.
 - (b) One panel, van or pick-up truck used in the conduct of a conforming business activity being carried on in a residential or agricultural district. Such truck and any attached extraneous material shall not exceed 20 feet 6 inches in length, 8 feet in height or 7 feet in width. No limitation shall be placed on vans or pick-up trucks if they are used for private non-business or noncommercial recreational purposes.
 - (c) Consideration for issuance of a conditional use permit, pursuant to this Code, may be given to allow the parking of commercial or industrial type vehicles in any zoning district, except C-1 Conversancy and A-E exclusive agricultural and E-C Environmental Corridor District. This determination shall be made by the Town Plan Commission after conducting a public hearing and notifying all property

owners within 300 feet of such a hearing. In business or industrial districts where such vehicles are accessory to an otherwise permitted business or commercial use, a conditional use permit will not be required and there are no limitations as to the number of such vehicles which may be parked on the property except as may be established under the provisions of the applicable zoning district.

- (d) No bus, truck (other than light duty pick-up trucks), or other equipment shall be parked regularly on a Town road right of way.
 - (e) Recreational equipment parked or stored shall not have fixed connections to electricity, water gas, or sanitary sewer facilities and at no time shall this equipment be used for living or housekeeping purposes
 - (f) If camping or recreational equipment is parked or stored outside a garage, it shall be parked or stored subject to the following: There shall be a minimum setback of 50 feet when parked or stored adjacent to a public street or highway. It shall be parked or stored in the rear yard of the lot and it shall be parked or stored not closer than 20 feet from a side or rear lot line. Notwithstanding the above, camping or recreational equipment may be parked anywhere on the premises for loading or unloading purposes for a period of not more than 48 hours.
 - (g) There shall be no parking or storage anywhere in a residential zoned district of any equipment which is no longer capable of the use intended or requiring repair over and above ordinary maintenance. All recreational equipment shall be kept in good condition. The ground area under and immediately surrounding where such recreational equipment is stored shall be maintained free of noxious weeds, debris or undergrowth.
- 13) **Screening.** Any off-street parking area, other than that provided for a residence, which abuts or faces a residence district shall provide a planting screen, landscaped fence, or wall at least four feet in height along the side abutting or fronting on a residence district.
- (14) **Offset.** In any off-street parking area, other than that provided for a residence, which abuts a residence district, no vehicle shall be allowed to park closer than ten feet to the abutting residential lot line.
- (15) **Setback.** No vehicle shall be parked closer than ten feet to the base setback line.
- (16) **Lighting.** Lights provided in any parking area shall be hooded, shielded or beamed so as not to create undesirable glare or illumination of adjacent residential property.
- (17) **Storage Prohibited:** The unenclosed parking or storage of unlicensed, registered, inoperable or junk vehicles is expressly prohibited within the Town except in an authorized salvage yard.

Section-22. Off-street loading and unloading.

- (A) **Required.** In any business or industrial district an off-street loading space shall be provided, in addition to the defined off-street parking area, for every 10,000 square feet or fraction thereof in excess of 3,000 square feet of building area, exclusive of storage areas, used for commercial purposes. The number of such spaces provided shall be based upon the operating characteristics of the individual use and shall be subject to approval by the Town Plan Commission upon the submittal of the building site and operational plan.
- (1) **Areas.** An individual loading space shall be at least ten (10) feet wide by thirty (30) feet long and have a minimum height clearance of fourteen (14) feet.
 - (2) No building for commercial or industrial purposes shall be hereinafter erected on the lot in a manner which requires servicing directly from the abutting public street.
 - (3) The use of a public street for the maneuvering of trucks to service industrial or commercial buildings is expressly prohibited, except in the Existing Business Redevelopment Overlay District when it is determined by the Town Plan Commission that there is no maneuvering area available on site. Sufficient onsite space shall be provided for such maneuvering in all other zoning districts.

Section-23. Airport safety zone.

- (A) **Maximum height.** No buildings or objects of natural growth located within two miles of the boundaries of any existing airport landing field or landing and take-off strip, and within a band 500 feet on each side of the centerline extended of any runway, shall be erected, altered, or permitted to grow after the effective date of the Code from which this Section is derived to a height above the elevation of the nearest point of such runway greater than one-fifteenth of the distance from such point.
- (B) **Control of use.** No building or land located within two miles of the boundary of any airport, landing field or landing and take-off strip shall be so used that by reason of the emission of smoke, gas or other emanation it shall produce a hazard to the operation of aircraft.
- (C) **Exceptions.** The regulation in this Section shall not apply to growing field crops which are harvested at least once a year, or to fences not over five feet high.

Section-24. Mobile homes and recreational vehicles.

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

- (B) **Human habitation allowed.** A permit for one continuous six-month period allowing the human habitation of a mobile home or a recreational vehicle on lands other than an approved mobile home park may be granted by the Town Board provided:
- (1) The habitation is an accessory to the current construction of a principal structure owned by the same person who is the applicant for the permit; and
 - (2) The waste disposal facilities and water supply facilities for the property upon which the mobile home or recreational vehicle is to be located have been approved by the county health department.
- (C) **Storage prohibited.** No mobile home or recreational vehicle in excess of thirty-five (35) feet in length shall be located or stored on property except in an approved mobile home park, unless completely enclosed in a structure.

Section - 25 Personal Storage Facilities

- (A) **Minimum lot size.** The lot on which a personal storage facility is located shall be at least one acre in size.
- (B) **Access.** The access to a cubicle shall not open directly onto a public road right of way
- (C) **Surfacing of travel ways. Driveways, interior aisles, and walkways** shall be concrete or asphalt. The Town Plan Commission may allow gravel (dust-free) surfaces as a special exception, provided the location and size of the proposed use and nature and intensity of use in relation to the size of the lot will be in harmony with the orderly development of the area, the design elements of the proposed development are attractive and suitable in relation to the site characteristics and style of other buildings in the immediate area, and that the proposed use will not alter the essential characteristics of the area or adversely affect property value in the neighborhood. The proposed use shall be consistent with the definition of a Special Exception and meet the standards and criteria of the zoning district. Additional buffer yard and landscaping requirements deemed necessary to provide adequate screening between this use and adjoining properties may also be required.
- (D) **Storage of prohibited substances.** No cubicle shall be used to store explosives, toxic substances, hazardous materials, or radioactive materials.
- (E) **Uses.** Only uses that are accessory to storage shall occur. No portion of the site shall be used for fabrication, repair, or any similar use or for human habitation.
- (F) **Design.** The personal storage facility shall be designed so as to minimize adverse visual impacts on nearby properties. The color, exterior materials, and orientation of proposed buildings and structures shall complement existing and anticipated development in the surrounding area.

- (G) Fencing of outdoor storage area. An area used for outdoor storage of operational vehicles, watercraft, and the like shall be enclosed by a security fence and gate.
- (H) Setback of outdoor storage area. Outdoor storage areas shall comply with the building setback standards for the zoning district in which it is located.

Section - 26 Outdoor Food and Beverage Service Areas

- (A) Maximum size of service area. The size of the outdoor service area shall be determined by the Town Plan Commission on a case-by-case basis.
- (B) Location of service area. The outdoor service area shall be located on the same parcel of land as the restaurant or tavern. The outdoor service area shall not be located in a public right-of-way, a required landscape area, or a buffer yard. Outdoor Service areas may be allowed within the Road Setback and Offset areas provided the proposed use does not have a detrimental impact on neighboring properties, the public road (ingress/egress and site distance) and are specifically approved by the Town plan Commission and Town Board as part of the liquor license process.
- (C) **Special restrictions when adjacent to a residentially-zoned parcel.** If the outdoor service area is within 100 feet of a property in a residential zoning district, the following restrictions shall apply:
 - (1) Hours of use. No person shall occupy the outdoor service area after 10:00 p.m.
- (D) **Consistency with state liquor license.** No alcoholic beverages shall be served or consumed within the outdoor service area unless the liquor, beer, or wine license, whichever is applicable, as issued by the Town, explicitly states that consumption is permitted within the outdoor service area.
- (E) **The entrance to service area if alcoholic beverages are served.** If alcoholic beverages are served, the entrance or entrances to the outdoor service area shall be exclusively through the restaurant or tavern, and a barrier such as a rope or fence shall be erected to prevent entry to the outdoor service area by any other means, unless waived by the Town Plan Commission and Town Board. All Alcohol consumption must be limited to the restaurant service area.
- (F) Restroom requirements. The restroom facilities in the restaurant or tavern shall be of sufficient capacity to serve both the indoor and outdoor patrons. Temporary toilet facilities are not permitted except in an approved site plan and plan of operation.

Section - 27 Legal non-conforming uses, structures and lots.

- (A) **Continuance of Use, Generally,**

- (1) Any lawfully established construction of a building or structure at the time of the

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enactment of this Code or any amendment applicable thereto that does not conform to the dimensional regulations for the District in which it is located shall be deemed a legal nonconforming structure and may be continued, except as otherwise provided herein.

- (2) Any lawfully established use of a building, structure or land at the time of the enactment of this Code or any amendment applicable thereto that does not conform to the use regulations for the District in which it is located shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.
- (3) Any lawfully established lot or parcel of land at the time of enactment of this Code or any amendment thereto which does not meet the requirements for the District in which it is located shall be deemed to be a legal nonconforming lot and may be used in accordance with this Code and as provided herein.

(B) **Regulation.** For the purposes of administration, legal nonconforming structures, uses and lots shall be classified and regulated as follows:

- (1) **Existing Non-conforming Structures.** A lawful structure which existed at the time of the adoption or amendment of this Code may be continued as a legal non-conforming structure, although the structure size or location does not conform to all the requirements of this Code, however:
 - (a) A legal non-conforming structure containing conforming uses may be totally rebuilt if, and only if, such reconstruction is identical in respect to the size, height, location, footprint, use of the original structure. If said structure is located within the Shoreland Regulations of Waukesha County, then all requirements of NR 115.05 (1) (g) 6.
 - (b) A legal non-conforming structure containing conforming uses, subject to approval of a special exception by the Board of Appeals, may be reduced in size, may have its shape modified, may have its height lowered, and may have its style modified, as long as the proposed structure is identical in all respects to the location, footprint and use of the original structure.
 - (c) A legal non-conforming structure containing conforming uses, subject to the grant of a variance per Section 100 (C)(1) from the Board of Appeals, may be increased in size, may be increased in shape, may be increased in height, and the location and footprint may be modified, provided setbacks and offsets are complied with.
 - (d) Regardless of the foregoing provisions in this subsection, the footprint of a legal non-conforming primary residence with conforming uses, subject to Plan Commission review and approval, may be expanded into areas of the lot where

the expansion fully complies with all offset and setback requirements of the district in which it is located, provided that the expansion is otherwise in compliance with all other applicable laws. In passing upon such matter, the Plan Commission shall consider all the following factors: the size of the lot; the size and location of the existing legal non-conforming structure; the size and location of any other structure on the lot; the size and location of the proposed expansion; the impact, if any, that the expansion may have upon neighboring properties; whether the proposed expansion would violate the intent of this Code and such other matters as the Plan Commission finds to be relevant in the interest of the public health, safety, welfare, and be compatible with other properties in the area of the Town.

- (2) **Nonconforming Use of Structures and Lands.** A lawful use which existed at the time of the adoption or amendment of this Code may be continued as a legal non-conforming use, although the use of the structure and land does not conform with the provisions of this Code, however:

- (a) No such use shall be expanded or enlarged.
- (b) Upon petition to and approval of the Town Plan Commission, such use may be changed to another use provided the Town Plan Commission determines that the new use would not result in a greater degree of non-conformity than the current use.
- (c) When any such use is discontinued for a period of twelve (12) consecutive months or eighteen (18) cumulative months during a three-year period, any future use of the land or structure shall conform to the use regulations of the applicable district. Seasonable uses shall be excluded from this provision.
- (d) When a structure which houses such non-conforming use is damaged beyond 50 percent of its present equalized assessed value, it may be restored for any use in conformity with the applicable district regulations.
- (e) Total structural repairs or alterations to a structure housing a non-conforming use shall not exceed, on an accumulative percentage basis, 50 percent of the present equalized assessed value of the structure.

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

- (C) **Conditional use status.** Subject to the provisions of Section 40, Conditional Use Status may be granted to existing legal non-conforming uses, structures or lots upon petition of the owner and where such use, structure or lot is determined by the Town Plan Commission to be: not adverse

to the public health, safety, or welfare; not in conflict with the spirit or intent of the Code; and not otherwise detrimental to the community and particularly the surrounding neighborhood. Such conditional use status shall be granted only with the approval of the Town Plan Commission following a public hearing in the manner provided in Section 102.

- (D) **State Law:** Any applicable restriction in this Code which prohibits restoration of a damaged or destroyed non-conforming structure shall not apply to the extent that Sec. 62.23(7)(hc), Wis. Stats. applies to such restoration, including such amendments and renumbering of the applicable statutes referred to therein as may be made from time to time.

Section-28. Prior permit.

- (A) **Construction permitted.** Nothing contained in this Code shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of the Code from which this Section is derived where the construction of which shall have been substantially started within six (6) months from the date of such permit.
- (B) **Subsequently nonconforming.** Any such use which does not conform to the use regulations of the district in which it is located shall, however, subsequently be considered a legal nonconforming use.

ARTICLE III: LAND DEVELOPMENT REGULATIONS

Section-30: Land altering activities.

- (A) **Purpose.** This Section is adopted in order to protect property owners from possible damage due to change in the existing grade or runoff from adjoining lands and to aid in preserving and protecting the natural resources, natural beauty and the character of the landscape.
- (B) **Compliance.** All land altering or land development activity shall comply with this Section, any zoning use permit or other zoning requirements in this Code, and any applicable permit requirements under applicable Waukesha County ordinances.
- (C) **General requirements.** Any land altering or land development activity regulated under this Code shall comply with the following minimum requirements and the technical standards:
 - (1) **Site drainage.** Minimize adverse impacts from site drainage, including other property, the general public or natural resources, in accordance with Section 32 of this Code.
 - (2) **Construction site erosion control.** Control soil erosion and off-site sedimentation during construction activities until, final grading is complete and vegetation is established.
 - (3) **Site stabilization.** All disturbed areas shall be stabilized within seven (7) days of final grading. Any disturbed area that remains inactive for greater than, seven (7) days shall be stabilized with temporary soil stabilization measures.
 - (4) **Environmental corridors.** Environmental corridors shall not be disturbed unless a building envelope is designated and unless otherwise permitted by this Code or other official actions by the Town of Genesee and Waukesha County. Disturbance of slopes twelve (12) percent or greater within an environmental corridor shall be prohibited unless no practicable alternative exists as determined by the Town Plan Commission.
 - (5) **Slopes.** Proposed activity shall fit the natural terrain of the site, minimizing grade changes, steep slopes and impact on the surrounding landscape to the extent practicable. Slopes steeper than two (2) horizontal to one (1) vertical must be approved in accordance with Subsection (E)(2) below and may require additional soil reinforcement or other slope stabilization measures than required under applicable technical standards.
 - (6) **Pond design:**
 - (a) The water surface of any pond shall be twenty-five (25) feet or greater from any floodplain and no land altering activity is allowed within the floodplain, The

finished grade around the entire pond shall be at least two (2) feet above the 100-year flood elevation.

- (b) The water surface of any pond shall be twenty-five (25) feet or greater from any wetland, unless otherwise approved by Wisconsin Department of Natural Resources (WDNR) as a wetland enhancement.
 - (c) All ponds shall comply with applicable technical design standards published by the WDNR and the USDA-Natural Resources Conservation Service, including but not limited to soil investigations, safety shelf, berm design, compaction specifications, inlet/outlet design and erosion control.
 - (d) Groundwater pumping is a prohibited water source for any pond, unless a public benefit is determined by the Town Plan Commission.
- (7) **Earthen berm design.** Any earthen berm constructed for non-storm water management purposes shall have variable top elevations, if practicable, and include a diversity of landscape plantings to improve aesthetics.
- (8) **Retaining walls.** All retaining walls shall be installed according to manufacturer's recommendations and shall include provisions for adequate soil drainage behind the wall, such as stone aggregate bacilli, weep holes and tile drains. Any plan designs for a retaining wall proposed to be four (4) feet in height or greater from the finished grade must be designed and stamped by an architect, landscape architect, or professional engineer licensed by the State of Wisconsin and shall be approved by the Town Building Inspector.
- (9) **Master grading plan.** A master grading plan may be required under Subsection (E) below, or may have been previously approved by the Town of Genesee or Waukesha County. A new master grading plan shall be approved by the Town Planner, Waukesha County, and Town Engineer and shall contain components that depict site drainage patterns, storm water management and erosion control measures; elevations for roads and lots; building floor elevations that are subject to grade restrictions; drainage and utility easements, setbacks, location of natural areas, including environmental corridors, wetlands, and floodplains, and other information deemed appropriate by the approving authorities. Where an approved master grading plan exists, all grading, erosion control, storm water management and site drainage activity shall comply with the plan, the Town of Genesee or Waukesha County, or applicable agency, may require at the applicant's expense, as-built surveys and verification of compliance with approved master grading plans as a condition of other approvals.

- (10) **Applicable laws.** No land development or land altering activity shall occur that would violate requirements of applicable federal, State of Wisconsin, Waukesha County or local municipal codes, statutes, ordinances, regulations, rules and lawful orders.

(D) **Prohibited activities.** The following land altering or land development activities are prohibited.

- (1) Those that may have significant adverse impacts on the owner, adjoining properties, the general public or natural resources, as determined by the Town Planner.
- (2) Construction or replacement of any retaining wall greater than six (6) feet in height at any point above finished grade, unless approved by the Town Engineer.
- (3) Construction or replacement of any retaining wall greater than four (4) feet in height at any point above finished grade within fifty (50) feet of a floodplain or wetland boundary at any point. Averaging of the fifty (50) foot setback in this paragraph is prohibited.
- (4) Increasing or decreasing existing ground surface elevation greater than four (4) feet at any point within fifty (50) feet of a floodplain or wetland boundary at any point;

(E) **Applicability for zoning approvals.** Any proposed land altering or land development activity that meets one of the following criteria shall obtain a Land Altering Permit from the Town of Genesee Plan Commission in accordance with the procedures and requirements in Subsection (F) through (H) below. This zoning approval is in addition to a stormwater permit, zoning permit and other requirements that may apply.

- (1) **Retaining wall.** Construction of a retaining wall greater than four (4) feet in height at any point above finished grade; or a series of retaining walls greater than six (6) feet in total height at any point above finished grade with less than four (4) feet between each, wall; or any retaining wall proposed to be located ten (10) feet or less from a property boundary. If the Town Planner determines that a proposed retaining wall is replacing an existing retaining wall less than four (4) feet in height and of otherwise equal dimensions, location and setback, the activity shall be exempt from this subsection.

(2) **Grade changes.**

- (a) Increasing or decreasing existing ground surface elevation greater than four (4) feet at any point where the top or bottom of the proposed slope is within ten (10) feet of any existing property boundary or within fifty (50) feet of an environmental corridor; or
- (b) Increasing or decreasing existing ground surface elevation steeper than two (2) horizontal to one (1) vertical or a total elevation change of six (6) feet or greater at any point; or

- (c) Bringing in fill or removing excavated material from a *site* in quantities greater than one thousand (1,000) cubic yards, as determined by the Town Planner, unless otherwise approved through a master grading plan.
- (3) **Ponds.** Construction of any pond with a proposed water surface within fifty (50) feet of a property boundary, environmental corridor, wetland or floodplain, at any point. Any pond with a proposed water surface area of 20,000 square feet or greater shall obtain a conditional use permit.
- (4) **Exempt from this section.** The following shall be exempt from this section, but shall require a stormwater permit:
 - (a) Any wetland enhancement or restoration project approved by the DNR in which the top or bottom of a proposed slope is fifteen (15) feet or greater from the nearest existing property boundary at any point; and
 - (b) Any stormwater management practice permitted under the Waukesha County's Stormwater Ordinance if the top or bottom of the proposed slope is located fifteen (15) feet or greater from the nearest existing property boundary or environmental corridor at any point. However, if a proposed berm for a storm water management practice is greater than four (4) feet in height at any point, the applicant may be required to complete an additional engineering review or meet more restrictive berm design requirements, depending on the Waukesha County's determination of risk for downstream damages.
- (F) **Application.** All applications and associated fees submitted for approval under Subsection (E) above shall include a grading plan prepared and stamped by an architect, landscape architect, or professional engineer licensed by the State of Wisconsin. The grading plan shall be of adequate scale, accuracy and clarity, as determined by the Town Planner (survey preferred), and shall include all applicable items listed below:
 - (1) Plan view and cross-sections of existing and proposed grades on the subject property, including top and bottom elevations of proposed retaining walls;
 - (2) Existing grade of any adjacent property that is, at any point, closer than twenty (20) feet to any portion of the proposed land altering activity, showing how the proposed grades will tie into the existing adjacent property grades;
 - (3) Proposed cut and fill slopes, total depths and slope ratios (horizontal and vertical);
 - (4) Proposed volume of excavation and fill material involved in cubic yards, including the source and content of any proposed fill;

- (5) Proposed boundaries of the land disturbance, planned pond water surface area, and the square footage of each arc;
- (6) Location of natural areas, such as environmental corridors, floodplains, or wetlands;
- (7) Proposed soil stockpile locations, length of time they will exist and methods of stabilization or sediment control;
- (8) Proposed temporary erosion and sediment control practices, such as silt fence, mulch, soil treatment and temporary seeding;
- (9) Proposed permanent vegetation plan, including topsoil application depth, seed mixes, amounts, application methods, timing, and stabilization methods such as mulch, soil treatment, and matting; and
- (10) Any other site drainage, stormwater management, erosion control or other items that may be required under a stormwater permit or by the Town Zoning Administrator to complete the review process under Subsection (G) and (H) below, or to otherwise ensure compliance with this Code.

(G) **Procedures for approval:**

- (1) Upon submission of a complete application to the Town of Genesee Plan Commission, the Town of Genesee Plan Commission shall consider the request at a regular scheduled meeting.
- (2) The Town of Genesee shall provide written notice of the Town Plan Commission meeting to owners of land within one hundred (100) feet of the subject property, by regular mail that is mailed at least ten (10) days prior to the Town Plan Commission meeting.
- (3) All property owners notified under Sections (G)(1) – (2) above shall have the opportunity to comment on the proposed request during the scheduled Town of Genesee Plan Commission meeting.

(H) **Zoning review criteria.** When determining whether to authorize any land altering or land development activity under Subsection (E) above, the Town of Genesee and Waukesha County (if applicable) shall consider all of the items listed below, and ensure compliance with the general requirements under Subsection (C) above. The Town of Genesee may make a referral to the Waukesha County for a determination regarding the necessity for a stormwater permit.

- (1) The aesthetic impact;

- (2) The potential for adverse drainage;
- (3) The potential impact upon neighboring properties;
- (4) The potential impact upon environmentally sensitive areas;
- (5) The potential impact upon existing lakes and streams;
- (6) The potential impact on roadways and other infrastructure;
- (7) Public safety;
- (8) The length, height, design and location of any retaining walls or earthen, berms;
- (9) If a retaining wall is needed to stabilize the grade or control soil erosion based on existing topography;
- (10) How the proposed activity fits with the master grading plan, if applicable;
- (11) Proposed landscaping and screening;
- (12) The materials used and source for fill, landscaping and, retaining walls;
- (13) The total area of land disturbance; and
- (14) Proposed pond size, use, location, design, landscaping, and water source.

Section-31. Sedimentation control.

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

Section-32. Drainage regulations.

- (A) Adequate drainage required: In no case may a principal building be located in an area zoned conservancy or in an area considered to be one of the eight (8) types of wetlands (type 1-8) as described in Circular 39 of the Fish and Wildlife Service, U. S. Department of Interior published in 1956, and which are on record on the 1975 aerial maps of the Southeastern Wisconsin Regional Planning Commission. No principal building shall be erected, or relocated, and no below grade structures shall be expanded on newly created or existing lots that are not in compliance with the site drainage standards contained in the Waukesha County Storm Water Management and Erosion Control Ordinance, including all county technical procedures and forms used to enforce these standards (Chapter 14-342(c)). The lowest floor, including any basement floor, shall not be less

than one (1) foot above the highest seasonal ground water level. For the purposes of this Section, the highest seasonal ground water level is defined as the upper limit of the zone of soil saturation caused by underlying ground water at its highest level. Where groundwater limitations exist, subdivision plats and certified survey maps shall state the lowest allowed floor elevation for any proposed principal structure as needed to ensure compliance with the above noted site drainage standards. All basement elevations must comply with the subdivision plat or certified survey map master grading plan or with the master grading plan referenced on the subdivision plat or certified survey map. The zoning administrator and/or building inspector may request at the owner's expense the advice and assistance of a licensed professional engineer specializing in soils engineering or other qualified person in fulfilling their duties pursuant to this provision. Building, drainage, grading or other similar plans may be required to determine compliance with this Section. The town and the county accept no liability for construction activities involving groundwater limitations.

- (1) The zoning permit and building permit issued for the erection, structural alteration or relocation of a principal building shall state specific design, engineering and construction requirements, as a condition of the permit, notwithstanding applicable construction codes, which must be incorporated within the improvement to be done on and in soil which has such conditions necessitating additional protection of the building, basement, foundation, occupants and personal property. Such provisions which may be required may include but shall not be limited to the techniques enumerated below: auxiliary power supplies; gravity drainage of foundation footings together with the installation of sump pumps which will be operative in the event of blockage of the gravity drains, gravel backfill, extra drains, and waterproof poured concrete basements.
- (2) Subdivision plats and certified survey maps shall state, on their face, whether protection measures, pursuant to the above, are likely to be required as a condition of a zoning and building permit. The Town Plan Commission or Town Board may cause such notice to be affixed to the face of the document.
- (3) In the event a dispute arises as to the necessity for or the adequacy of the protection measures set forth above, the matter shall be reviewed by the Town Board of Appeals, upon recommendation of the Town Engineer pursuant to the appeal provisions of this Code.

(B) **Obstruction to drainage prohibited.** The damming, filling or relocating of any surface water drainage swale, channel or natural watercourse shall not be permitted except with approval of the Town Board and the State Department of Natural Resources, the U.S. Army Corps of Engineers and Waukesha County Department of Parks and Land Use, when applicable.

(C) **Building restricted adjacent to drainage channels or watercourses.** No building other than a bridge, dam, boathouse, seawall or revetment, subject to approval, shall be erected, structurally

altered, or relocated within 75 feet of the 100-year flood level or Conservancy line.

Section-33. Sanitation and water supply.

- (A) **Safe sewage disposal possible.** No principal building shall be erected, structurally altered or relocated unless it has been certified by the building inspector or plumbing inspector that it conforms to all Town ordinances and other governmental laws or regulations then applicable to sewage disposal systems, and that satisfactory evidence has been submitted to show that suitable provisions for disposal of sewage is possible. A County septic system permit shall be required for all new private systems. Certification from Waukesha County verifying the soil's suitability to meet standards shall be furnished when a specific system is being proposed. (Explanatory note: While every attempt has been made, through control of minimum lot size, building location and plumbing standards to ensure that proper disposal of sewage will be provided on any lot, it is recognized that no such standard will completely ensure adequate disposal in every situation. This Section has been written for the purpose of giving the Town the authority to require whatever additional provisions are necessary to limit the potential for sanitary problem from developing in a situation where the normal requirement will not ensure proper sewage disposal.)
- (B) **Outhouses prohibited.** No outhouse or privy shall be hereafter erected provided, however, that the Plan Commission may permit the use of temporary outhouse(s) at construction site and other special events for a limited period of time established by the Plan Commission.
- (C) **Water supply required.** No occupancy permit shall be issued for any building designed or used for human occupancy purposes unless provision is made for a safe and adequate supply of water in such building.
- (D) **Reduction in lot size, lot width, road setback, offset and increase in floor area ratio and increase in density in a Planned Unit Development:** In the case of any lot proposed to be served by a municipal or municipally approved communal sewerage system or water system, and where such service would be provided prior to any occupancy of such lot, the lot size, lot width, offset and increase the floor area ratio requirements applicable to such lot may be modified, subject to the following limitations:
1. The maximum amount of reduction in the lot size, lot width, offset and road setback requirements or increase in the floor area of individual lots and the maximum increase in the density of planned unit developments shall not exceed 30%; and
 2. In no event shall the lot area requirements for the individual lots be reduced to less than twelve thousand (12,000) square feet except as provided and for multi-family type units.

ARTICLE IV: CONDITIONAL USE REGULATIONS

Section-40: Conditional Uses

(A) Approval required.

Certain uses, which are of such a special nature, or are so dependent on the actual contemporary circumstances as to make impractical the predetermination of permissibility of such uses or to detail in this Code of the specific standards, regulations, or conditions which would permit such uses in each individual situation. Such uses may, however, be permitted as conditional uses subject to the terms of this Section. The applicant for a conditional use shall demonstrate that the application and all requirements and conditions established by the Town of Genesee Plan Commission and Town Board (if applicable) relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The decision to approve or deny any such conditional use permit will be based upon **substantial evidence**. Only those uses specifically listed herein can be granted a conditional use. Any other uses not specifically listed shall require an amendment to this code to be considered by the Plan Commission.

(1) Application

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

1. Two (2) copies of a map, preferably a topographic map, drawn to a scale of not less than two hundred (200) feet to one (1) inch, showing: the land in question; its legal description and location; location and use of all existing buildings, sanitary systems and private water supplies on such land; the high water elevation of any navigable waters within one hundred (100) feet of the boundaries of the land in question; the 100-year floodplain or any wetlands or environmental corridors; the proposed location and use of any buildings; sanitary systems and water supplies on such land and within one hundred (100) feet of the land in question.
2. Additional information as may be required by the Town Planner, Town Engineer, Town Building Inspector or the Town Plan Commission.
3. An accurate and complete description of the current use and the use for which the conditional grant is being requested including all pertinent and operational characteristics (Plan of Operation).

4. Plans and other drawings showing the proposed development of the site and buildings, including landscape plans, parking and service areas, driveways, exterior lighting, building materials, storm water facilities, outdoor storage, etc.
- (b) A fee, as may be established by the Town Board and periodically modified, shall accompany each application. Such fees shall be paid to the Town of Genesee to defray the cost of official notification and posting of the public hearing. Cost incurred by the Town in obtaining legal, planning, engineering, publication, and notice requirements, and other technical and professional advice in connection with review of the Conditional Use applications and preparation of conditions to be imposed on such uses shall be charged to the applicant, and if required by the Town, a pre-payment deposit covering the costs shall accompany the application.
- (c) Where necessary, to comply with certain regulations established by applicable laws, applications shall be required to be submitted to the other governmental bodies having jurisdiction which may include the State Department of Natural Resources, the U.S. Army Corps of Engineers and/or Waukesha County.

(2) **Public hearing**

- (a) Upon receipt of the application together with the foregoing data and fees, the Town Planner shall establish a date for a public hearing by the Town Plan Commission and shall publish notice of said hearing once each week for two (2) consecutive weeks in a newspaper of general circulation in the area of the proposed Conditional Use. Notice of the public hearing shall be given by first class mail to the owners of all lands within three hundred (300) feet of any part of the land included in such Conditional Use at least ten (10) days before such public hearing.
- (b) A copy of the notice of public hearing along with pertinent information relative to the specific nature of the matter (copy of application and map) shall be transmitted without delay to any other governmental agencies having jurisdiction by regular mail not less than then ten (10) days prior to the date of the hearing.
- (c) At the public hearing the Town Plan Commission will hear from the applicant, Town Planner, Town Engineer (if applicable), and the public concerning the application. The Purpose of the hearing is to gather the record, for the petitioner to demonstrate with substantial evidence that it meets the standards of the code, to hear comments and concerns from Town Staff and the public and to render a decision if appropriate or to determine what remains to be discussed at ensuing meeting. Only substantial evidence may be considered by the Plan Commission.

At the summation of the initial public hearing date the Plan Commission may give the following direction to the petitioner and to the public:

- (1) The remaining questions/standards that need to be proved/responded to.
 - (2) Additional conditions to include in the CU order that the Plan Commission deems appropriate. The Petitioner will need to prove they can meet those at the adjourned public hearing date.
 - (3) Direction to staff to prepare the Conditional Use Order or a finding the Petitioner does not meet the standards for approval for consideration at the next meeting. The Plan Commission may also delay either of these directions to hear more evidence at the next meeting. Although such delay will result in another adjourned public hearing date for due process purposes.
 - (4) Adjourn the public hearing to a date certain.
- (d) If the public hearing is adjourned to a date certain, at the adjourned public hearing, the Plan Commission will hear from the applicant, Town Plan Commission and the public on evidence in support or in opposition to the Conditional Use Order itself. The purpose of the hearing is to gather the record on any additional standards imposed by the Plan Commission from the first public hearing and to gather evidence on the proposed Conditional Use itself. Only substantial evidence will be considered by the Plan Commission. At the summation of the public hearing the Plan Commission will give direction requesting additional evidence and adjourn the public hearing to a date certain or close the public hearing.

(3) Final review and approval

- (a) After the closing of the public hearing the Town Plan Commission shall discuss the plans and the Conditional Use Order or Findings for Denial and act on the agenda item(s) during its regular meeting or at a subsequent meeting where the agenda item is duly noticed. The decision shall be based upon the record from the public hearings. The burden of proof is on the applicant to prove they have met the standards of the Ordinance and those set forth by the Plan Commission during the process. The Plan Commission shall render its written determination and the reasons for the same without unreasonable delay and, in any event, within ninety-five (95) days after completion and adjournment of the public hearing, unless an extension is consented to in writing by the applicant. The Clerk shall mail a copy of the determination to the applicant.
- (b) The Applicant shall comply with all applicable conditions established by the Town Plan Commission and with all other provisions of this ordinance, such as lot width and area, height, parking, loading, traffic and highway access shall be required of all conditional uses unless otherwise specifically authorized to be modified by this

code. Variances shall only be granted as provided in Section 100 of this Code. Any failure to comply with any condition(s) set forth in the conditional use permit shall constitute a violation of the terms of the conditional use permit and a violation of this Code and will be subject to prosecution and penalties under the terms of this Code To include terminating the Conditional Use Permit.

- (c) Changes in use subsequent to the initial issuance of a conditional use or any request by any holder of a conditional use permit to extend or alter the terms of such permit shall result in the need for the permit holder to apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Sections 40(A)(1) and shall require the filing of an application and a hearing as provided above. The Conditional Use Order as issued, however, may describe changes that can be made without requiring a new permit.
- (d) No use is authorized by this Section unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in a Conditional Use Order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order or rule of either the Town Board, County of Waukesha, State of Wisconsin, or the United States of America, or other duly constituted authority. A Conditional Use Order does not constitute a building permit, nor shall a Conditional Use Order constitute any other license or permit required by Town Ordinance or law.
- (e) Continuation of Existing Conditional Use Permits. Any conditional use permit granted pursuant to conditional use authority that was in effect as of the date of the grant shall be allowed to continue as a conditional use subject to all conditions stated in the Conditional Use Order even though the authority to grant such a use was subsequently repealed. Any such conditional use permit that requires compliance with a section of the Town of Genesee Zoning Code that has since been repealed and was not subsequently recreated shall continue to require compliance with the referenced Code section as it existed immediately prior to such repeal and the repeal of such provision is stayed solely for such existing Conditional Use Permit(s). These continuation provisions are intended to preserve the status quo for all rights and responsibilities incurred or accrued prior to the adoption of any ordinance that changes a conditional use to a prohibited use. Nothing herein shall be interpreted to prevent existing Conditional Use Permit holders from applying to amend their conditional use pursuant to all laws in effect at the time of the application, or as set forth in the Conditional Use Permit including those amendments requiring a public hearing.

(4) **Termination of conditional use status**

In addition to termination pursuant to the terms set forth within the Conditional Use Order itself, a Conditional Use may be terminated as follows:

- (a) The Conditional Use Permit may be terminated upon request when the applicant or holder of the Conditional Use and the property owner make a request in writing to the Town Plan Commission that the Conditional Use be terminated and the Town Plan Commission agrees to terminate said Conditional Use Permit. The Town shall notify the applicant or holder of the Conditional Use Permit and the Property Owner in writing of the Termination; or
- (b) The Conditional Use Permit may be terminated after public hearing and a class 2 notice is published, and notice is provided to the applicant or holder of the Conditional Use Permit and the owner of the subject property, upon the Town Plan Commission determining any of the following:
 - (i) The permit holder has failed to comply with the conditions of the permit of the conditional use has not continued in conformity with the conditions of the permit.
 - (ii) The Use or the characteristics of the use have changed without amending the permit and obtaining approval of the Plan Commission as provided in Section 40 (A)(3)(c).
 - (iii) The Conditional Use has been discontinued for a period of twelve (12) consecutive or eighteen (18) cumulative months during a three-year period, unless extended by the Town Plan Commission. Said extension shall not exceed six (6) months. A business of seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e., summer camps, ski hills, quarries, marinas, etc.).

(c) In the event of termination of a conditional use the owner of the premises shall be required to bring all such lands and buildings into conformity with the regulations of the district in which the property is located, and all other provisions of this chapter within ninety (90) days from such determination.

- (B) **Conditional uses permitted.** Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted Conditional uses in the districts specified, provided that a public hearing per Section 102, shall be held by the Town Plan Commission before approval for any such conditional use is granted. All references in this Section to residential districts shall include the rural residential density, rural home and suburban estate districts, unless otherwise noted.

- (1) **Adult-oriented establishments.** In the Q-1 district, subject to the following:
 - (a) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission and Town Board.
 - (b) A license to operate an adult-oriented establishment has been issued for the subject property.
 - (c) Adult-oriented establishments shall be located in accordance with the requirements of Section 52 B. of this Code and not within 1,000 feet of any public or private school, church, religious institution, daycare center or Public Park. No adult-oriented establishment shall be located within 1000 feet of any residential district or any other adult-oriented establishment. The distances noted in this subsection shall be measured in a straight line without regard to intervening structures or objects from the closest point of the structure or portion of the structure occupied or proposed for occupancy by the adult-oriented establishment to the nearest point of the parcel of property or land use district boundary from which the proposed land use is to be separated.

- (2) **Agricultural businesses including fur farms, pig farms, commercial or custom grain drying operations, pea vineries, creameries, food mills, egg production facilities, commercial greenhouses and condensereries.** In A-B Agricultural Business District, commercial or custom grain drying, poultry and/or egg production are considered permitted uses by right. In A-B, A-1, A-5, B-1, B-2, B-3, B-4, B-P, M-1 and M-2 districts, such uses are considered conditional uses, subject to the following:
 - (a) The building plans, site plan and plan of operation and a waste management plan shall be submitted to and approved by the Town Plan Commission.
 - (b) No such use shall be permitted on a lot less than five (5) acres in area, except that pig farms and egg production facilities shall not be permitted on a lot less than twenty (20) acres in area.
 - (d) No building other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.

- (3) **Airports, landing field, and take-off strips.** In, A-B, A-1 and A-5 districts, provided the location, building Plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission and Town Board.
 - (a) No such use shall be permitted on a lot less than twenty (20) acres in area.
 - (b) All FFA regulations and requirements shall be complied with.

- (4) **Animal hospitals, veterinarian clinics, and commercial kennels.** In A-B Agricultural Business District, animal hospitals and veterinarian clinics are considered permitted uses by right. In A-B, A-5, A-1, B-2, B-3, B-4, B-P, M-1 and M-2 districts, such uses are considered conditional uses, subject to the following:
- (a) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission.
 - (b) Animal hospitals and clinics not involved in the operation of a commercial kennel may be permitted on lots of no less than one (1) acre and shall be in conformance with building location, height regulations and area regulations of the district in which such facilities are located. A commercial kennel operation shall not be permitted on parcels of less than three (3) acres and three hundred (300) feet of minimum average width.
 - (c) No building other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in an Agricultural or Residential Zoning District. Where the buildings are to be used to board or house dogs in a commercial kennel, such structures shall not be closer than fifty (50) feet to an adjoining lot line. Outdoor kennel runs shall not be closer than one hundred (100) feet to an adjoining lot line.
 - (d) The facility shall be adequately sound proofed.
 - (e) The facility shall be maintained in a sanitary condition. Plans shall be submitted and approved for waste removal.
 - (f) Animals shall be adequately restrained to avoid escape from the property. Dogs taken outside the kennel shall be on a leash at all times and shall remain on the subject property.
 - (g) Drop off and pick up times shall be established by the Town Plan Commission.
 - (h) If there are complaints about unusual noise inconsistent with the normal operations of a commercial Kennel, the Town Plan Commission may recommend that a public hearing shall be held upon due notice and shall make reasonable rules and regulations in regards to rectifying the conflicts with adjacent land uses or terminate the use
- (5) **Automobile service stations, gasoline sales, and convenience stores associated with gasoline sales:** In B-2, B-3, B-4, B-P, M-1 and M-2 districts, subject to the following:

- (a) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission.
 - (b) No gasoline pump or other accessory equipment shall be closer than fifteen (15) feet to the base setback line and fifty (50) feet to the side and rear lot lines. Underground and above ground storage tanks shall conform to state standards.
 - (c) No lighting installation shall be permitted which creates a hazard to traffic or a nuisance to surrounding property and shall be shielded, baffled or shaded to effectuate and avoid hazard or nuisance.
 - (d) No overnight outside storage of unlicensed, junked or wrecked vehicles shall be permitted.
 - (e) No fueling station (gasoline or electric) shall be permitted closer than 50 feet to the base setback line.
 - (f) No such use shall be permitted on a lot less than one (1) acre in size.
 - (g) All lifts and apparatus used in the repair or servicing of vehicles shall be located within a building.
 - (h) All water used for washing of vehicles shall be discharged in conformance with all State, County and Local rules and regulations.
- (6) **Bed and breakfast:** The intent is to provide travelers with temporary accommodations and breakfast for a fee on a daily or weekly basis, as an accessory use in any existing structure designed for and occupied as a single-family residence in the, A-1, A-2, A-3, A-5, R-1, B-1, B-2 districts, subject to the following:
- (a) The building plans, site plan and plans of operation shall be submitted to and approved by the Town Plan Commission.
 - (b) Minimal exterior modifications to the structure or grounds may be permitted where such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located. For buildings with significant architectural or historic value, the architectural integrity and arrangement of existing interior spaces must be maintained and the number of guest rooms shall not be increased except as may be required to meet health, safety and sanitation requirements.
 - (c) Off-street parking shall be provided at the rate of one (1) parking space for each room rented. The front yard shall not be for off-street parking for temporary

guests unless the parking area is screened from view with natural plant material, and found to be compatible with the neighborhood.

- (d) The number of rooms shall be limited to five (5) sleep-in rooms or less, excluding those used by the permanent occupants of the facility, and no room may contain more than two (2) beds. There must be at least five hundred (500) square feet of gross interior floor area for each sleeping room. Those facilities providing service to a greater number of guests are not considered "license exempt" under state law and must comply with state hotel/motel/restaurant licensing procedures administered by Waukesha County and the State Department of Health. The issuance of such licenses shall not be considered as conferring non-conforming commercial status to the use which would either allow alteration of the facility or otherwise compel rezoning of the property for commercial use beyond the scope of this Section.
- (e) One (1) on-premise sign may be allowed provided that such sign is compatible with the residential use of the site and its surrounding areas and is not more than fifteen (15) square feet in size with the letter sizes not more than five (5) inches in height.
- (f) All necessary State and County permits, certifications or requirements shall be obtained as a condition of approval of a bed and breakfast service.
- (d) Room rentals to families or individuals shall not exceed fourteen (14) consecutive days.
- (e) The bed and breakfast facility must be accessory to and contained within the single-family dwelling occupied by the owner (e.g., not a manager) of said premises.
- (f) The only meal to be provided to travelers/guests shall be breakfast and it shall only be served to guests taking lodging in the facility.
- (g) The Waukesha County Department of Parks and Land Uses, Division of Environmental Health, shall examine both the water system and the sewage disposal system, and shall conduct a general health and safety inspection of the proposed facility. Such Department may impose any conditions required to ensure that all necessary health and safety standards have been met. The applicant shall not initiate any construction activity or other improvements related to the bed and breakfast facility; or begin operation of the facility until receiving a determination, in writing, by the Department that the necessary inspections have been completed and any deficiencies have been corrected. The proprietor shall have a water quality evaluation conducted by a recognized water

testing laboratory on an annual basis following the certification of adequacy by the Department. The results of that test shall be submitted to the Department with a copy to the Town. All these requirements must be incorporated into the terms of the conditional use permit.

- (7) **Cemeteries and mausoleums for the burial of human remains only.** In A-1, A-2, A-3, A-5, R-1, R-2, R-3, P-I, B-1, and B-2 districts, subject to approval of the Town Board, following the recommendations of the Town Plan Commission.
- (8) **Churches, synagogues, and other buildings for religious assembly.** In A-1, A-2, A-3, A-5, R-1, R-2, R-3, P-I, B-1, and B-2 districts, subject to the following requirements:
 - (a) The building plans, site plan and plan of operation have been submitted to and approved by the Town Plan Commission.
 - (b) A floor area ratio of no more than 50 percent of the subject lot is allowed.
 - (c) Off-street parking is provided for one automobile for each four seats in the main assembly area of the building.
 - (d) Such use shall conform to the setback, height and double the offset requirements of the district in which it is located.
 - (e) The height limitation may be extended to a maximum of 50 feet provided the minimum required setback and offset shall be increased two feet for each additional foot of height in excess of the permitted maximum in the district. The height regulation shall not apply to the spire or belfry of a church except where airport safety zoned regulations specifically limit the maximum height.
 - (f) Access to the site shall meet all site distance requirements and all necessary improvements shall be completed as required.
 - (g) No such use shall be permitted on a parcel smaller than ten (10) acres in size.
 - (h) Any traffic concerns may require the completion of a traffic study as determined by the Town Plan Commission.
- (9) **Commercial fish, bait, ponds or hatcheries.** In any district other than an E-C districts, subject to the following:
 - (a) The building plans, site plan, and plan of operation shall be submitted to and approved by the Town Plan Commission.

- (b) No such use shall be permitted on a lot less than five (5) acres in area.
 - (c) No building other than one used only for residence purposes shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.
 - (d) A letter from the Wisconsin Department of Natural Resources certifying no objection to the proposed use on the proposed property.
 - (e) No pond shall be located closer than 100 feet to the property line.
- (10) **Commercial stables.** In, A-E, A-1, A-2, and A-5 districts, subject to the following:
- (a) The building plans, site plan, plan of operation, and a manure management plan (approved by Waukesha County Land Resources Division) shall be submitted to and approved by the Town Plan Commission.
 - (b) No buildings other than one used only for residential purposes shall be closer than fifty (50) feet to the lot line of any adjoining lot in a district permitting residential use.
 - (c) The Town Plan Commission shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.
 - (d) Not more than one horse or other head of livestock should be kept for each full open acre over two acres of open lot area, unless the Town Plan Commission makes a specific finding that the subject parcel can maintain a greater number of livestock based on the proposed building plans, site plans, plan of operation and manure management plan.
 - (e) The keeping of swine (hogs and/or pigs of any type), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
 - (f) No such use shall be permitted on a property less than ten (10) acres.
 - (g) A Declaration of Restrictions shall be recorded with the Waukesha County Register of Deeds Office indicating that a Conditional Use Permit exists on the property and the Conditions of said approval.
 - (h) A Fencing plan showing all paddocks, pastures, riding areas, etc. shall be approved by the Town Plan Commission.

- (i) The Owner or Employee shall reside on the property as a permanent primary residence. The owner or employee shall provide to the Town Clerk a 24-hour emergency contact number.
- (11) **Commercial truck parking.** In A-E, A-1, A-2, A-3, A-5, R-1, B-1 and B-2 business districts, subject to the following
 - (a) The parking and storage of commercial type vehicles (dump trucks, school buses, construction vehicles, semi-trailers and tractors) may be allowed as long as the vehicle is owned or leased and operated by the owner or occupant of the premises. No such use shall be allowed on any parcel except as may front directly upon and have access to, an arterial or collector street, as defined in the Town of Genesee Comprehensive Land Use Plan – 2035 or the Waukesha County established street and highway width map.
 - (b) No more than one such vehicle shall be allowed to be parked or stored on the occupant's property and no more than two additional construction vehicles (backhoes, front end loaders, grading equipment, etc.) shall be allowed. Such vehicles shall be fully operative and in active use. Where considered appropriate, two trailers may be allowed but in no case may there be more than one semi-tractor or cab unit.
 - (c) No such vehicles shall be allowed to be parked or stored closer than 50 feet to any adjacent lot line and not closer than 100 feet from the base setback line. In the case of a refrigerator truck, the refrigeration unit may not be operated in the open if such truck is parked closer than 500 feet to the nearest neighboring residential property line.
 - (d) In determining whether or not the proposed Conditional Use Permit should be issued, a determination of compatibility with adjacent land uses shall be made by the Town Plan Commission in issuing this Conditional Use Permit. If it is determined that it would in any be incompatible and represents an adverse effect or nuisance to adjacent land uses, the Conditional Use Permit will not be issued.
 - (e) The conditional use permit shall be reviewed every two years by the Town Plan Commission in order to determine conformance with the terms of the permit and its compatibility with the adjacent land uses. If it is determined that the conditional use permit is no longer compatible, or that the provisions of the permit have not been complied with, the conditional use permit may be revoked or amended in accordance with the procedures outlined in this Code.

(12) **Conversions of Existing Barns and/or Farm Buildings.**

- (a) Where permitted, rentals of existing barns and farm buildings for the storage of machinery, equipment, vehicles, boats, furniture and similar items, under the circumstances described in the following sentence, may be permitted as a conditional use in the, A-5 and A-1 districts, where the parcel was the original farmstead and is not a lot in a recorded subdivision plat. This conditional use permit is required whenever items that are not owned by the lot owner or by a person lawfully residing on the lot, are stored in existing barns or farm buildings, and for which storage the owner of the items pays rent, provides goods or services, or provides other consideration.
- (b) Conditions under which the conversion will be permitted. Conditional use status will not be granted to any conversion for the use of an existing barn or farm building for the storage of machinery, equipment, vehicles, boats, furniture or similar items, unless all of the following conditions are met:
 - (i) The use, if it is allowed, will be allowed only in buildings as they exist on the premises on the effective date of the Code from which this Section is derived, except as otherwise described in this Code.
 - (ii) No additional buildings or additions may be made without the expressed approval of the Town Plan Commission in accordance with the terms of the applicable ordinances. No new buildings will be allowed for the purpose of rental storage.
 - (iii) An up-to-date Plat of Survey must be submitted with the application for the conditional use detailing the size, offsets and use of all existing structures on the subject parcel.
 - (iv) The parcel must have access to an arterial or collector street as established by the Town of Genesee or as defined by the Waukesha County Established Street and Highway Width Map.
 - (v) There shall be no outside storage allowed. Storage of machinery, vehicles, equipment, boats, furniture or other similar items outside overnight shall be considered a violation of the terms of any conditional use permit issued under this subsection and grounds for termination of such permit.
 - (vi) Water supply facilities and the necessary septic system shall be in accordance with the rules of the County Department of Parks and Land Use, Environmental Health Division and the State Department of

Commerce.

- (vii) There shall be no commercial signs associated with the proposed use.
- (viii) A detailed landscaping plan indicating the size, type, location and time table, for installation shall be submitted and approved by the Town Plan Commission prior to issuance of the conditional use permit.
- (ix) The buildings and grounds shall be maintained in a neat, attractive and orderly way.
- (x) The property shall comply with all rules and regulations of the Town, the appropriate state building code and the local fire department regulations, including submission to routine inspections by the Town and fire department.
- (xi) In determining whether or not the proposed conditional use permit shall be recommended, a "determination of compatibility" with adjacent land uses shall be made by the Town Plan Commission. In making this determination, the Town Plan Commission shall consider the Town of Genesee Comprehensive Development plan – 2035 to determine whether there will be any potential conflicts with future development, which may occur in accordance with the Town of Genesee Comprehensive Development Plan 2035.
- (xii) The building plans, site plan and plan-of-operation shall be submitted to and approved by the Town Plan Commission.
- (xiii) When the proposed use includes the storage of equipment and vehicles normally associated with an ongoing business, the use shall be explicitly for storage. There shall be no office permitted on such premises, nor shall the building be occupied for any reason other than periodic pickup and return of equipment on a seasonal basis.
- (xiv) If there are complaints about unusual noise inconsistent with the normal operations of such storage buildings, the Town Plan Commission may recommend that a public hearing shall be held upon due notice and shall make reasonable rules and regulations in regards to rectifying the conflicts with adjacent land uses or terminate the use.
- (xv) Any building used for such storage shall be at least 50 feet from all side and rear lot lines

- (xvi) If the Town of Genesee Plan Commission requests the Town Board to review the subject conversion, the Town Board may impose additional reasonable conditions upon the issuance of the conditional use permit. As a condition precedent to the issuance of the conditional use permit, the petitioner is required to accept the terms and conditions of the conditional use permit in its entirety, in writing.
- (13) **In-law units.** In A-5, E-C, A-1, A-2, A-3, R-1, R-2, R-3, B-1, B-2, and all planned unit developments subject to the following:
- (a) The building plans, site plan, and plan of operation shall be submitted to and approved by the Town Plan Commission.
 - (b) The county health department shall certify that the septic system will accommodate the proposed use.
 - (c) The maximum living area in an in-law unit shall not exceed 800 square feet for a one-bedroom unit and 900 square feet for a two-bedroom unit.
 - (d) There shall be an additional parking space for the in-law unit.
 - (e) The architecture of the residence shall be compatible with the adjacent residential neighborhood and should appear to be a single-family residence. All other appropriate zoning district requirements for the principle living unit shall apply. A common entrance to the residence and in-law unit shall be designed into the structure so that a separate front entrance, off of the common entrance, is available and the structure does not appear to be a duplex.
 - (f) The Town Plan Commission may determine that it is appropriate to have an interior door between the living units.
 - (g) A deed restriction shall be filed in the Waukesha County Register of Deeds' Office prior to issuance of the building permit indicating that this living unit is for family members of the principal dwelling unit only. This Deed Restriction shall state the in-law unit is to be occupied by persons related by blood or marriage to the family occupying the principal unit and that the Conditional Use is not transferable without formal approval of the Town Plan Commission without necessity of a public hearing and that the unit will be used as intended.

- (14) **Landscaping, and Lawn and Garden Businesses** In Q-1, M-1 and M-2 districts such uses shall be considered permitted by right. In A-1, A-5 and B-3 districts such uses shall be considered conditional uses subject to the following:
- (a) The minimum lot area shall be at least five (5) acres.
 - (b) All buildings used in the conduct of the business shall be located at least one hundred-fifty (150) feet from the lot line of an adjoining lot in residential district or at least fifty (50) feet from a lot line of an adjoining lot in any other district.
 - (c) No such use shall be allowed on any parcel, except as may front directly upon and have access to an arterial or major collector street, as defined in this Code or within an established industrial park, where the roads can accommodate the heavy equipment.
 - (d) A planting screen at least ten (10) feet high in initial height and fifteen (15) feet wide shall be provided between any abutting property line and the proposed use. The Town Plan Commission may increase or decrease the planting screen requirements as may be deemed appropriate. All Landscaping shall be installed within three (3) months from conditional approval of the Town Plan Commission.
 - (e) In determining whether or not the proposed conditional use should be approved, the Town Plan Commission shall make a determination that the proposed conditional use is compatible with adjacent land uses and the surrounding area as it relates to noise, traffic, dust, hours of operation etc. If it is determined that the proposed conditional use would in any way be incompatible with the adjacent land uses, conflict with future development of the area, or represent an adverse effect or nuisance to adjacent land uses, the proposed conditional use shall not be approved.
 - (f) A Site Plan and Plan of Operation shall be submitted to the Town Plan Commission for review and approval and must include the type and quantity of equipment and vehicles owned or leased by the property owner, the location and type of storage of materials, location of all greenhouses, shade houses and storage bins, parking areas for customers and employees, signs, toilet facilities, fuel storage facilities, landscaping and lighting plans, dumpsters, and hours of operation.
 - (g) The Town Plan Commission shall determine the percentage of the property that may be devoted to the landscaping, lawn and garden business and the more restrictive determination shall apply.
 - (h) The landscaping and lawn and garden business is restricted to a service-oriented

business and is prohibited from manufacturing or assembling products. The sale of products on the premises which are not produced on the subject property is prohibited unless expressly permitted or permitted subject to specific conditions in the conditional use permit (i.e., mulch, fertilizer, decorative stone).

- (i) The conditional use permit shall restrict the number and types of machinery and equipment the business operator may be allowed to bring onto the premises and whether the machinery and equipment must be stored inside a building and repaired or maintained on exterior of the premises.
- (j) The design and size of the structures used in the operation of the business shall be subject to conditions in the conditional use permit.
- (k) The conditional use permit shall automatically expire and terminate on the sale of the property. A deed restriction to that effect shall be filed in the Waukesha County Register of Deeds Office prior to conditional use permit being issued.
- (l) All offices, vehicle storage, greenhouses, shade houses, storage bins, maintenance or service facilities, hazardous chemical or salt storage facilities shall comply with all applicable commercial building codes and regulations of the Town, County, State of Wisconsin and federal governments and all Town Ordinances.

(15) **Legal nonconforming uses.** In any district as provided by Section 27 of this Code.

(16) **Limited Family Business:** The purpose and intent of this Section is to provide a listing of procedures and standards of operation for limited family businesses that may operate in an attached garage or detached accessory building under a conditional use permit in A-B, A-1, A-2, A-3, A-5, R-1, R-2 and R-3 districts subject to the following:

- (a) A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owners and any future development of the area. Any expansion of the limited family business will be subject to an amendment to the conditional use permit and, if said amendment is denied, the conditional use permit would either terminate or the expansion could not take place.
- (b) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission.
- (c) All employees, except one (1) full-time equivalent, shall be members of the family residing on the premises.

- (d) The Town Plan Commission shall determine the percentage of the property that may be devoted to the limited family business and the more restrictive determination shall apply.
 - (e) The limited family business is restricted to a professional office, service-oriented business or home occupation business with very limited or no onsite customers and is prohibited from manufacturing or assembling products. The sale of products on the premises not produced by the limited family business is prohibited. The sale of products available for sale as accessories to the business may be permitted or limited by specific conditions in the conditional use permit (i.e., hair care products such as shampoo and conditioners normally associated with a business that cuts or styles hair).
 - (f) The conditional use permit shall restrict the number and types of machinery and equipment the limited family business operator may be allowed to bring onto the premises and whether the machinery and equipment must be stored inside a building.
 - (g) The structures used in the limited family business shall be considered to be residential accessory buildings and shall meet all requirements for such buildings. The design and size of the structures are subject to conditions in the conditional use permit.
 - (h) The conditional use permit shall automatically expire and terminate on the sale of the property or its transfer to a non-occupant of the property. A deed restriction to that effect shall be filed in the Waukesha County Register of Deeds Office prior to conditional use permit being issued.
 - (i) The limited family business shall not operate on a parcel having less than the minimum parcel size for the district in which it is located. For certain uses which are determined by the Town Plan Commission to have a potential adverse effect on adjacent residential zoned properties, additional requirements regarding location and site standards (i.e., screening) may be required as conditions of the use.
- (17) **Motels and Hotels.** In B-2 and B-3 districts only, subject to the following:
- (a) The building plans, site plan, and plan of operation shall be submitted to and approved by the Town Plan Commission.
 - (b) No such use shall be permitted on a lot less than three (3) acres in area.

- (c) At least one off-street parking space shall be provided for each rental unit.
 - (d) No building shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.
- (18) **Multifamily units and condominiums.** In A-5, R-3, B-1, B-2, planned unit developments or conservation design subdivisions subject to the following:
- (a) The minimum lot area shall be determined by the number of units to be constructed. The number of units shall be based on a density of one (1) unit for each fifteen thousand (15,000) square feet of land area, exclusive of Wetlands or Lands Zoned C-1. Where the use will be served by municipal sewerage, the density requirements can be reduced to a minimum of nine thousand (9,000) per dwelling unit. The width of the Lot shall be increased as the size of the Lot increases in order to avoid excessively long and narrow lots and shall, however, be no less than one hundred and eighty (180) feet in width. The amount of green space, exclusive of parking areas, sidewalks driveways, roads and other paved areas or impervious surfaces shall be five thousand (5,000) square feet per unit.
 - (b) The manner in which the units are to be serviced with sewage disposal is subject to the approval of the State Department of Commerce and the Waukesha County Environmental Health Division, prior to approval by the Town Plan Commission.
 - (c) The minimum floor area per unit shall be nine hundred (900) square feet for one-bedroom units, one thousand (1,000) square feet for two-bedroom units, and one thousand one hundred (1,100) square feet for three-bedroom units.
 - (d) Architectural review of the project shall be required by the Town Plan Commission.
 - (e) There shall be two (2) off-street parking spaces for each dwelling unit. The location and arrangement of these spaces is subject to approval of the Plan Commission.
 - (f) The offset, setback and landscape requirements are subject to modification by the Town Plan Commission. However, the offset requirements shall not be reduced to less than twenty (20) feet from the lot line of an adjoining residential district. The setback shall be a minimum of fifty (50) feet. The maximum height shall not exceed thirty-five (35) feet. Additional height may be permitted if the offset and setback requirements are increased by one (1) foot for each additional one (1) foot in height above thirty-five (35) feet.
 - (g) Only a duplex (2-family residential use) may be allowed in an A-5 Mini Farm

District and only if the duplex is proposed to be made by conversion of a farm dwelling that existed at the time of the adoption of the original basic Zoning Code by Waukesha County in February 26, 1959.

- (h) The location and building plans, and a Site Plan and Plan of Operation shall be submitted to and approved by the Town Plan Commission.
- (19) **Other uses.** Other uses or situations not specifically provided for in this conditional use Section and which may be determined to be acceptable under the provisions of this Code. Such determination shall be made by the Town Plan Commission to meet the intent of the conditional use provisions as set forth in this Section.
- (20) **Planned unit development:** Due to increased urbanization and the associated Greater demands for open space and the need to create a more desired and creative Living environment than would result through the strict application of the standard zoning requirements, it is herein provided that there be flexibility in the regulations governing the development of land. This provision is intended to encourage planned unit development in directions which will recognize both the changes in design and technology in the building industry and the new demands in the housing market. It is intended that these provisions create imaginative and interesting communities with substantial open area owned in common or dedicated to the public and for the enjoyment of the residents, and will encourage a more efficient and desirable use of the land and open space areas thereby resulting in more variety of the physical development of the Town. An overall development plan showing how the above objectives are to be achieved must be submitted to the Town Plan Commission for review and approval. This use is permitted in any district except A-B, A-E, and AD-10 and RRD-5 Districts except that no portions of any building lots or structures shall be allowed in the C-1 or A-E Districts, subject to the following:
 - (a) **Intent and purpose.** Such uses may be permitted any size parcel when appropriately located and where the unified and planned development of such tract would allow a more desirable utilization of the site and produce a more aesthetically and economic development than would result from the application of conventional district regulation.
 - (b) **Application and regulations.**
 - (i) The unified and planned development of a site, in single, corporate ownership, or common ownership under the Condominium Ownership Act (Wis. Stats. § 703.01 et seq.) at the time of development, may be permitted in a planned development without the customary division into individual lots and without requiring strict compliance to the specific district regulations, subject to the requirements of this subsection. Lot

size, offset, setback, height, building location, and floor area requirements may be modified according to the following conditions:

- 1 All sanitary and water provisions are in conformance with the requirements of the State Department of Commerce, the Waukesha County Division of Health Department and the local sanitary district.
 - 2 The proposed development is in conformity with the Town of Genesee Comprehensive Land Use Plan - 2035, is not contrary to the general welfare or economic balance of the community and that the benefits and amenities of the resultant development justify the variation from the normal requirements of the district in which it is located.
 - 3 All other requirements of the planned development are met as set forth in this Section.
- (ii) Required standards as established by the Town relative to road design, drainage or other engineering parameters may be modified subject to the conditions of approval as long as such modifications are consistent with good engineering practice and the approval of the Town Board.
- (iii) **Residential Planned Unit Development:**
- 1 The following table may be utilized to compute the maximum dwelling unit density requirements of the P.U.D., except those areas which are Upland or Secondary Environmental Corridors are also subject to (2) below.

A-1	120,000 sq. ft. (2.75 acres) per dwelling unit
A-2	120,000 sq. ft. (2.75 acres) per dwelling unit
A-3	80,000 sq. ft. (1.84 acres) per dwelling unit
A-5	200,000 sq. ft. (4.59 acres) per dwelling unit
Environmental Corridor	5 acres per dwelling unit *
R-1	39,000 sq. ft. (0.89 acres) per dwelling unit
R-2	25,000 sq. ft. (0.57 acres) per dwelling unit
R-3	15,000 sq. ft. (0.34 acres) per dwelling unit

*Calculation for Environmental Corridor shall occur as established in (2) below.

- 2 If all of the Upland, Primary and Secondary Environmental Corridor or Environmental Corridor zoned lands are preserved to the greatest extent possible in their entirety within the public open space or common open space and preserved in its natural state, the density of one unit per five (5) acres may be added to the maximum number of dwelling units derived from utilizing the table above.
- 3 Lands currently zoned C-1 or A-E may not be used in formulating the density of the project.
- 4 Public open space or common open space shall be of a size and shape to provide an integrated system of open spaces to the greatest extent possible and to provide protection of environmentally significant lands: they shall not consist of long, narrow bands or corridors, but shall be larger blocks or wide corridors of land, usually not less than one (1) acre in area. Corridors linking large blocks of public open space or common open space shall be not less than fifty (50) feet in width to provide adequate buffers from adjacent residential lots. The size, shape and location of said public open space or common open space shall be subject to review and approval of the Town Plan Commission in order to qualify the project for consideration as a P.U.D. Public open space or common open space shall be a minimum of forty (40) percent of the entire development, while no more than ten (10) percent of the entire acreage of the development included in the required forty (40) percent open space can be Conservancy or A-E zoned land. In any development, no more than five (5) percent of the public open space may be used for public buildings, such as schools, fire stations, municipal buildings, etc.
- 5 In public open space or common open space containing environmentally significant areas, a maximum of 2% of the environmentally significant areas may be used for limited construction of recreational related structures and recreational/trails.
- 6 Public open space or common open space shall contain at least 90% green space. Such public open space or common open space shall not be part of individual residential building lots and all but 5% of the open space shall be free of structures and impervious surface. The Town Plan Commission may increase as a

special exception the maximum requirement in conformance with the overall intent of these provisions while also protecting the public's interest.

- 7 Adequate guarantees shall be provided for permanent retention of the open space resulting from these regulations, either by private reservation for use of the residents within the development or others as may be specifically provided for, i.e.: farmers use of open space, dedication to a public entity or development of a private recreational facility open to the general public in perpetuity for a fee, subject to Town Plan Commission approval. There shall not be any clear cutting or clearing of vegetation other than dead, diseased or dying vegetation or removal of invasive species on any lands being so preserved in public open space or common open space which are considered Primary or Secondary Environmental Corridor or Isolated Natural Areas, as depicted on the Town of Genesee Comprehensive Land Use Plan -2035, except as provided in (5) for limited trail or recreational related development.
 - 8 Perpetual care and maintenance of public open space or common open space shall be provided for by an agreement recorded with the Waukesha County Register of Deeds. Said agreement shall include an operation plan, which shall preserve the natural qualities of the environmentally significant lands. The agreement shall be submitted to and approved by the Town Plan Commission, and may be subject to review by the Waukesha County Naturalist if required by the Town Plan Commission and this condition is not satisfied unless all such appropriate approvals are granted.
 - 9 Ownership and tax liability of the open space areas shall be established in a manner acceptable to the Town Plan Commission and shall be made part of the conditions of approval.
- (iv) **Commercial P.U.D.:** The use of a Commercial P.U.D. may be authorized only where the underlying zoning is mapped in one or more of the business districts (except the Downtown Business District) on the parcel or a portion thereof. If only a portion is zoned for business, the commercial P.U.D. may only be used for the same percentage of the site that would result from the normal application of the Business district requirements. The location of the proposed business uses can however, be flexed on the site so long as no more area is devoted to such use than

is permitted in the underlying district. The attendant parking areas and service facilities for the commercial areas shall be included in the areas allocated to such non-residential uses.

- 1 The proposed P.U.D. shall be served by adequate off-street parking, loading and service facilities.
- 2 The P.U.D. shall not create an adverse effect upon the general traffic pattern or adjoining property values.
- 3 Architecture, landscaping, lighting and general site development shall be compatible with the surrounding neighborhood.
- 4 The aforementioned requirements shall be certified by the Town as having been fully met.

(v) **Mixed P.U.D.:** A mixed P.U.D. shall consider allowing a mixture of business, residential or other uses as the underlying zoning would allow. The percentage of area in the project shall be the same as would result from the application or the strict adherence of the normal district regulations. The location of the uses can; however, be flexed on the site so long as no more area is devoted to the various uses than would be permitted in the underlying zoning district. The attendant parking and service facilities for the non-residential part of the project shall be included in the area allocated to such non-residential uses.

- 1 The proposed mixture of commercial, industrial, residential, and other uses shall produce a unified development, which is compatible both within itself and with the surrounding neighborhood.
- 2 The mixed uses shall conform to the general requirements applicable to each of them as here-in-before set forth.
- 3 The maximum allowable dwelling unit density shall be computed using only the residential area portion of the total P.U.D. area. If residential use and non-residential use occur in the same proposed building, that percentage of the commercial use of the building shall be deducted from said building lot, and only the remaining area shall be used in the density computation for the remaining residential units.

- (vi) After all conditions of a planned unit development project are certified by the Town as being completed, the conditional use status of such completed development shall be changed to a permitted use in the district in which it is located.
- (vii) **Example - Computing Maximum Dwelling Unit Density in a Planned Unit Development:** A developer wishes to divide one hundred (100) acres of land into a planned unit development. Ten (10) of these acres are zoned C-1 Conservancy. The rest is zoned R-1 Residential. The preliminary plan shows an additional ten (10) acres proposed for commercial uses but not zoned for business.

The following computations demonstrate the method of determining how many residential units will be allowed in the project.

Gross acreage	100 acres
Less ten (10) acres zoned C-1- 10 acres	90 acres
Less ten (10) acres zoned for B-2 - 10 acres	Business use 80 acres
Total residential acreage in sq. ft.	3,484,800 square feet (80 acres x 43,560)
Divide by square feet per dwelling unit requirement for R-1 Residential districts (3,484,800 divided by 39,000)	89 units

The 10 acres zoned for commercial use cannot be included in the PUD as it is not zoned for residential uses and must be rezoned to be considered.

(c) **Specific project regulations.**

- (i) The Town Plan Commission shall have the right to require additional open space around the outer boundaries of the proposed PUD or selected lots to be substantially larger than the minimum in order to provide natural buffers for existing developments and for the purposes of blending the proposed development with surrounding subdivisions and other developments.
- (ii) Agreement with the Town. The developer shall enter into a developer's

agreement with the Town to guarantee the implementation of the development according to the terms of the conditions established as part of the development plan approval.

(d) **Basis for approval.** The Town Plan Commission in making its determination, as to the approval or denial of the conditional use permit for the planned development, shall give consideration to the purposes set forth in this subsection, and be satisfied as to the following:

- (i) That the proposed development is consistent with the spirit and intent of this subsection, is in conformity with the general character of the Town and would not be contrary to the general welfare of the Town or of the immediate neighborhood.
- (ii) The benefits from the anticipated improved design of the resultant development shall justify the variation from the normal requirements of this subsection through the application of this subsection.
- (iii) That the size, quality and architectural design of all buildings in the project will not have an adverse effect upon the general character of the Town and surrounding neighborhood.
- (iv) That the provisions and facilities of the open space areas being provided are of such quality, size and aesthetic value to justify the approval of the project.
- (v) That the setbacks shall be maintained along any boundary street of the project area, as required by the existing underlying basic district.
- (vi) That no building shall be permitted closer to a side or rear boundary lot line of the project area than required by the applicable side or rear yard requirements of the adjoining underlying basic district.
- (vii) The approval of a petition for conditional use shall be based on and include as conditions thereto the basic architectural design, the site plan, the operational plans for the development as approved, as well as all other commitments offered as required in regard to project value, character or other factors pertinent to an assurance that the proposed development will be carried out basically as presented for the project.

(e) **Application procedures.**

- (i) **Filing procedure to initiate projects and pre-application conference.** The

following information shall be submitted prior to any requests for approval of any type of a planned unit development. The applicants are required to submit a site analysis map at the time they submit an application for a pre-application conference. The purpose of the site analysis map is to ensure that the important site features have been adequately surveyed and identified and this information has been or will be incorporated into the site design. This will give the Town Plan Commission, Town Planner and the Town Engineer the necessary information to understand the physical features of the site in their review of the sketch plan and make recommendations for changes before the applicant has invested in the final site design. The site analysis map shall show:

- 1 Property boundaries;
- 2 All streams, rivers, lakes, wetlands and other hydrological features;
- 3 Topographic contours with intervals of two feet or less;
- 4 Each primary environmental corridor, secondary environmental corridor and isolated natural resource area labeled by type;
- 5 General vegetation characteristics;
- 6 General soils types by group;
- 7 The planned boundaries of protected open space;
- 8 Existing roads and streets;
- 9 Open space and trails traversing, or adjacent to the site, whether existing or planned. Any other information reasonably necessary for the Town Plan Commission to make a determination;
- 10 All class I and II soils for agricultural uses;
- 11 Aerial photographs with a scale of one-inch equals 100 feet; and
- 12 Any groundwater recharge areas designated by the Southeastern Wisconsin Regional Plan Commission or the State Department of Natural Resources.

(iii) **Sketch plans.**

- 1 The applicant shall also submit the following sketch plans:
 - a. A sketch plan of a planned unit development complying with all the open space regulations, densities and lot size requirements of this Code and with the Town land division and development control ordinance.
- 2 The individual sketch plan shall be prepared by using a four-step process, which includes the following:
 - a A detailed site analysis of all the physical features and resources of the subject property;
 - b Submit a map showing the number and location of the individual house sites as allowed by the density of the applicable zoning district;
 - c Locate the proposed roads to accommodate all proposed home sites while preserving the physical features of the site and complying with the road standards in the Town of Genesee Land Division and Development Control Ordinance; and
 - d Designate lot lines for the house sites in accordance with the minimum lot size requirements of this Ordinance.

(iv) **Application.** Following the pre-application conference, an official submittal shall be made to the Town clerk and shall include 15 copies each of the conventional layout and the proposed planned unit development map, preferably on a topographic map, drawn at a scale of 100:1, showing the following:

- 1 The size, arrangement, and location of all lots, blocks, and all proposed buildings or building groups located within the common area;
- 2 The pattern of public streets, existing and proposed utility easements, and other public improvements;
- 3 The location of recreational open space and areas reserved or dedicated for use by the residences;

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

development including, but not limited to, road cutting, utility hookups, building constructions, landscaping, and open space/recreational areas provision; and

- 14 An environmental impact assessment of loss of plant species and animal habitat, farmland, wetlands, soil erosion, surface and groundwater hydrology, water quality, aquatic species and air resources may be required if deemed reasonably necessary by both the Town Plan Commission.

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

(vi) **Procedure.**

- 1 **Referral for action by the Town Plan Commission.** The Town Planner shall, within 30 days after receipt of the application, determine whether the application fulfills the requirements of this Section. If the staff determines that the application is complete and fulfills the requirements of this Section, the staff shall refer the same to the Town Plan Commission to schedule a public hearing, in accordance with this Code. If the staff determines that the application is not complete and does not fulfill the requirements of this Section, they shall return the application to the applicant. When the application meets the staff's approval, it shall be referred to the Town Plan Commission and the Town engineering consultants for their report and recommendation. Upon completion of the necessary study and investigation, the Town Plan Commission shall make its decision, as to the appropriateness and desirability of the proposed project with the density factor requested, the suitability of the proposed development, and any changes or additional conditions applicable to such plans, which they may feel are necessary and appropriate.

- 2 **Basis for approval.** The Town Plan Commission, in its recommendation shall give consideration to and be satisfied as to

the following:

- a The proposed development is consistent with the spirit and intent of this Code and will not be contrary to the general welfare and economic prosperity of the Town, but rather that the benefits derived by utilizing the planned unit development and, welfare and economic prosperity of the Town, but rather that the benefits derived by utilizing the planned unit development and, in keeping with the current economic and social consideration, justifies the application of the planned unit development technique;
- b Such development conforms to the adopted Town of Genesee Comprehensive Land Use Plan – 2035 and its components;
- c The size, quality, and architectural design of all buildings in the project shall not be of such as to have an adverse effect upon the general character of the Town or the surrounding neighborhood;
- d Functional utility and relationship of the lots or units to the common open space and facilities provided shall be of such quality, size, and aesthetic value as to meet the purpose and intent of this Section, and that all other required preserved areas are preserved or protected unless disturbed to accommodate a road as designated on the Town's official map;
- e The approval shall be based upon satisfaction of standards of this Code and shall include any conditions of approval applicable thereto, regarding the building design, site layout, and operational plans, as well as all other commitments offered and required in regard to project value, character, or other factors pertinent to an insurance that the proposed development will be carried out as approved;
- f The plan will result in preservation of open land in a manner, which will enhance the total environmental setting and desirability of the development and of the neighborhood and that adequate guarantee is provided

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

- g Ownership and tax liability of the private open space preservation areas shall be established in a manner acceptable to the Town attorney and made a part of the conditions of this specific plan approval.

3 **Conditions for preparation of final plat.** After issuance of a conditional use permit, and approval or conditional approval of the preliminary plat, the final plat shall be prepared in accordance with the conditions specified and the following shall be submitted:

- a **Developers agreement:** A contractual agreement between the Town and the Owners of the development setting forth all of the obligations and commitments required by the Town.
- b **Rights-of-way, easements, exact net area:** The subdivision plat or certified survey map shall show all rights-of-way, easements, and the exact net area.
- c **Homeowners Association bylaws:** The Homeowners Association documents of incorporation and bylaws shall be submitted to and approved by the Town Attorney and Town Planner and placed on record with the Town Clerk and be recorded in the Waukesha County Register of Deeds Office. Proof of recordation shall be presented to the Town Clerk. Such documents must conform to all state and local requirements for the protection of the property owners and the Town.
- d **Utility and storm water facility easements:** Wherever required by the Town, utility companies or Waukesha County Land Resources Division and conforming to the form and specifications of the Town and county.
- e **Construction routes:** A map of the development showing the access points to be used by construction vehicles during the course of construction, and which shall become part of the contract between the Town and the

Developer, with such provisions for enforcement as provided in the contract.

- 4 **Consultant and legal fees:** If the Town incurs consultant or legal fees to prepare or review any aspect of the proposed development, the Town will notify the petitioner of what portion of fees shall be charged to petitioner, and all such charges shall be paid in full before execution of the final document by the Town, in the form of a final plat, certified survey map, or condominium plat.
 - 5 **Financial guarantee to complete construction of improvements in planned unit development:** A letter of credit or cash escrow in a state financial institution or other satisfactory financial guarantee in a form and amount approved by the Town Attorney or Town Board to cover the cost of all improvements and facilities agreed upon in the conditional use permit and final plat or certified survey map.
 - 6 **Recording:** The conditional use shall be recorded in the Waukesha County Office of the Register of Deeds to affect the real estate upon which the conditional use is granted. A copy of the recorded document shall be submitted to the Town Clerk
- (vii) **Subsequent changes or additions:** Any subsequent changes or additions to an approved plan shall first be submitted for approval to the Town Plan Commission and, if it is the commission's opinion such change or addition is not substantial, it may recommend approval to the Town Board. The following shall automatically be construed to be substantial:
- 1 An increase in the number of dwelling units from that shown in the approved project;
 - 2 A significant change in the size or type of structure from that contained in the approved conditional use.
 - 3 The addition of any principal uses not included in the approved conditional use; and
 - 4 Any change in the basic concept of the site development, which would significantly alter the relationship of uses or open space.

(21) **Private clubs and outdoor recreational facilities, such as gun clubs, hunting preserves,**

outdoor shooting range, recreational camps and centers, indoor/outdoor recreational and athletic facilities, golf courses, bathing beaches, riding academies, resorts. In A-1, B-1, B-2, B-3, B-4, B-P, M-1 and M-2 districts subject to the following:

- (a) The building plans, site plan, and plan of operation shall be submitted to and approved by the Town Plan Commission.
- (b) No such use shall be permitted on a lot less than five (5) acres in area, except in a restricted business or less restrictive district.
- (c) No building, other than one used only for residence purposes, shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
- (d) Off-street parking shall be provided as required by the Town Plan Commission adequate to meet the particular needs of the proposed use.
- (e) No such permitted use shall include the operation of a commercial facility such as a bar; arcade or restaurant, except as may be specifically authorized in the grant of permit.
- (f) No portion of the environmental corridor district may be disturbed or vegetation removed, as part of the development of the site for the proposed use, unless specifically approved by the Town Plan Commission. This includes the structures, parking, walkways, recreational uses, septic system location, etc.
- (g) All such uses shall comply with any applicable requirements of the Town of Genesee Code of Ordinances.
- (h) A detailed Landscaping Plan shall be provided to screen property and proposed use from any and all residential uses. Plants shall be a minimum of eight (8) feet in initial height.
- (i) All outdoor lighting fixtures shall be fully shielded, full cut-off and down casted to prevent fugitive lighting onto adjacent properties or the roads. Zero candle watts shall be maintained at all property lines.

- (22) **Public and semi-public structures and uses.** In P-I such uses shall be considered permitted by right. In In A-1, B-1, B-2, B-3, B-4, B-P, Q-1, M-1 and M-2 districts, subject to the following:

- (a) The building plan, site plan, and plan of operation shall be submitted to and approved by the Town Plan Commission;
- (b) Such use or structure shall conform to the setback, height, and double the offset requirements of the district in which it is located; and
- (c) The height limitation shall be extended to a maximum of 50 feet; provided, the minimum required setbacks and offsets shall be increased 2 feet for every additional foot in height in excess of the permitted maximum of the district.
- (d) A detailed Landscaping Plan shall be provided to screen property and proposed use from any and all residential uses. Plants shall be a minimum of eight (8) feet in initial height.
- (e) All outdoor lighting fixtures shall be fully shielded, full cut-off and down casted to prevent fugitive lighting onto adjacent properties or the roads. Zero candle watts shall be maintained at all property lines.
- (f) Schools shall maintain a minimum lot size of 15 acres for Elementary and Middle Schools and thirty (30) acres for High Schools.

(23) **Quarrying.** In A-1, A-5, Q-1 and M-2 districts, subject to the following:

(a) **Procedure for application.**

- (i) **Permit:** No quarrying operation shall take place in any district until a conditional use permit has been received and approved by the Town Plan Commission, and Town Board. Except in a quarrying or general industrial district, such permit shall be for an initial period as is deemed appropriate to the specific situation but not to exceed five (5) years, and may be renewed thereafter for periods not to exceed three (3) years provided application thereof shall be made at least sixty (60) and no more than one hundred twenty (120) days before expiration of the original permit. Application after such date shall be treated as an original application.
- (ii) **Application.** Application for a quarry permit shall be made on forms supplied by the clerk and shall be accompanied by:
 - 1 A fee in accordance with the established fee schedule to defray the cost of notification and holding of public hearings, review of application and referrals to affected public agency.

- 2 A description of all phases of the contemplated operation and the type of machinery or equipment that will be used to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made part of the description.
- 3 A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation.
- 4 A topographic map of the area at a minimum contour interval of five feet extending beyond the site to the nearest public street or highway or to a minimum distance of 300 feet on all sides.
- 5 A reclamation plan as required by Chapter 400 – Mining, Nonmetallic, of the Town of Genesee Code of Ordinances, and any applicable nonmetallic mining reclamation statute and any other ordinance adopted by the Town.
- 6 An environmental and economic impact assessment for the proposed facilities satisfying local and regional review agency requirements.

(b) **Procedures for action on applications.**

- (i) **Referral to Town Plan Commission.** The application and all data pertaining thereto shall be referred to the Town Plan Commission for review and consideration per standard conditional use procedures.
- (ii) **Public hearing.** Within 65 days after an application has been filed, a public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing as provided in this Code, notices shall be sent through the mail to all land owners within a half-mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed or delivered at least ten days prior to the date of hearing. Substantial compliance with the notice requirements of this Section shall be deemed sufficient.
- (iii) **Action by Town Board.** The Town Board shall within 45 days after receipt of the recommendation of the Town Plan Commission, take action to approve or disapprove the application for the proposed quarrying

operation. Such determination shall be guided by consideration of the public health, safety and welfare and shall give particular consideration to the following factors:

- 1 The effect of the proposed operation on existing roads, and traffic movements in terms of adequacy, safety and efficiency.
 - 2 The effect of the proposed operation on drainage and water supply.
 - 3 The possibility of soil erosion as a result of the proposed operation.
 - 4 The effect of dust and noise as a result of the proposed operation.
 - 5 The practical possibility of restoration of the site and its reuse.
 - 6 The effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area.
 - 7 The most suitable land use for the area with particular consideration for future residential value.
 - 8 Any other factors deemed necessary by the Town Board.
- (iv) **Additional conditions:** Any conditions accessory to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the Town.
- (v) **Renewals.** The procedure as designated in subsections (b)(i-iv) of this Section shall apply to applications for renewal of a permit. Determination in regard to renewal shall be based on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the Town.
- (c) **Requirements.**
- (i) **General requirements.** No part of the quarrying operation shall be permitted closer than one thousand (1,000) feet, nor shall any accessory access road, parking area, or office building be permitted closer than five hundred (500) feet to a district zoned A-2, A-3, R-1, R-1a, R-2, or R-3 at

the time of the grant of permit except with the written consent of the owners of all A-2, A-3, R-1, R-1a, R-2, or R-3 zoned properties within one thousand (1,000) feet, except in a quarrying or general industrial district, but in no case shall such operation be permitted closer than two hundred (200) feet to any residential district.

- (ii) No quarrying operation shall be permitted except in a quarrying or general industrial district, if thirty (30) or more families reside within a band one-half mile wide around the perimeter of the proposed operation.
- (d) **Setback Requirements;** No part of the quarrying operation other than access roads shall be located closer than two hundred (200) feet, nor shall any accessory parking area, stock pile, or office building be located closer than one hundred (100) feet to the base setback line along any street or highway.
- (e) **Offset requirements:** No part of the quarrying operation shall be permitted closer than two hundred (200) feet, nor shall any accessory access road, parking area, or office building be permitted closer than fifty (50) feet to any property line except with the written consent of the owner of the adjoining property, or except where said line is abutting a quarrying or general industrial district, or abutting an existing quarrying operation, but in no case shall such operation be closer than twenty (20) feet to any property line except by agreement between abutting quarrying operations, or be in conflict with the provisions of this Code relating to preservation of topography.
- (f) **Operational requirements:**
 - (i) Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where in the determination of the Town Board such facilities are necessary for the protection of the public and shall be of a type approved by the Town Board. No part of the quarrying operation or buildings shall be permitted closer than 50 feet to any property line except with the written consent of the owner of the adjoining property.
 - (ii) All machinery and equipment used in the operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in dust-free condition by surfacing or treatment as directed by the Town Engineer and approval of the Town Board.

- (iii) The crushing, washing, refining or processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit, or as otherwise provided in a quarrying or general industrial district.
- (iv) In stone quarries the production, manufacturing or storage of veneer stone, sills, lintels, cut flagstone, hearth stones, paving stone and similar architectural or structural stone shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be otherwise specifically authorized under the terms of the grant of the permit, or as otherwise provided in a quarrying or general industrial district.
- (v) The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the quarrying operation shall not be permitted except as otherwise provided in a quarrying or general industrial district.
- (vi) The washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity or where the quantity of water required will, in the opinion of the Town Engineer, seriously affect the water supply for other uses in the area.
- (vii) The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Town Plan Commission and/or Town Board to screen the operation so far as practical from normal view, to enhance the general appearance from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding country-side. Such planting shall be started as soon as practicable, but no later than one (1) year after quarrying operations have begun, and shall be done according to the recommendations of the Town Planner.
- (viii) Except in a quarrying or general industrial district, quarrying operations shall not begin before the hour of 7:00 a.m. and shall not continue after the hour of 6:00 p.m. and no operation shall take place on Sundays or legal holidays. During periods of national or unusual emergency, time and hours of operation may be altered at the discretion of the Town Board and through the issuance of a special permit which shall be renewable at thirty-day intervals.

(g) **Restorative requirements.**

- (i) In order to ensure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the Town Board a plan for such restoration in the form of the following: approval of the Waukesha County Department of Parks and Land Use, Land Resources Division, a plan for such reclamation in accordance with Chapter 400 – Mining, Nonmetallic, Town of Genesee Code of Ordinances or any applicable nonmetallic mining reclamation statute and any ordinance adopted by the Town; an agreement with the Town whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the Town; the physical restoration plan show g the proposed contours after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished; a cash escrow, certified check or other financial guarantee satisfactory to the Town attorney in an amount sufficient in the opinion of the Town Board to secure the performance of the restoration agreement. Such agreement and financial guarantee shall be in a form approved by the Town attorney.
- (ii) In the event of the applicant's failure to fulfill this agreement, such check or other financial guarantee shall be deemed forfeited for the purpose of enabling the Town to perform the restoration.
- (iii) Restoration shall proceed as soon as practicable, upon order and direction of the Town Board. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years.
- (iv) If minor changes are proposed to the adopted reclamation plan, a revised plan shall be submitted to the Town Engineer and the Town Planner, for review and approval prior to proceeding with reclamation. If major changes are proposed to the adopted reclamation plan, an informational public hearing, scheduled by the Town of Genesee, shall be held to solicit input on the proposed changes. If the changes are approved, a revised reclamation plan shall be submitted to the Town Engineer for review and approval prior to proceeding with reclamation. If the changes are not approved, reasons for the decision shall be provided, in writing, to the owner and operator.

- (v) Where there is any backfilling, the material or method used shall not create a health hazard nor be objectionable because of odor, combustibility or unsightliness. In any case the finished grade of the restored area except for rock faces, outcroppings, water bodies or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth and contain a minimum topsoil thickness of four inches.
 - (vi) Within one year after the cessation of the operation, all temporary structures, stock piles, rubbish heaps or other debris shall be removed or backfilled into the excavation to leave the premises in a neat and orderly condition.
 - (vii) In any restoration procedure which takes place in sand or gravel pits, no slope shall be left which is steeper than a ratio of two horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.
- (h) **Exceptions.**
- (i) The provisions of this subsection shall not apply to the removal of sod.
 - (ii) When the operation is limited to the removal of topsoil, the Town Plan Commission and Town Board may modify any or all of the provisions of this subsection, provided however, that in no case shall such operation be permitted closer than ten feet from any property line, be to a depth in excess of 18 inches or so as to adversely affect the drainage of the area.
 - (iii) The provisions of this subsection shall not apply to an operation which is accessory to the legitimate use of the premises; however, where such operation involves the commercial disposal of the material removed, the approval of the Town Board shall be required and such operation shall be limited to a maximum period of six months.
 - (iv) In a general industrial district, the Town Board may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation; and where the character of the terrain, of surrounding development, or other special conditions would justify such modification, may permit a reduction in the required setback or offset; provided, however, that in no case shall the setback be less than one hundred (100) feet, or the offset be less than one hundred (100) feet for quarrying operations or twenty (20) feet for any accessory access road,

parking area, or office building except as may be otherwise provided in this Section.

(i) **Application to existing operations.**

- (i) **Permits.** Within 60 days after the adoption of the Code from which this subsection is derived all existing quarrying operations shall be required to register with the clerk submitting pertinent data relative to the present operation, boundaries of the actual operation and of the ownership. A quarrying permit shall be granted to such existing operation subject to compliance with the operational requirements of this Code where they can be reasonably applied under existing circumstances.
- (ii) **Plan for restoration.** There shall be required within one year after adoption of the Code from which this Section is derived, the submission of a plan for restoration of the site of any existing quarrying operation. The plan for restoration in such case shall not impose requirements which are unreasonable from an economic and/or engineering standpoint with respect to conditions resulting from operations prior to enactment of the Code from which this Section is derived.
- (iii) **Renewal permits.** Within three (3) years after the date of this Code any such existing operation shall be required to make application for a renewal permit the same as for re-application in the case of a new operation under this Code, except in a quarrying or general industrial district.

(24) **Solid Waste Facilities** which shall include composting facilities, recycling facilities and solid waste transfer stations shall be allowed in P-I, Q-1, M-1 and M-2 zoning districts subject to the following:

- (a) All facilities shall comply with all local, county, state, and federal regulations.
- (b) All facilities shall not be located within 600 feet of a residential zoning district, a mixed-use zoning district, an educational facility, a worship facility, or any other place where the public congregates.
- (c) All buildings, structures, and activity areas shall be located at least 100 feet from the perimeter of the site.
- (d) When located in a B-3 or M-1 zoning district, all materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

- (e) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission and Town Board.
 - (f) No such use shall be located on a parcel less than ten (10) acres in size.
- (25) **Special Care Facilities** such as adult family homes, Group Homes, Community Living arrangements, Emergency Shelters, Foster and Treatment Homes, Group Day Care Centers, Nursing and Retirement Homes in A-1, A-2, A-3, A-5, R-1, P-I, B-1, B-2, B-3, B-4, B-P, M-1 and M-2, which are not otherwise exempted by the Wisconsin State Statutes and subject to the following;
- (a) The parcel on which said facility is located must be at least double the lot size and lot width requirements for the district in which they are located.
 - (b) The subject facility shall not be located within 2,500 feet of any other special care facility.
 - (c) The site plan and plan of operation must be submitted to and approved by the Town Plan Commission and Town Board.
 - (d) A minimum of 30% of the site must be in green space.
 - (e) An outdoor activity area associated with a care facility shall not be located within 20 feet of an adjoining property in a residential zoning district.
 - (f) When an off-street parking lot is located within 20 feet of a property in a residential zoning district landscaping, fencing, a berm, or any combination shall be used to effectively screen the parking area from the residential property.
 - (g) Principal buildings shall be located at least 35 feet from a property in a residential zoning district.
 - (h) The use and the conditional use on the property shall cease upon sale or transfer.
 - (i) Prior to issuance of the conditional use permit any state license required shall be issued and maintained for the life of the use or until the state no longer requires such license.
- (26) **Truck & Trailer Sales and Rental.** In the M-1 and M-2 Districts such uses shall be permitted by right subject to a Site Plan/Plan of Operation. In a B-3 district, subject to the following:
- (a) The building plans, site plan and plan of operation shall be submitted to and approved by the Town Plan Commission.

- (b) The minimum lot size shall be one (1) acre in size.
 - (c) The premise must abut and have access to a state or county highway.
 - (d) The number of vehicles/trailers stored outside on the premises shall be determined by the Town Plan Commission based on the following:
 - (i) Access to the site
 - (ii) Size of the parcel
 - (iii) Topography
 - (e) All vehicle/trailer storage shall be located a minimum of ten (10) feet from the Road right-of-way and the adjacent property lines, unless adjacent to a more restrictive district, whereby the offset of that district shall be required.
 - (f) The premise shall be adequately fenced or landscaped to hide, from neighbor's view, the storage of any vehicles/trailers.
- (28) **Large utility cabinets.** Large utility cabinets shall be considered a conditional use and will require a conditional use permit as described in this subsection, and building permit; and will be prohibited within any public or private right-of-way, except that the Town Plan Commission may grant specific approval in a conditional use permit on a case-by-case basis provided that the large utility cabinet shall either:
- (a) Be placed within a Town road right-of-way in compliance with Town ordinances and right-of-way regulations, including any amendments that may be made thereto in the future; or
 - (b) Be placed within a public road right-of-way under the jurisdiction of the county or the state in compliance with all applicable laws and subject to obtaining all necessary approvals as required by the governing bodies having jurisdiction; or
 - (c) Be placed within a private road right-of-way with the proper lease or easements. Large utility cabinets will not have to meet the offset and setback requirements of the zoning district in which any such large utility cabinet is proposed to be located, but shall be subject to vision corner easement requirements, and must not interfere with safe sight distances from public streets accesses. Large utility cabinets may be allowed by the Town Board in any district as described in this subsection and may require screening from existing, adjacent residential uses.
 - (d) **Permit required.** A separate conditional use permit shall be required for each property on which one or more large utility cabinet is proposed. Such permit shall be applicable solely to the cabinet, structure, use and property described in the

permit.

- (e) **Basis of approval.** The Town Plan Commission shall base their determination on general considerations as to the effect such grant may have on the health, general welfare, safety and economic prosperity of the Town and specifically on the immediate neighborhood where such use will be located. These considerations shall include the effect on the established character and quality of the areas, physical attractiveness, the demand for related services, the possible hazards, harmful, noxious, offensive or nuisance effect as a result of noise, glare, dust, smoke or odor and other factors as may be appropriate to carry out the intent of this Code.
- (f) Additional Information required:
 - (1) A Site Plan/Plan of Operation.
 - (2) Proof of an easement or lease agreement with the property owner.
 - (3) An erosion control permit issued from the county department of parks and land use land resource division, if necessary.
 - (4) Documentation from the Town Planner whether the facility requires state approved plans.
 - (5) An abandonment plan, which shall clearly state that within 90 days after discontinuance of the use of the facilities, the access roads, concrete paths and all other appurtenances will be removed and the site will be restored to its natural condition.
 - (6) A schematic of the cabinet that shows where on the utility cabinets there will be a permanent placard that identifies the carrier and provides an emergency telephone number where accidents or public concerns may be reported.
- (g) Large utility cabinet shall not have to conform to the building location, and open space, requirements of the zoning district in which it is located and be no more than six feet high. Any cabinet more than six feet high may be authorized under the provisions of the conditional use provisions of this Code.
- (h) **Termination.** When a conditional use permit has been issued for a large utility cabinet and its use does not continue in conformity with the conditions of the original approval, or of the use itself causes the original use permit to no longer be compatible with the surrounding areas or for similar cause, based upon consideration of the public welfare, a conditional use permit may be terminated or amended by action of the Town Plan Commission following a public hearing per Section 102.

(29) **Wireless Telecommunications Mobile Service Facilities.**

- (A) **Purpose.** This section is intended to regulate mobile service facilities to the full

extent allowed by Wisconsin Statutes Section 66.0404 and other applicable laws. Nothing herein is intended to regulate or to authorize the regulation of mobile service facilities in a manner that is preempted or prohibited by Wisconsin Statutes Section 66.0404 or other applicable laws.

- (B) **Definitions.** All terms used herein shall have the meaning described in Wisconsin Statutes Section 66.0404(1).
- (C) **New Towers and Facilities.** The siting and construction of a new mobile service support structure and facilities shall be subject to the following requirements:
 - 1. **Application Process.** The applicant shall submit a written application which shall include all of the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed tower.
 - c. The location of the mobile service facility.
 - d. A construction plan which describes the tower, equipment, network components, antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
 - e. An explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.
 - 2. **Determination of Completeness within 10 Days of Submittal.** The Town Planner shall review the application and determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Town Planner shall notify the applicant in writing within ten days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their applications as often as necessary until it is complete.
 - 3. **Conditional Use Review Procedure.** The wireless telecommunications

mobile service facility shall be a conditional use and shall be reviewed pursuant to the following procedures:

- a. **Public Hearing.** Within a reasonable time after an application and all required information has been filed, a public hearing shall be held by the Plan Commission pursuant to this chapter. Notices shall be sent by regular mail to all land owners within a half-mile radius of the proposed tower location.
- b. **Fee.** Any petition shall be accompanied by a fee as set from time-to-time by the Town Board to defray the cost of notification and holding of public hearing. Costs incurred by the Town in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be improved shall be charged to the Petitioner. Such fee shall not exceed the limits established by Wisconsin Statutes Section 66.0404(4)(d).
- c. **Requirements.**
 - i. Conditional use status shall not be granted to communication towers unless the tower is located so that there is sufficient radius of clear land around the tower so that its collapse shall be completely contained on the property, subject to the following. If an applicant provides the Town with engineering certification showing that the tower is designed to collapse within a smaller area than the radius equal to the height of the tower, the smaller area shall be used unless the Town has and provides to the applicant substantial evidence that the engineering certification is flawed.
 - ii. All facilities shall meet all State and federal codes.
- d. **Determination.** The Plan Commission shall make a decision on the application within a reasonable time after the public hearing, provided further that final action shall be taken within 90 days of receipt of a complete application unless the time extended by the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Town records. If conditional use status is not granted, the reasons therefor will be included in such record.
- e. **Changes or Additions.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Plan Commission and, if in the opinion of the Plan Commission, such change or addition constitutes a substantial alteration, a public hearing before the Plan Commission shall be required and notice thereof be given

pursuant to this Chapter.

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

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

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

1. **Substantial Modification.**

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

2. **Not Substantial Modifications.**

- b. **Application Information.** The applicant shall submit a written application that describes the applicant's basis for concluding that the modification is not substantial, and all of the following information:
 - i. The name and business address of, and the contact individual for, the applicant.
 - ii. The location of the affected support structure.
 - iii. The location of the proposed facility, including a site plan depicting leased areas and improvements.

- iv. Structural engineering analysis approved by the Town Engineer or his/her designee.
 - v. Tower Mapping Report.
 - vi. Fencing/Screening/Lighting report.
 - vii. Letter of Owner's Authorization.
 - viii. An Abandonment Plan, which shall clearly state that within ninety (90) days after discontinuance of the use of the facilities, the access roads, concrete paths, fencing, and all other appurtenances will be removed and the site restored to its natural condition. The Town may require a Developer's Agreement and a Letter of Credit for the removal of the facilities and restoration of the site.
- b. **Completeness Determination within Five Days.** The Town Planner will determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Town Planner must notify the applicant in writing within five (5) days of receiving the application if it is found not to be complete, specifying in detail the required information that was incomplete. The applicant may resubmit as often as necessary until it is complete.
- c. **Fee.** Any petition shall be accompanied by a fee as set from time-to-time by the Town Board to defray the cost of review. Costs incurred by the Town in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be improved shall be charged to the Petitioner. Such fee shall not exceed the limits established by Wisconsin Statutes Section 66.0404(4)(d).
- d. **Determination.** The Plan Commission shall make a decision on the application within a reasonable time, provided further that final action shall be taken within 45 days of receipt of a complete application unless the time extended by the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Town records. If approval is not granted, the reasons therefor will be included in such record.

- e. **Limitations Upon Authority.** The Town review and action in the matter shall be subject to the limitations imposed by Wisconsin Statutes Section 66.0404(4), and such other laws as may apply which may include 47 USCA §1455. In the event the applicant believes the Town has exceeded its authority in this regard, the applicant shall notify the Plan Commission in writing and the Plan Commission reserves the right to reconsider the matter, to ensure that applicable laws are followed.

ARTICLE V DISTRICTS

Division - 1 Generally

Section - 50 Establishment of Districts

For the purpose of this Code the Town is hereby divided into zoning districts which shall be designated as follows:

C-1	Conservancy District.
A-E	Exclusive Agricultural Conservancy District.
A-B	Agricultural Business District.
A-5	Mini-farm District.
E-C	Environmental Corridor District.
A-1	Agricultural District.
A-2	Rural Home District.
A-3	Suburban Estate District.
R-1	Residential District.
R-2	Residential District.
R-3	Residential District.
P-I	Public and Institutional District.
DB	Downtown Business Overlay District
B-1	Restricted Business District.
B-2	Local Business District.
B-3	General Business District.
B-4	Community Business District.
BP	Mixed Use Business Park District.
Q-1	Quarrying District.
M-1	Limited Industrial District.
M-2	General Industrial District.

Section - 51 Zoning Map

- (A) **Districts mapped:** The boundaries of said districts are shown upon zoning maps of the Town, which maps are made part of this Code, and all the notations, references and other information shown thereon shall be as much a part of this Code as if the matters and information set forth by said maps were all fully described herein. Said maps shall be kept on file in the offices of the Town clerk and the copies attached hereto are correct only as of the date of publication and are for general informational purposes only. For the purpose of local administration, a copy of the map shall also be kept on file in the office of the Town zoning administrator and Town Planner.
- (B) **Determination of boundaries:** District boundaries shall be determined by measurement from and as shown on the official zoning maps and in case of any questions as to the interpretation of such boundary lines, the Town Plan Commission shall interpret the map according to the reasonable

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intent of this Code.

- (1) Unless otherwise specifically indicated or dimensioned on the maps, the district boundaries are normally lot lines; Section, quarter Section or sixteenth Section lines; or the center lines of streets, highways, railways or alleys.
- (2) The boundaries of Conservancy, existing floodplain overlay and exclusive agricultural districts as drawn are intended to represent the edge of swamp, wetlands, marsh, and floodland or the high water line along a stream or watercourse, and shall be finally determined by the actual conditions in each specific situation.
- (3) The boundaries of the environmental corridor district are intended to include all non-wetland/floodplain primary or secondary environmental corridors and isolated natural resource areas, such as significant woodlands, upland wildlife habitat areas, scenic overlooks and slopes exceeding 12 percent. Where questions arise as to the exact location or boundary of an environmental corridor district, the extent and location of such corridor shall be finally determined by an infield investigation by the Southeastern Wisconsin Regional Planning Commission Staff Biologist or his designee.

Section - 52 First amendment protected adult-oriented establishments

(A) Finding of fact.

- (1) The Board finds that Adult-Oriented Establishments, as defined in this Code, require special zoning in order to protect and preserve the health, safety, and welfare of the Town.
- (2) Based on its review of studies conducted in Phoenix, AZ, Garden Grove, CA, Los Angeles, CA, Whittier, CA, Indianapolis, IN, Minneapolis, MN, St. Paul, MN, Cleveland, OH, Oklahoma City, OK, Amarillo, TX, Austin, TX, Beaumont, TX, Houston, TX, Seattle, WA and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Colman A. Young v. American Mini-Theaters, Inc., 427 U.S. 50 (1976), the Town Board finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
- (3) The Town Board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
- (4) It is not the intent of the Town Board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First

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Amendment protected activities.

- (5) In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the Town, it is the intent of the Town Board to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.
- (6) Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Town Board finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises are warranted.

(B) Location of first amendment protected adult-oriented establishments.

- (1) The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined by this Code, are entitled to certain protections, including the opportunity to locate in shorelands and floodlands governed by this Code. Therefore, an Adult-Oriented Establishment shall only be allowed as a conditional use in the Q-1 zoning districts and shall be a prohibited use in any other zoning district. The Adult-Oriented Establishment may locate in the specified districts only if an Adult-Oriented Establishment License has been granted by the Town under this Code, and all the requirements of this Section and the applicable zoning district's regulations, and all other applicable Town Ordinances are met.
- (2) **Adult-Oriented Establishments.**
 - (a) shall be located at least 1,000 feet from: any residential district line, playground lot line, or public park lot line;
 - (b) any structure used as a residence, place of religious worship, public or private school, or "Youth Facility" as defined in this Code;
 - (c) any other structure housing an Adult-Oriented Establishment;
 - (d) any structure housing an establishment for which an alcohol beverage license has been issued under Chapter 125 Wis. Stats.
- (3) Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the residential district boundary lines, to the lot line of any lot used for a park, playground, or any structure listed in (B) (2) (a-d) above.

- (4) The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
- (5) For Adult-Oriented Establishments located in conjunction with other buildings such as in a shopping center, and clearly separate from other establishments, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.
- (6) For any Adult-Oriented Establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the Adult-Oriented Establishment (excluding emergency exits).
- (7) A licensed Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the subsequent location of any of the establishments described in (2), above, within 1,000 feet of the licensed premises after the grant or renewal of its license. This provision applies only to renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

Section 60. C-1 CONSERVANCY DISTRICT

(A) Permitted uses:

- (1) Grazing.
- (2) The harvesting of any wild crops such as marsh hay, ferns, moss, berries, tree fruits, and tree seeds.
- (3) Hunting and fishing unless prohibited by other Ordinances or laws.
- (4) Sustained yield forestry. Where such sustained yield forestry practices will take place on areas larger than five (5) acres in size, a forest management plan prepared in cooperation with a state forester shall be submitted to and approved by the Waukesha County Department of Parks and Land Use, Land Resources Division and the Town clerk prior to its implementation. Where such sustained yield forestry practices will take place on areas smaller than five (5) acres in size, the requirements of Code shall be met.
- (5) Dams for hydro-electric power stations.
- (6) Telephone, telegraph and power transmission lines.

- (7) Non-residential buildings used solely in conjunction with the raising of waterfowl, minnows, and other similar animals or fish.
- (8) Telephone and electric distribution substations.
- (9) Beekeeping on parcels where all cultivation activities are at least five (5) feet from a property line and fifty (50) feet from any neighboring residence.

(B) Specific Prohibited Uses:

Filling or drainage of wetlands, removal of topsoil or peat, or damming or relocating of any watercourse shall not be permitted except with recommendation of the Town Plan Commission and approval of the Town Board and all other governmental bodies having jurisdiction.

(C) Area Regulations:

There are no specific minimum lot size requirements although conservancy/wetland zoned lands that lie within a larger parcel or tract of land, the remainder of which is zoned in any other district shall have a minimum area required in that non-Conservancy District.

Section 61. A-E EXCLUSIVE AGRICULTURAL CONSERVANCY DISTRICT

(A) Purpose

This district is intended to apply to those areas of the Town presently in agricultural use either by virtue of cultivation, pasture or in some other way and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and the presence of natural vegetation indicative of wet soils. The intent of the district is to preserve and maintain agricultural uses on lands suited for such purposes. They often include lands poorly suited for urban or suburban development while being particularly well suited for some types of agricultural use either with or without a higher level of soil management. In this district structures related to farm operations, including dwellings, are deemed consistent with the purpose of this Section where the location of buildings associated with the permitted agricultural operation is found to conform with health, sanitation and safety provisions of this and any other state regulation or local Ordinance. Determination of such suitability shall be evidenced by onsite examination and evaluation. The intent for mapping purposes is that lands within this district shall have exhibited those agricultural uses in the past. It is not the intent of this Section to promote or permit the conversion of wetlands.

(B) Permitted uses

- (1) Any use permitted in the C-1 Conservancy District.

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- (2) Ordinary farm uses, including dairying, livestock, poultry raising and truck farming.
- (3) Accessory uses within buildings normally associated with permitted agricultural operations, including single family dwellings and shelters for housing animals except that no structure shall be located in a floodplain or upon lands not suitable due to soil limitations.
- (4) Nurseries, greenhouses and hatcheries limiting the retail sales of such product to that which is produced by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the Town Plan Commission in accordance with this Code. Roadside stands do not require review and approval of a Site Plan and Plan of Operation.
- (5) Roadside stands and seasonal product sales when raised on the subject property.
- (6) Signs shall comply with the Town of Genesee Sign Ordinance.
- (7) Sod farming in conformance with the provisions of this Code.
- (8) Private stables subject to the following:
 - (a) Private stables on parcels of less than 20 acres subject to a written refuse disposal plan being submitted to and approved by the Town Planner if requested by the Town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of lot area and provided that the keeping of hogs, pigs (of any type), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
 - (b) Private stables on parcels 20 acres or greater in size subject to a written refuse disposal plan being submitted to and approved by the Town Planner if requested by the Town.

(C) Conditional uses.

Commercial stables.

(D) Building location.

Building location requirements for the A-E exclusive agricultural Conservancy District shall be as follows:

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

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(E) Height regulations.

Height regulations for the A-E exclusive agricultural Conservancy District shall be as follows:

- (1) Principal building: Thirty-five (35) feet maximum.
- (2) Accessory structures: Farm, sixty (60) feet; other, eighteen (18) feet, except that this height limit may be increased to allow structures up to one-hundred (100) feet where the setback and offset are equal to or exceed the height of the structure itself.

(F) Area regulations.

- (1) **Floor area:** Minimum required for single family dwelling where permitted:
 - (a) **Minimum required:**
 - (i) First floor, nine hundred (900) square feet
 - (i) Total one (1) family, one thousand (1,000) square feet
 - (b) **Maximum floor area ratio permitted:** Fifteen (15) percent.
- (2) **Lot size.** The lot size requirements in the A-E exclusive agricultural Conservancy District shall be as follows:
 - (a) Minimum parcel size: 35 acres, except as may be provided in Sections 62 (C) 4 or 5 of this Code.
 - (b) Minimum average width: 600 feet, except as provided in Sections 63(C) 4 or 5 of this Code.

Section 62 A-B AGRICULTURAL BUSINESS DISTRICT

(A) Purpose

The primary purpose of this district is to maintain, encourage and promote agriculturally related business endeavors on appropriate lands within the community. Such endeavors properly located and regulated serve to support and enhance the viability of agriculture as an economic activity.

For mapping purposes-It is the intent of this Code that suitable areas be described to provide for buffering from adjacent uses and that the minimum size of any proposed establishment of the A-B district

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be five (5) acres in extent. Existing uses which may come under the A-B agricultural business district shall be considered on a case-by-case basis and may be less than five (5) acres, with the Town Plan Commission making a determination as to compatibility with the existing site and the surrounding or adjacent uses.

(B) Permitted uses

All the following uses permitted by right in the A-B Agricultural Business District are subject to Site Plan and Plan of Operation approval of the Town Plan Commission.

- (1) Warehousing, transfer and transport services of agricultural commodities.
- (2) Horticultural services, including the retail sale of nursery landscape material and other agricultural crops and related commodities, subject to review and approval of a Site Plan and Plan of Operation by the Town Plan Commission. Roadside stands do not require review and approval of a Site Plan and Plan of Operation.
- (3) Feed milling operations.
- (4) Agricultural sales and services.
- (5) Cheese factories.
- (6) Bulk milk collection, storage and distribution facilities.
- (7) Veterinarian services.
- (8) Custom grain drying.
- (9) Poultry and/or egg production.
- (10) Residential use may be permitted only in connection with or accessory to otherwise permitted uses.
- (11) Any other use consistent with stated intent of this district subject to approval of the Town Plan Commission.-

(C) Conditional uses

Conditional uses as provided in Sections 40(B)(2), 40(B)(3), 40(B)(4), 40(B)(12).

(D) Building locations

- (1) **Setback:** Fifty (50) feet minimum

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(2) **Offset:**

- (a) Buildings used for commercial purposes which include the housing of livestock, fifty (50) feet minimum.
- (b) Buildings used for commercial purposes not involving livestock housing or animal waste storage, twenty (20) feet minimum.
- (c) The integrated site plan will relate buildings, parking areas and any loading dock facilities that may be necessary and accessory to the use and shall be governed by suitable contemporary design criteria.

(E) **Height regulations**

- (1) **Principal building:** Thirty-five (35) feet maximum.
- (2) **Accessory building:** Sixty (60) feet maximum, except that both principal and accessory buildings may be increased to more than one hundred (100) feet when the setback and offset equals or exceeds the height of the structure.

(F) **Area regulations**

- (1) **Floor area:** Minimum required.
 - (a) **Minimum required for residential purposes:** Nine hundred (900) square feet per dwelling unit.
 - (b) **Maximum floor area ratio:** Fifty (50) percent of the site.
- (1) **Lot size:**
 - (a) **Minimum area:** Five (5) acres, unless the Town Plan Commission determines that an existing use on a smaller parcel is appropriate and consistent with Section 101.
 - (b) **Minimum average width:** three hundred (300) feet.

(G) **Sign regulations**

- (1) **Signs:** All signs shall comply with the Town Sign Ordinance.

Section 63 A-5 MINI-FARM DISTRICT

(A) Section - Intent and purpose

This District is intended to provide for very low-density single-family residential development and the conversion of older farm dwellings to two-family units in predominantly rural areas in order to maintain, to some degree, the agricultural character of the property. These lands are best suited for small farm units, i.e., truck farms, horse farms, hobby farms, orchards and other similar agriculturally-related activities and usually contain a predominance of U.S.D.A. defined statewide significant category soils or prime category soils on parcels which do not qualify for agricultural preservation zoning or in areas which have an existing pattern of scattered or low-density residential development. Such a district is intended to be used to implement the Town of Genesee Comprehensive Development Plan - 2035 category entitled "Five (5) Acre".

(B) Use regulations

(1) Permitted Uses:

- (a) Any use permitted in the A-1 Agricultural District.
- (b) Two-family uses in converted farm dwellings existing on February 26, 1959 subject to issuance of a Conditional Use Permit contained in Section 40(B) (30).

(2) Permitted Accessory Uses:

Any of those accessory uses in the E-C Environmental Corridor District.

(C) Building location

(1) Setback: Fifty (50) feet minimum.

(2) Offset:

- (a) Thirty (30) feet minimum, except for accessory farm buildings subject to special Town Plan Commission approval.
- (b) Not less than fifty (50) feet from an adjacent property line for any building housing livestock, poultry or other animals. This does not include doghouses.

(D) Height limitations

(1) Principal Building: Thirty-five (35) feet maximum.

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(2) **Accessory Building:**

- (a) **Farm:** Sixty (60) feet maximum.
- (b) **Other:** Fifteen (15) feet maximum.

(E) Area regulations

(1) **Floor Area:**

(a) **Minimum required:**

- (i) **First floor:** Nine hundred (900) square feet.
- (ii) **Total:** One thousand five hundred (1,500) square feet.

(b) **Maximum F.A.R. permitted:** Fifteen (15) percent.

(2) **Lot Size:**

- (a) **Minimum area:** Five (5) acres.
- (b) **Minimum average width:** Three hundred (300) feet.

Section 64 EC ENVIRONMENTAL CORRIDOR DISTRICT

(A) Purpose and intent

The Environmental Corridor District, as mapped or intended to be mapped, includes non-wetland/floodplain primary, secondary environmental corridors and isolated natural resource areas as defined in this Ordinance, and is intended to be used to preserve, protect, enhance, and restore significant woodlands, upland wildlife habitat areas, scenic overlooks, slopes exceeding twelve (12) percent, and upland wooded areas, while also affording an opportunity to use the site for the limited residential purposes, in concert with the goal and intent of the Town of Genesee Comprehensive Development Plan - 2035, which suggests that residential densities in such areas not exceed one unit per five acres for all parcels which lie entirely within the Environmental Corridor. Where questions arise as to the exact location or boundary of an environmental corridor, the extent and location of such corridors shall be finally determined by infield investigation by the Zoning Administrator or his/her designee, and a notation shall be made on the map indicating that such a determination has been made for future reference and map amendment purposes.

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(B) Permitted Uses:

- (1) Any uses permitted in C-1 Conservancy District.
- (2) Single family dwellings.
- (3) Keeping of poultry or livestock shall not be permitted on any lot less than three (3) acres. There shall be no more than two (2) head of livestock or twenty (20) poultry for the first three (3) acres of land. There may be one additional head of livestock or twenty (20) additional poultry for each additional one (1) acre of land, except as otherwise provided herein. All lands to be utilized for the keeping of livestock or poultry must be under the same ownership or additional leased lands may be used to increase the maximum permitted livestock or poultry if contiguous to the owners' property. Where such use lawfully existed prior to the date of this Code, such use may be continued subject to the limitations regulating non-conforming uses as regulated in Section 34 of this Code. The grazing of livestock and the keeping of poultry shall be prohibited in environmental corridors areas on parcels of land which contain areas outside of the corridor. The keeping of pigs (of any type), hogs, male goats or fur-bearing animals shall not be permitted.
- (4) The following accessory buildings and uses, subject to the conditions specified:
 - (a) Private garages, when located on the same lot, and not involving the conduct of a business; provided, however, that no private garage shall be erected or commenced unless the principal building on such lot has been erected or is to be erected simultaneously with said garage.
 - (b) Quarters for household or farm employees; provided, however, that such quarters shall be occupied only by individuals employed full-time on the premises and their families.
 - (c) Stables, barns, or poultry houses, which house livestock or poultry, shall not be less than fifty (50) feet from an adjacent property line.
- (5) Signs shall comply with the Town of Genesee Sign Ordinance.
- (6) Hobby kennel in accordance with Section 19 (J) of this Code.
- (7) The establishment and enhancement of public parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and wildlife habitat areas, provided that any tree and vegetation removal and subsequent restoration done in the EC Environmental Corridor District and any improvements and/or

construction shall be approved by the Town Administrator before beginning any development activities. Vegetative restoration may be allowed within the corridor for the purpose of improving wildlife habitat or to otherwise enhance wildlife values provided all necessary permits are obtained and said activities shall only be approved after review and approval and issuance of all permits, as required. Roads and trails to service the recreational and wildlife areas, etc. may be permitted, but said roads and trails may not include vegetation removal or other construction activity within the corridor without obtaining all approvals, as required.

- (8) Community living arrangements and community based residential facilities which have a capacity of eight (8) or fewer persons, subject to the limitations set forth in Section 62.23 (7) (l) of the Wisconsin Statutes and amendments thereto.
- (9) Family daycare home or foster family home of eight (8) or fewer persons.
- (10) Keeping of chickens shall comply with the requirements of Section 65 (A)(13).

(B) Prohibited Uses:

- (1) Guesthouses.

(C) Building location

- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:** Thirty-five (35) feet minimum. In the case of existing legal non-conforming principal or accessory structures that are less than the required thirty-five (35) foot minimum, an extension or addition may be allowed closer than thirty-five (35) feet as long as said extension or addition does not extend or encroach closer to the side lot line than the existing structure to which it is attached, at its closest point as measured in this Ordinance, and in no case shall be less than twenty (20) feet unless a Special Exception is granted by the Board of Appeals to allow such extension or addition, and with the requirement that all of the disturbance regulations of Section 66 of this Ordinance be met as applicable.

(D) Height regulations

- (1) **Principal Building:** Thirty-five (35) feet maximum.
- (2) **Accessory Building:**
 - (a) **Farm:** Sixty (60) feet maximum.

- (b) **Other:** Fifteen (15) feet maximum.

(E) Area regulations

(1) Floor Area:

(a) Minimum required:

- (i) **First floor:** Eight hundred fifty (850) square feet.
- (ii) **Total:** One thousand one hundred (1,100) square feet.

(2) Floor Area Ratio: The maximum floor area ratio permitted shall be fifteen (15) percent.

(3) Lot size. Lot size requirements in the EC environmental corridor district shall be as follows:

- (a) Minimum area. The overall density of lots lying entirely within the environmental corridor district shall be not greater than one (1) dwelling unit per five acres of corridor, with no lot being less than two acres in size. For lots which lie partially within and partially outside of the environmental corridor district, if the lot size of the adjoining districts would permit a minimum lot size of less than five acres, the five-acre density requirement shall not apply and the lot can be the size permitted in the adjacent zoning district, as determined by the Zoning Administrator, as long as any land altering activity and/or building envelopes are located outside of the environmental corridor district and appropriately restricted as such on the face of the certified survey map, subdivision plat or other document approved by the Town Plan Commission or the zoning administrator and recorded in the office of the register of deeds. The overall goal of this requirement is to obtain a maximum density of building activity within the environmental corridor of not more than one dwelling unit for each five acres of environmental corridor land.

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

- (a) For lots lying entirely within an environmental corridor zoning district, regardless of lot size, no open space regulations shall apply. However, the area of disturbance in the Environmental Corridor District for all land altering activities and vegetative removal, including building sites, septic areas and areas shall be no more than 15,000 square feet or fifteen (15) percent of a parcel's area (up to a maximum of 32,670 square feet, whichever is greater, and a deed restriction shall

be recorded in the office of the Register of Deeds describing the permitted area of disturbance.

- (b) For parcels which lie partially within and partially outside of the Environmental Corridor Zoning District, the area of disturbance as described in Section 5(a) above shall be limited to that area outside the Environmental Corridor District unless otherwise permitted by a building envelope on a certified survey map, subdivision plat, or other document, or unless the developable area of a parcel (that area that is not constrained by zoning district setback and offset requirements and that is located outside of the Environmental Corridor District) is less than 15,000 square feet or is less than the area that is equal to Fifteen (15) percent of the Environmental Corridor area of a parcel, up to a maximum of 32,670 square feet.

If the developable area on a lot is less than the above specified thresholds, an area of disturbance within the Environmental Corridor District, as described in Section 5(a) above, up to the amount of area needed to achieve a 15,000 square foot developable area or a developable area of up to fifteen (15) percent of the Environmental Corridor area of the parcel, up to a maximum of 32,670 square feet of disturbance area, as described in Section 5(a) above, may be permitted by the Zoning Administrator provided a deed restriction is recorded in the office of the Register of Deeds describing and authorizing the area of disturbance.

Section 65 A-1 AGRICULTURAL DISTRICT

(A) Permitted uses

- (1) Any use permitted in the A-E exclusive agricultural district.
- (2) One-family dwelling.
- (3) Agricultural or farm uses on not less than five (5) acres of land, including the keeping of poultry and livestock, except that the keeping of hogs, unneutered male goats or fur-bearing animals shall not be permitted on less than twenty (20) acres. Those practicing agricultural uses under this Section must comply with standard manure disposal practices.
- (4) Horticulture, including greenhouses and nurseries.
- (5) The following accessory buildings, subject to the conditions specified:

- (a) Private garages when located on the same lot, and not involving the conduct of a business; no private garage shall be erected unless the principal building to which such garage is an accessory use has been erected or is to be erected simultaneously with said garage.
 - (b) Quarters for household or farm employees, provided, however, those quarters shall be occupied only by those individuals employed full time on the premises and their families.
 - (c) Stables, barns, or poultry houses, which house livestock or poultry, shall not be less than fifty (50) feet from an adjacent property line.
- (6) Home occupations and professional offices as regulated in Section 19 (J) of this Code.
- (7) Signs shall comply with the Town of Genesee Sign Ordinance.
- (8) Hobby kennel as regulated in Section 19 (I) of this Code.
- (9) Private stables subject to a written refuse disposal plan being submitted to and approved by the Town Plan Commission if requested by the Town Planner, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of open lot area and provided that the keeping of hogs, pigs of any kind (except potbellied pigs as defined in this Code for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.
- (10) Yard sales which shall be limited to 3 consecutive days. There shall be at least thirty (30) days between the last day of a yard sale and the first day of a subsequent yard sale.
- (11) Community living arrangements and community based residential facilities which have a capacity of eight (8) or fewer persons, subject to the limitations set forth in Section 62.23 (7) (I) of the Wisconsin Statutes and amendments thereto.
- (12) Family daycare home or foster family home of eight (8) or fewer persons.
- (13) Keeping of chickens shall be regulated as follows:
 - (a) No more than six (6) chickens shall be allowed on a lot less than three (3) acres in size. Lots greater than three (3) acres in size shall contain no more than twenty (20) chickens for the first three (3) acres of land. There may be twenty (20) additional chickens for each additional one (1) acre of land. All lands to be utilized for the keeping of chickens must be under the same ownership or additional leased lands may be used to increase the maximum permitted chickens, if contiguous to the owners' property.

- (b) The keeping of roosters is prohibited on less than three (3) acres of land.
- (c) Chickens shall be kept in a covered enclosure or coop that is predator proof, thoroughly ventilated, of sufficient size to allow free movement of the chickens and designed to be easily accessed, cleaned and maintained by the owners. Chickens shall be kept in an enclosure or fenced in area at all times.
- (d) A covered enclosure or coop is considered a structure and is subject to all applicable zoning and building restrictions and codes. However, a small enclosure or coop less than 100 square feet shall not count toward the number of accessory buildings allowed on a lot. Only one (1) covered enclosure or coop is allowed per lot.
- (e) The covered enclosure or coop housing the chickens and chicken runs shall be located at least 25 feet off the property line and 50 feet from all existing dwellings on adjoining properties. The covered enclosure or coop and chicken run shall not be located in the front yard.
- (f) The keeping of chickens shall not cause any nuisance or unhealthy conditions or otherwise interfere with the normal use of any property.
- (g) On Lots less than three (3) acres, no commercial activities shall be permitted by the homeowner, such as the sale of eggs, sale of live or dressed chickens, sale of live chicks, feathers, etc.
- (h) Feed for chickens shall be stored indoors or in a sealed container if stored outside.
- (i) All enclosures or coops and chicken runs shall be removed from the property no later than six (6) months after the keeping of the chickens is no longer a use on the property.
- (j) All applicable Federal, State, County and Local laws, codes, licenses and requirements must be complied with and followed.

(B) Conditional uses.

Commercial stables.

(C) Building location.

- (1) **Setback:** Fifty (50) feet minimum.

(2) **Offset:** Twenty (20) feet minimum.

(D) **Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

(E) **Area regulations**

(1) **Floor area:**

(a) **Minimum required:**

(1) **First floor:** Nine hundred (900) square feet.

(2) **Total, one (1) family:** One thousand one hundred (1,100) square feet.

(b) **Maximum F. A. R. permitted:** Fifteen (15) percent.

(2) **Lot size:**

(a) **Minimum area:** Three (3) acres.

(b) **Minimum average width:** Two hundred (200) feet.

Section 66 A-2. RURAL HOME DISTRICT

(A) **Permitted uses:**

(1) Any use permitted in the A-1 Agricultural District, except that the keeping of poultry or livestock shall not be permitted on any lot less than three (3) acres, and the keeping of hogs, male goats or fur-bearing animals shall not be permitted. There shall be no more than two (2) head of livestock or twenty (20) poultry for the first three (3) acres of land. There may be one additional head of livestock or twenty (20) additional poultry for each additional one (1) acre of land, except as otherwise provided herein. All lands to be utilized for the keeping of livestock or poultry must be under the same ownership or additional leased lands may be used to increase the maximum permitted livestock or poultry if contiguous to the owners’ property. Where such use lawfully existed prior to the date of this Code, such use may be continued subject to the limitations regulating non-conforming uses as regulated in Section 27 of this Code.

(2) Keeping of chickens shall comply with the requirements of Section 65 (A)(13).

- (3) Nurseries and greenhouses for the private and exclusive use of the dwelling occupant are permitted.

(B) Building location

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

(C) Height regulations, See Section 17 “Height regulations” for regulations and exceptions.

(D) Area regulations

- (1) **Floor area:**
 - (a) **Minimum required:**
 - (i) **First floor:** Nine hundred (900) square feet.
 - (i) **Total:** One thousand five hundred (1,500) square feet.
 - (b) **Maximum F. A. R. permitted:** Fifteen (15) percent.
- (2) **Lot size:**
 - (a) **Minimum area:** Three (3) acres.
 - (b) **Minimum average width:** Two hundred (200) feet.

Section 67 A-3 SUBURBAN ESTATE DISTRICT

(A) Permitted Uses

Any use as permitted in the A-2 Rural Home District.

(B) Building location

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

(C) Height regulations, See Section 17 “Height regulations” for regulations and exceptions.

(D) Area regulations

- (1) **Floor area:**
 - (a) **Minimum required:**
 - (i) **First floor:** Nine hundred (900) square feet.
 - (ii) **Total:** One thousand five hundred (1,500) square feet.
 - (b) **Maximum F. A. R. permitted:** Fifteen (15) percent.
- (2) **Lot size:**
 - (a) **Minimum area:** Two (2) acres.
 - (b) **Minimum average width:** One hundred seventy-five (175) feet.

Section 68 R-1 RESIDENTIAL DISTRICT

(A) Permitted uses:

- (1) Any use as permitted in the A-2 Rural Home District.
- (2) The keeping of usual household pets and hobby kennels but not including the operation of a commercial kennel unless a conditional use permit is obtained.

(B) Building location

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

(C) Height regulations, See Section 17 “Height regulations” for regulations and exceptions.

(D) Area regulations

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- (1) **Floor area:**
 - (a) **Minimum required:**
 - (i) **First floor:** Nine hundred (900) square feet.
 - (ii) **Total:** One thousand three hundred (1,300) square feet.
 - (b) **Maximum F. A. R. permitted:** Fifteen (15) percent.
- (2) **Lot size:**
 - (a) **Minimum area:** One (1) acre.
 - (b) **Minimum average width:** One hundred fifty (150) feet.

Section 69 R-2 RESIDENTIAL DISTRICT

- (A) **Permitted uses:**
 - (1) Any use as permitted in the R-1 residential district.
- (B) **Building location.**
 - (1) **Setback:** Fifty (50) feet minimum.
 - (2) **Offset:** Twenty (20) feet minimum.
- (C) **Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.
- (D) **Area regulations**
 - (1) **Floor area:**
 - (a) **Minimum required:**
 - (i) **First floor:** One thousand (900) square feet.
 - (ii) **Total:** One thousand five hundred (1,200) square feet.
 - (b) **Maximum F. A. R. permitted:** Fifteen (15) percent.
 - (2) **Lot size:**

- (a) **Minimum area:** Thirty thousand (30,000) square feet.
- (b) **Minimum average width:** One hundred twenty (120) feet.

Section 70 R-3 RESIDENTIAL DISTRICT

(A) Permitted uses

- (1) Any use as permitted in the R-2 residential district.

(B) Building location

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

(C) Height regulations, See Section 17 “Height regulations” for regulations and exceptions.

(D) Area regulations

- (1) **Floor area:**
 - (a) **Minimum required:**
 - (i) **First floor:** Eight hundred fifty (850) square feet.
 - (ii) **Total:** One thousand one hundred (1,100) square feet.
 - (b) **Maximum F. A. R. permitted:** Fifteen (15) percent.
- (2) **Lot size:**
 - (a) **Minimum area:** Twenty thousand (20,000) square feet.
 - (b) **Minimum average width:** One hundred twenty (120) feet.

Section 71 P-I PUBLIC AND INSTITUTIONAL DISTRICT

(A) Intent of district

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This district is intended to provide for those uses which serve a public need and/are principally of an institutional, educational, medical, or governmental nature (whether public or privately owned and either "for profit" or "not for profit") and serving a public need, (but not including the operation of a bar, restaurant, or recreational facility as a commercial enterprise) unless authorized as a Conditional Use under Section 40 (B) (31). Group homes as regulated by Statute, shall not be included as they are either allowed in other districts, or regulated pursuant to Section 40 of this Code.

(B) Permitted uses

The following uses are permitted by right subject to review and approval of the Site Plan and Plan of Operation by the Town Plan Commission.

- (1) Hospitals and clinics or rehabilitation facilities or centers.
- (2) Nursing home.
- (3) Schools.
- (4) Mental health or substance abuse treatment, training, or counseling or rehabilitation facilities.
- (5) Residential treatment, training or education facilities.
- (6) Municipal buildings
- (7) Museums.
- (8) Police and Fire stations.
- (9) Libraries.
- (10) Penal reform institutions.
- (11) Military installations.
- (12) Public service yards.
- (13) Publicly owned and operated parks, recreational uses, golf courses, and open space uses.
- (14) Other similar uses as determined by the Town Plan Commission.

(C) Permitted accessory uses

- (1) Garages and buildings for storage of vehicles and/or equipment, which are used in conjunction with the operation of a permitted use.
- (2) Residential quarters used for other than a permitted use shall be occupied only by individuals employed full-time on the premises and their families.
- (3) Stables, barns, or poultry houses provided that no building which houses said livestock or poultry is closer than fifty (50) feet to any lot line.
- (4) Horticulture, including greenhouses and nurseries, and roadside stands to the extent associated with an otherwise permitted use. Horticulture, including greenhouses and nurseries, are subject to review and approval of a Site Plan and Plan of Operation by the

Town Plan Commission in accordance with Section 7 (G) of this Code. Roadside stands do not require review and approval of a Site Plan and Plan of Operation.

- (5) Parking in accordance with Section 21.
- (6) Satellite dishes or other communication equipment apparatus.
- (7) **Temporary Uses:** Lands and buildings within the district may be used on a temporary basis for private and commercial uses usually not more than 1 week in duration. Such uses might consist of carnivals, rental of said buildings for private gatherings, use of buildings for temporary commercial displays or trade fairs and similar functions for the purpose of fundraising or other special and unique events in conjunction with the permitted use. Approval must be granted by the Town Board for such temporary use and subject to any condition that may be imposed.

(D) Building location

- (1) **Setback** - Fifty (50) feet minimum.
- (2) **Conservancy District Setback** - Seventy-five (75) feet minimum.
- (3) **Offset**
 - (a) Principal Building - Fifty (50) feet minimum.
 - (b) Accessory Building - Thirty (30) feet minimum.

(E) Height regulations

- (1) **Principal Buildings** - Thirty-five (35) foot maximum, unless fire and emergency apparatus adequate to service a taller building is available to service the building on the subject parcel and verification of such apparatus' availability from the community providing fire and emergency services to or for the subject parcel is filed with the Town Zoning administrator to issuance of a zoning permit, in which event the maximum height of a principal building in the subject parcel shall be the maximum height which such available apparatus can service (but such maximum height shall not be greater than sixty (60) feet).
- (2) **Farm Buildings** - Sixty (60) feet maximum.
- (3) **Other** – Twenty (20) feet maximum.

(F) Area regulations

No minimum required. The use will dictate the size of the parcel. However, no more than 60% of the subject parcel shall be of impervious surfaces, consisting of roof tops, paved or gravel surface parking or service areas, and 40% of the subject parcel shall be in vegetative cover or tillable soil.

(G) Sign regulations

- (1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

Section 72 B-1 RESTRICTED BUSINESS DISTRICT

(A) Permitted uses:

- (1) Any use as permitted in the R-3 residential district.
- (2) The following retail or customer service establishments of a restrictive nature provided the location, building and Site Plan and Plan of Operation have been submitted to, and approved by, the Town Plan Commission as being in keeping with the character of the surrounding residential area.
- (a) Boarding or lodging houses.
 - (b) Delicatessen.
 - (c) Florist shop.
 - (d) Funeral home.
 - (e) Gift shop.
 - (f) Interior decorator.
 - (g) Professional office or studio.
 - (h) Tea room or restaurant provided no liquor is served.
 - (i) Tourist home.
 - (j) Classes associated with any other permitted use as long as the site plan and plan of operation approved by the Town Plan Commission address the hours of operation, number of events and maximum participants, parking, signage and the facility in which said classes are conducted meets all applicable building sanitation, health and fire codes for the type of classes conducted and the number of participants.
 - (k) Any similar use subject to the approval of the Town Plan Commission

(B) Building location.

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

(C) **Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

(D) **Area regulations.**

(1) **Floor area:**

(a) **Minimum required for residential purposes:**

(i) **First floor:** Nine hundred (900) square feet.

(ii) **Total, one (1) family:** One thousand (1,000) square feet.

(b) **Maximum F. A. R. permitted:** Twenty (20) percent.

(2) **Lot size:**

(a) **Minimum area:** Twenty thousand (20,000) square feet.

(b) **Minimum average width:** One hundred twenty (120) feet

(E) **Sign regulations**

(1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

Section 73 B-2 LOCAL BUSINESS DISTRICT

(A) **Permitted uses:**

(1) Any use as permitted in the B-1 restricted business district.

(2) Any of the following retail or customer service establishments, provided the location, building and Site Plan and Plan of Operation are submitted to and approved by the Town Plan Commission.

(a) Art shop.

(b) Appliance store.

(c) Bakery (not over ten (10) employees).

(d) Barber shop.

(e) Beauty shop.

(f) Bank or savings and loan office.

(g) Clinic.

(h) Clothing or dry goods store.

- (i) Confectionery store.
- (j) Drug store.
- (k) Furniture store.
- (l) Book or stationery store.
- (m) Fruit and vegetable market.
- (n) Grocery or other food products store.
- (o) Hardware store.
- (p) Ice cream store.
- (q) Jewelry store.
- (r) Meat and fish market.
- (s) Music and radio store.
- (t) News-stand.
- (u) Notion or variety shop.
- (v) Parking lot.
- (w) Pharmacy.
- (x) Radio and television sales and repair shop.
- (y) Personal Storage Facilities
- (z) Photographer.

- (aa) Restaurant.
- (bb) Shoe store.
- (cc) Soda fountain.
- (dd) Tailor or dressmaking shop.
- (ee) Telegraph and telephone office and telephone exchange.
- (ff) Temporary fireworks stands that sell Class "C" fireworks.
- (gg) Utility company office.
- (hh) Any similar use subject to the approval of the Town Plan Commission.

- (3) Garages for storage of vehicles used in conjunction with the operation of the business.

(B) Building location.

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

(C) Height regulations, See Section 17 "Height regulations" for regulations and exceptions.

(D) Area regulations.

(1) Floor area:

(a) Minimum required for residence purposes:

(i) Buildings used solely for residence purposes:

(1) First floor: Eight hundred (800) square feet.

(2) Total: One (1) family: One thousand (1,000) square feet.

(ii) Buildings used for both residence and business purposes: Six hundred (600) square feet per family.

(b) Maximum F. A. R. permitted: Fifty (50) percent.

(2) Lot size:

(a) Minimum area: Twenty thousand (20,000) square feet.

(b) Minimum average width: One hundred twenty (120) feet.

(E) Sign regulations

(1) Signs: All signs shall comply with the Town of Genesee Sign Ordinance.

Section 74 B-3 GENERAL BUSINESS DISTRICT

(A) Permitted uses:

(1) Any use as permitted in the B-2 local business district, except that residential use shall be permitted only in conjunction with or accessory to an otherwise permitted use.

(2) The following business and trades of a more general nature, normally serving a larger trade area, providing the location, building and Site Plan and Plan of Operation are submitted to and approved by the Town Plan Commission.

(a) Wholesalers and distributors.

(b) Theaters, dance halls, arcades, video game parlors and other amusement places.

(c) Used car lots.

- (d) Dry cleaning and dyeing establishments.
- (e) New and used automobile sales rooms and lots, sale of snowmobiles, personal watercraft, boats and marina equipment along with repair and service shops for such equipment, storage yards and garages for said equipment, vehicles and supplies, but not including the storage and/or sale of junked or wrecked equipment or parts.
- (f) Printing and publishing houses.
- (g) Dairies and bottling plants.
- (h) Laundries.
- (i) Lockers and cold storage plants.
- (j) A building, or portion thereof, or a building designed with self-contained units, which is leased by the owner for storage.
- (k) Any similar use subject to the approval of the Town Plan Commission.

(B) Building location.

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

(C) Height regulations, See Section 17 “Height regulations” for regulations and exceptions.

(D) Area regulations.

- (1) **Floor area:**
 - (a) **Minimum required for residence purposes:** Six hundred (600) square feet per family.
 - (b) **Maximum F. A. R. permitted:** Fifty (50) percent.
- (2) **Lot size:**
 - (a) **Minimum area:** Twenty thousand (20,000) square feet.
 - (b) **Minimum average width:** One hundred twenty (120) feet.

(E) Sign regulations

- (1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

Section 75 B-4 COMMUNITY BUSINESS DISTRICT

(A) Statement of intent.

This district is intended to provide for individual or large groups of retail and customer service retail in a “shopping center setting.” The intent is to designate those uses on a predetermined land use plan. This District must be located within one (1) mile of a major highway interchange or at or near the intersection of two (2) major highways. The District is designed for convenience or one-stop shopping and is intended to serve the entire community.

(B) Review process.

The Town Plan Commission must review and approve building plans and a Site Plan and Plan of Operation for each building proposal or change in use in order to achieve a satisfactory relationship between the permitted use, its operating characteristics, the arterial highway system, and adjacent uses.

(C) Permitted uses.

- (1) **Permitted Principal Uses:** The following retail establishments, selling of and storing of only new merchandise.
- (a) Art, dance, music teaching studios or other similar uses.
 - (b) Architects, engineers or other professional offices.
 - (c) Bakery goods stores.
 - (d) Banks, savings and loan association and other financial institutions.
 - (e) Barber and beauty shops.
 - (f) Candy, confectionery stores.
 - (g) Clothing stores.
 - (h) Delicatessens.
 - (i) Dentist, physician or other similar professional health offices.
 - (j) Drugstores.
 - (k) Dry cleaning pick-up and delivery establishments.
 - (l) Retail florists.
 - (m) Fruit stores.
 - (n) General public bookstores.
 - (o) Gift stores.

- (p) Grocery stores.
- (q) Hardware stores, paint or decorating stores.
- (r) Hobby shops.
- (s) Meat, fish, or poultry markets.
- (t) Optical stores.
- (u) Packaged beverage stores.
- (v) Photo and film pick-up stores.
- (w) Shoe repair shops.
- (x) Shoe stores.
- (y) Soda and ice cream stores.
- (z) Sporting goods stores.
- (aa) Tobacco stores.
- (bb) Variety stores.
- (cc) Vegetable stores.
- (dd) Video stores.
- (ee) Department stores.
- (ff) Cafes or restaurants.

(2) **Permitted Accessory Uses:**

- (a) Garages for storage of licensed vehicles used in conjunction with the operation of a business.
- (b) Off-street parking and loading areas.
- (c) Classes associated with any other permitted use as long as the site plan and plan of operation approved by the Town Plan Commission address the hours of operation, number of events and maximum participants, parking, signage and the facility in which said classes are conducted meets all applicable building sanitation, health and fire codes for the type of classes conducted and the number of participants.

- (3) **Off-street Parking and Loading Areas:** Provided detailed site plans, including landscaping and buffering, are submitted to and approved by the Town Plan Commission. Front, rear and side yard paved setbacks shall not be less than ten (10) feet. Shared drives and shared parking areas may be allowed among adjacent properties where appropriate and practical through the use of cross-easements or other internal linkages between the properties with approval of the Town Plan Commission and all owners of the properties.

(D) **Permitted conditional uses.**

Any use similar in character to the permitted uses listed above conducted as a retail business on the premises, catering to the general public and compatible to the character of adjacent areas. Additionally, only the following uses are permitted conditional uses:

- (1) Fast food establishments.
- (2) Service stations.
- (3) Home improvements stores.
- (4) Communications facilities, including antenna masts and satellite dish antennas located in the rear yard and roof-mounted satellite dish antennas and roof-mounted solar collectors on the roof of the principal structure, provided a registered engineer shall certify that the structure is adequate to support the load. All such facilities shall be screened from view with the facility and screening approved by the Town Plan Commission and Town Board.
- (5) Entertainment facilities.
- (6) Hospitals and health care facilities.
- (7) All uses operated greater than 16 hours per day.
- (8) Limited outside storage or display.

(E) Prohibited uses.

- (1) Any new residential dwellings.
- (2) Car, truck and trailer sales lots - new and used.
- (3) Outside bulk sales, bulk storage or bulk display of materials or products.
- (4) Drive-in theaters.

(F) Height regulations, See Section 17 "Height regulations" for regulations and exceptions.

(G) Lot Area, Frontage, and Yard Regulations.

(1) Lot Size – Un-sewered:

- (a) Total site may not be less than ten (10) acres without lots being created by a PUD.
- (b) When an un-sewered lot is created, the Town Plan Commission may require the principal structure on the lot to be arranged and dimensioned so as to allow further division of the parcel at such time as sewer becomes available.

(2) Lot Size - Sewered:

- (a) Free-standing building sites shall have a minimum lot size of 20,000 square feet.

- (3) **Lot Width (out lots):** Free-standing building sites shall have a minimum average width of 120 feet (sewered) and 240 feet (un-sewered).
- (4) **Front Yard Setback:** All buildings shall be located not less than fifty (50) feet from any street or highway right-of-way.
- (5) **Side Yard Setback:** Shall have a minimum offset of ten (10) feet; however, the Town Plan Commission may require a greater offset to accommodate future expansion of the building or future paved driveway access to the rear of the building.
- (6) **Rear Yard Setback:** Shall have a minimum offset of twenty-five (25) feet.
- (7) **Floor Area:** Initial construction proposed on each lot shall be a minimum of 5,000 square feet.
- (8) **Floor Area Ratio:**
 - (a) Maximum of thirty percent (30%), un-sewered.
 - (b) Maximum of fifty percent (50%), sewer.
 - (c) Not more than sixty-five percent (65%), un-sewered or seventy percent (70%), sewer of any lot shall be covered with buildings, surfaced pavement, parking, loading areas, or other covering materials which are impervious to surface absorption.

(H) Sign regulations.

- (1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

Section 76 BP-MIXED USE BUSINESS PARK DISTRICT.

(A) Statement of intent.

- (1) This district is to be used as an implementation tool for the Town's adopted Land Use Plan where it designates specific types of limited office, professional services, retail, business uses, and light industrial uses free of outside storage or display, serving the adjacent industrial and business uses in larger communities. These uses may occur on individual sites or as part of a planned larger development. This District can only be located within one mile of a freeway interchange or at an intersection of two state trunk highways and be used only where specific types of uses are designated on a Town adopted Land Use Plan.

- (2) The Town Plan Commission shall review and consider for approval a building plan and a Site Plan and Plan of Operation for each building or use proposal to determine if the proposed development complies with the Town Land use Plan. The review shall be required to achieve a satisfactory relationship between the permitted use, its operating characteristics, the arterial highway system and adjacent uses such as retail, residential, customer service, business park and light industrial.

(B) Permitted uses.

- (1) **Permitted Principal Uses:** The following principal uses are permitted provided the building plan and a Site Plan and Plan of Operation have been submitted to and approved by the Town Plan Commission. Development prior to sewers being installed in the area is contingent upon the ability of each use to obtain the necessary sanitary septic system approvals from the proper authorities.
 - (a) Community and customer service establishments including eating and drinking establishments, overnight lodging, and indoor commercial recreational facilities such as bowling alleys, physical fitness salons and theaters. Such establishments may not be located adjacent to or opposite a residential district (as designated on the Land Use Plan) and must be within 1,000 feet of a state trunk highway except as identified by Section 412 of this Code.
 - (b) Offices for the professions, business and utilities, studios, health care facilities and clinics (not providing for overnight stay).
 - (c) Automobile drive-thru facilities such as financial services, fast food establishments, provided the service rendered or product sold is provided to each customer while they remain in or near their cars and provided to one or a few vehicles at a time (as contrasted with an outdoor theater where all cars are serviced at once). Such facilities must be located within 1,000 feet of a state trunk highway.
 - (d) Laboratory, research and servicing operations. Servicing operations shall not be for general retail or public consumption but limited to the servicing of the specific product manufactured or assembled at that site.
 - (e) Trades or light industrial operations of limited intensity, including manufacturing, assembly, fabrication, and processing operations, warehousing (on parcels greater than 3 acres), wholesaling, and distribution operations, except as otherwise prohibited.

(2) **Permitted Accessory Uses:** The following accessory uses are permitted provided the building or structure plan and a Site Plan and Plan of Operation have been submitted to and approved by the Town Plan Commission.

- (a) Garages attached to the principal structure for storage of vehicles used in conjunction with operation of the business.
- (b) Off-street parking and loading areas provided detailed site plans, including landscaping and buffering, are submitted to and approved by the Town Plan Commission. Front, rear and side yard paved setbacks shall be not less than ten (10) feet. Shared drives and shared parking areas among adjacent properties where appropriate and practical are desirable through the use of cross-easements or other internal linkages between properties.
- (c) Communications facilities, including antenna masts and satellite dish antennas located in the rear yard and roof-mounted solar collectors on the roof of the principal structure, provided a registered engineer shall certify that the structure is adequate to support the load. All such facilities shall be screened from view with the facility and screening approved by the Town Plan Commission. Screening shall be required for any satellite dish exceeding 24 inches in size and where more than one exists per property.
- (d) Bus or taxi shelters or waiting areas.
- (e) Classes associated with any other permitted use as long as the site plan and plan of operation approved by the Town Plan Commission address the hours of operation, number of events and maximum participants, parking, signage and the facility in which said classes are conducted meets all applicable building sanitation, health and fire codes for the type of classes conducted and the number of participants

(C) Permitted conditional uses.

Only the following conditional uses may be permitted provided the building plan and a Site Plan and Plan of Operation have been submitted to and approved by the Town Plan Commission and Town Board:

- (1) Child care facilities not accessory to a principal office use.
- (2) Cooling towers, silos or other similar uses accessory to the permitted principal uses.
- (3) Automobile service and fuel stations.
- (4) Restaurants to be located within 1,000 feet of any residential area designated on the Land Use Plan.

- (5) Fuel or vehicle repair stations serving trucks other than company motor vehicles. Such facilities shall not be located within 1,000 feet of a residential area designated on the Land Use Plan unless having direct access to a state trunk highway.
- (6) Any outdoor recreation involving night operation with limitations on hours of operation.
- (7) Retail stores and shops located beyond 1,000 feet of a state trunk highway.
- (8) Retail uses operated more than 16 hours per day.
- (9) Health care facilities providing for overnight stays.
- (10) Commercial vehicle terminals with roadway access to a state trunk highway.

(D) Prohibited uses.

- (1) **Offensive Uses.** No uses shall be permitted or maintained which, when conducted under adequate conditions and safeguards in compliance with the provisions of this Section and any additional conditions or requirements prescribed by the Town Plan Commission, are or may become hazardous, noxious or offensive due to emission or odor, dust, smoke, cinders, gas, fumes noise, vibrations, beat frequency, refuse matter, water-carried waste or fugitive lighting.
- (2) **Specific Prohibited Uses.** The following uses are specifically prohibited:
 - (a) Truck or trailer sales.
 - (b) New and used car lots.
 - (c) Car wash facilities.
 - (d) Bulk sales, storage or display of lumber.
 - (e) Outdoor displays or storage of materials.
 - (f) Drive-in theaters.
 - (g) Mobile home sales, service or campgrounds.
 - (h) Recreational vehicle, all-terrain vehicle or outdoor recreational vehicle sales and service.
 - (i) Junkyards or wrecking yards.
 - (j) Refining of petroleum or its products.
 - (k) Petroleum storage yards, not including petroleum storage accessory to a permitted conditional use.
 - (l) Animal reduction facilities.
 - (m) Forges.
 - (n) Foundries.
 - (o) Garbage or medical incinerators.
 - (p) Rubbish storage or transfer station.
 - (q) Slaughterhouses.
 - (r) Stockyards.
 - (s) Tanneries.

- (t) Bulk storage of salt, fertilizer, or similar materials; explosives, gasoline or other petroleum products in excess of 50,000 gallons, and grease.
- (u) Storage of radioactive materials.
- (v) Manufacturing or processing of ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives, fertilizer, glue, gypsum, insecticides, poison, pulp, pyroxylin, radium and radioactive materials.
- (w) Outside product or equipment testing.
- (x) Mini-warehouses or multi-tenant storage.

(3) **Dwellings:** No new dwellings or residences of any kind.

(E) **Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

(F) **Lot Area, Frontage, and Yard Regulations.**

(1) **Lot Size – Un-sewered:**

- (a) Building site shall have a minimum lot size of 40,000 square feet.
- (b) When an un-sewered lot is created, the Town Plan Commission may require the principal structure on the lot to be arranged and dimensioned so as to allow further division of the parcel at such time as sewer becomes available.

(2) **Lot Size - Sewered:** Building sites shall have a minimum lot size of 20,000 square feet.

(3) **Lot Width:** Building sites shall have a minimum average width of 120 feet (sewered) and 240 feet (un-sewered).

(4) **Front Yard Setback:** All buildings shall be located not less than fifty (50) feet from any street or highway right-of-way.

(5) **Side Yard Setback:** Shall have a minimum offset of ten (10) feet; however, the Town Plan Commission may require a greater offset to accommodate future expansion of the building or future paved driveway access to the rear of the building.

(6) **Rear yard Setback:** Shall have a minimum offset of twenty-five (25) feet.

(7) **Floor Area:** Initial construction proposed on each lot shall be a minimum of 5,000 square feet.

(8) **Floor Area Ratio:** Maximum of thirty percent (30%). In addition, no more than sixty-five percent (65%) of any lot shall be covered with buildings, surface pavement, parking, loading areas, or other covering materials which are impervious to surface absorption

prior to the installation of sanitary sewers. Upon installation of sanitary sewers, the total impervious coverage shall not exceed 75% and the floor area ratio shall not exceed 50%.

(G) Sign regulations.

- (1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

Section 77 Q-1 QUARRYING DISTRICT.

(A) Permitted uses.

- (1) Any use as permitted in the A-1 agricultural district.

(B) Conditional Uses.

- (1) Quarrying may be authorized as a conditional use under the provisions of this Code. The issuance of a conditional use permit to authorize the quarrying of the site shall be conditional upon compliance with the standards and regulations as set forth in this Code.
- (2) The following operations shall be authorized as a conditional use under the provisions of this Code but only where accessory to an approved quarrying operation, and subject to the regulations of conditional use provisions of this Code.
 - (a) The manufacture of concrete building blocks or other similar blocks.
 - (b) Production of ready-mixed concrete.

(C) Building location.

- (1) **Setback:**
 - (a) **Quarrying operations:** As required by Section 21 (B) (38).
 - (b) **Other permitted uses:** Fifty (50) feet minimum.
- (2) **Offset:**
 - (a) **Quarrying operations:** As required by Section 21 (B) (38).
 - (b) **Other permitted uses:** Twenty (20) feet minimum.

(D) **Height regulations,** See Section 17 “Height regulations” for regulations and exceptions.

(E) **Area regulations.**

(1) **Floor area:**

(a) **Minimum required for residence purposes:**

(i) **First floor:** Nine hundred (900) square feet.

(ii) **Total, one (1) family:** One thousand (1,000) square feet.

(b) **Maximum F. A. R. permitted:** Ten (10) percent.

(2) **Lot size:**

(a) **Minimum area:** Three (3) acres.

(b) **Minimum average width:** Two hundred (200) feet.

(F) **Sign regulations.**

(1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

Section 78 M-1 LIMITED INDUSTRIAL DISTRICT.

(A) **Permitted uses:**

(1) Any use as permitted in a B-3 general business, except that residential use shall be permitted only in conjunction with or accessory to an otherwise permitted use.

(2) Trades or industries of a restrictive character which are not detrimental to the district or to the adjoining residential areas by reason of appearance, noise, dust, smoke or odor, provided the location, building plan and a Site Plan and Plan of Operation have been submitted to and approved by the Town Plan Commission, but not including any use enumerated under Section 82(A)(3) or any of the following:

(a) Salvage yards, as regulated by Section 40(B)(38).

(b) Drop forges, foundries, refineries, tanneries or any similar use, the normal operation of which causes objectionable noise, odor, dust or smoke.

(B) Building location.

- (1) **Setback:** Fifty (50) feet minimum.
- (2) **Offset:** Ten (10) feet minimum. (Exception: where a lot abuts on a district boundary line of a more restrictive district permitting residence use, the following restrictions shall apply:
 - (a) Buildings or uses permitted in the more restrictive district shall comply with the offset requirements of the more restrictive district.
 - (b) Buildings or uses not permitted in the more restrictive district shall provide a fifty (50) feet minimum offset and shall be screened from the more restrictive district by a planting screen at least six (6) feet high and fifteen (15) feet in width.

(C) Height regulations.

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

(D) Area regulations.

- (1) **Floor area:**
 - (a) **Minimum required for residence purposes:** Nine hundred (900) square feet per family.
 - (b) **Maximum F. A. R. permitted:** Seventy (70) percent.
- (2) **Lot size:**
 - (a) **Minimum area:** One (1) acre.
 - (b) **Minimum average width:** One hundred fifty (150) feet.

(E) Sign regulations.

- (1) **Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

Section 79 M-2 GENERAL INDUSTRIAL DISTRICT.

(A) Permitted uses.

Town of Genesee Zoning Code

June 13, 2022

- (1) Any use as permitted in the M-1 limited industrial district.
- (2) Quarrying, subject to the regulations of Section 40(B) (34).
- (3) Any other commercial or industrial use not otherwise prohibited by law, provided their location, building plan and a Site Plan and Plan of Operation have been submitted to and approved by the Town Plan Commission, except the following:
 - (a) Cement, lime, gypsum, or plaster of paris manufacture.
 - (b) Acid manufacture.
 - (c) Manufacture of explosives, but not including the making of small arms ammunition.
 - (d) Storage of explosives, except as incidental to a permitted use.
 - (e) Fertilizer manufacture.
 - (f) Offal or dead animal reduction.
 - (g) Glue manufacture, fat rendering or distillation of bones.
 - (h) Stockyards or commercial slaughter of animals.

(B) Building location.

- (1) **Setback:** Fifty (50) feet minimum except that where the opposite frontage is in a residential or agricultural district, a one hundred (100) foot minimum setback shall be required.
- (2) **Offset:** Ten (10) feet minimum, except that where a lot abuts on a district boundary line of a more restrictive district permitting residence use, the following regulations shall apply:
 - (a) Buildings or uses permitted in the more restrictive district shall comply with the offset requirements of the more restrictive district.
 - (b) Buildings or uses not permitted in the more restrictive district shall provide a one hundred (100) foot minimum offset from a restricted or local business district and a two hundred (200) foot minimum offset from a residential or agricultural district and shall be screened from the more restrictive district by a planting screen at least six (6) feet high and fifteen (15) feet in width.

(C) Height regulations.

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

(D) Area regulations.

(1) Floor area:

- (a) Minimum required for residence purposes:** Nine hundred (900) square feet per family.
- (b) Maximum F.A.R. permitted:** Seventy (70) percent.

(2) Lot size:

- (a) Minimum area:** One (1) acre.
- (b) Minimum average width:** One hundred fifty (150) feet.

(E) Sign regulations.

- (1) Signs:** All signs shall comply with the Town of Genesee Sign Ordinance.

ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

Section-100. Board of Appeals—Establishment.

There shall be a Board of Appeals consisting of three (3) members and two (2) alternates who shall be appointed by the Town Board, but not more than one supervisor shall be a member of the Board of Appeals. Board of Appeals members shall be appointed for terms of one, two, and three years respectively, dating from the first day of the month next following the appointment. Successors shall be appointed in like manner at the expiration of each term, and their terms of office shall be three years in all cases and until their successors are appointed. The members of the Board of Appeals shall all reside within the Town. The Board of Appeals shall choose its own chair. The Town Board may compensate the members of the Board of Appeals. Vacancies shall be filled for the unexpired term of any board member or alternate whose term becomes vacant.

(A) **Meetings.** The Town Board shall adopt rules for the conduct of the business of the Board of Appeals, in accordance with the provisions of this Code and Section 62.23(7)(e), Wis. Stats.. The Board of Appeals may adopt further rules as necessary to carry into effect the regulations of the Town Board. Meetings of the Board of Appeals shall be held at the call of the chair and at such other times as the Board of Appeals may determine. Such chair, or in his absence the acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.

(B) **Appeals.**

- (1) **How filed.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officers, department, board or bureau of the Town affected by any decision of the administrative officer. Such appeal shall be taken within 65 days as provided by the rules of the Board of Appeals, by filing with the administrative officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with the proper fee as established by the Town Board. The administrative officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken.
- (2) **Stay.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on

application, on notice to the officer from whom the appeal is taken and on due cause shown.

- (3) **Hearing.** Each appeal shall be heard within a reasonable time and not to exceed 65 days from the time the appeal was filed with the Board of Appeals. Notice of hearing shall be given by publishing in a paper of general circulation in the vicinity of the appeal, at least once each week for two consecutive weeks and not less than seven days from the date of the hearing. In addition, written notice shall be given to the administrative officer appealed from, and by regular mail to the petitioner, the owners of each parcel of land within 300 feet of the land in question, and any other specifically interested parties. At the hearing, any party may appear in person or by agent or by attorney.
- (4) **Decisions.** Decision on any appeals shall be made in writing within 35 days after completion of the hearing thereon.

(C) Powers.

- (1) **Defined.** The Board of Appeals shall have the following powers as defined by statute: To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by an administrative official in the enforcement of this Code. To authorize upon appeal in specific cases variances from the terms of the ordinance that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
- (2) **Additional requirements.** In making its determination, the Board of Appeals shall consider whether the proposed exception, variance or use allowed by law would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to any which may be stipulated in this Code, as the Board of Appeals may deem necessary for the protection of adjacent properties and the public interest and welfare.
- (3) **Performance standards.** In order to reach a fair and objective decision, the Board of Appeals may utilize and give recognition to appropriate performance standards which are available in model codes or ordinances, or which have been developed by planning, manufacturing, health, architectural and engineering research organizations.
- (4) **Enforcement of decision.** In exercising the powers set out in the Code, the Board of Appeals may, in conformity with the provisions of this Code, reverse or affirm, wholly or partly, or may modify the order, requirements, decisions or determination appealed

from, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken; and may issue or direct the issuance of a permit provided that no such action shall have the effect of permitting in any district a use prohibited in that district; or rezoning; or of permitting, without the approval of the Town Board, any building within the base setback area as established by Section 22(A) or of granting exceptions to the Wis. Administrative Code chapters NR 115 or 116, the county sanitary ordinance and any other state, federal or local requirements.

- (5) **Required vote.** If a quorum is present, the Board of Appeals may take action under this section by a majority vote of the members present. The grounds of every such determination shall be stated.
- (6) **Further appeal.** Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the Town, may appeal from a decision of the Board of Appeals within 30 days after the filing of the decision in the office of the Board of Appeals in the manner provided in Wis. Stats. § 62.23(7)(e)(10).
- (7) **Exercise of County Board of Adjustment Powers.**
Board of Appeals under town zoning ordinances shall have the powers and duties provided for boards of adjustment under Section 59.694 Wisconsin Statutes and shall carry out their duties in the manner provided for Boards of Adjustment by Section 59.694 Wisconsin Statutes.
- (8) The owner or applicant must exercise any variance or special exception that does not involve a permit within three (3) years of the date of the Board of Appeals granting the variance or special exception, or the approval shall expire and become null and void, and no refund of any fees shall be made. If the special exception or variance does not require a permit, the permit must be obtained within three (3) years of the date of granting of the variance or special exception or approval shall expire and become null and void, and no refund of any fees shall be made. If the permit is not exercised or obtained within the time allowed, the permit or approval shall expire and become null and void, and no refund of any fees shall be made. However, the Board of Appeals, upon a written request, may grant an extension of the permit or approval without additional fee for good cause as determine by the Board of Appeals.

Section-101. Zoning Changes and Amendments--Authority.

Subject to the provisions of Wis. Stats. § 60.61(4)(c)(1), the Town Board may from time to time after first

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submitting the proposal to the Town Plan Commission for report, and after notice and public hearing as provided in this Code, amend, supplement or change the boundaries of districts or the regulations as established in this Code or which may be subsequently established. Such proposal may be initiated by the Board of Appeals on its own motion, by recommendation of the Town Plan Commission or by petition of one or more property owners.

(A) Procedure.

- (1) **Filing of petition.** All petitions for any change in the text or map submitted by any person or agency other than the Town Board or the Town Plan Commission shall be prepared on printed forms provided for that purpose by the Town clerk. Such petition shall be filed with the clerk and shall be accompanied by a fee as regulated in Section 487(D) and payable to the Town to defray the costs of advertising, investigation, and possible changes in the text or map of this Code.
- (2) **Data required.** In addition to all of the information required on the petition form, the petitioner shall supply the following:
 - (a) Fifteen (15) 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.
 - (c) In the case of a request for a map amendment, the applicant shall submit documentation or a letter of compliance from the Town Planner and the Waukesha County Department of Parks and Land Use that the proposed request complies with the Town of Genesee Comprehensive Land Use Plan - 2035 and the Waukesha County Development Plan.
 - (d) Any further information which may be required by the Town Plan Commission to facilitate the making of a comprehensive report to the Town Board, including a detailed description of the intended new use.
- (3) **Referral.**
 - (a) The clerk shall transmit without delay one copy of such petition to the Town Plan Commission and one copy to the county park and planning commission.
 - (b) The Town Plan Commission shall conduct the necessary investigation, schedule a public hearing, and report its recommendation to the Town Board within a reasonable time after the hearing.
- (4) **Hearing.** Upon the recommendation of the Town Planner and proper notice per Section

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102(A), the Town Plan Commission shall hold a public hearing thereon.

- (5) **Decision.** The Town Plan Commission shall make a recommendation to the Town Board within 60 days after the Public Hearing. The Town Board shall make a decision within sixty (60) days after receipt of the Town Plan Commission recommendation.
- (6) **Three-fourths vote in case of protest.** In case of protest against such change duly signed and acknowledged by the owners of at least fifty (50) percent or more either of the areas of land included in such proposed amendments, supplement or change, or by the owners of fifty (50) percent of the total perimeter of the area proposed to be altered that is included within 300 feet of the parcel or Parcels to be rezoned per Wis. Stats.
- (7) **Effective upon county approval.**
 - (a) Three signed copies of any change or amendment adopted by the Town Board shall be sent to the county clerk and Waukesha County Department of Parks and Land Use for approval of the county board.
 - (b) Any such change or amendment shall become effective in the Town upon the approval of the county board.

Section-102. Public Hearing--Purpose.

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

(A) Procedure.

- (1) **Posting and publishing.**
 - (a) Except as may be otherwise specifically provided in this Code, notice of public hearing shall be given by publication for two consecutive weeks in the official newspaper of the Town or in the newspaper of general circulation in the area of the proposed change, conditional use, variance or sewer reduction at least seven days before such public hearing. The failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate any amending ordinance, variance or granting of conditional use.
 - (b) When the hearing involves a proposed change in the zoning district classification of any property, the granting of a conditional use, or are appealed to the Board of Appeals, the notices shall be posted of such proposed change, conditional use or

variance where practical and the clerk shall mail, by regular mail, letters of the public hearing to the owners of all lands within 300 feet of any part of the land included in such proposed change, conditional use or variance at least seven (7) days before such public hearing. In the case of any proposed text amendment or a conditional use request, zoning map amendment or zoning map refinement affecting more than six (6) properties and which does not solely set forth a specific amendment or use change to a single particular property owner's land and where such petition is initiated by the municipality, the county or other governmental agency, the requirements for individual notice to affected property owners or those who own property within 300 feet of the project area shall not be required. The failure of such notice to reach a property owner provided such failure is not intentional shall not invalidate any amending ordinance, variance or grant of conditional use.

- (c) Notice of public hearing shall be sent to the county board supervisor representing the subject area, the State Department of Natural Resources, and Federal Insurance Administrator (FEMA) if lying within the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance.
- (2) **Information.** Such notices shall state the time and place of such public hearing and the purpose for which the hearing is held.
- (3) **Filing.** Where such hearing is required by the provisions of this Code as a result of the request for other than a zoning change, such requests shall be presented to the clerk in writing and shall be accompanied by a map or description clearly identifying the property, along with a fee as set forth in Section 487(D) payable to the Town to defray the cost of notification and holding of the public hearing.
- (4) **Fee schedule.** The fees referred to in other Sections of this Code shall be established by the Town Board in a fee schedule and may, from time to time, be modified by resolution. Processing fees are related to costs involved in handling conditional use petitions, appeals to the Board of Appeals, zoning amendments and changes, special exceptions and sewer reductions.
- (5) **Special meeting.** If a petitioner requests a special meeting (other than a regular Town Plan Commission or Town Board meeting) all costs incurred will be the responsibility of the petitioner.

Section-103. Enforcement Officer.

- (A) **Zoning Administrator designated.** The Town Administrator-Planner is designated as the "Zoning Administrator" for the administration and enforcement of the provisions of this Ordinance under the direction of the Town Board. The Zoning Administrator has the authority to designate other

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staff to perform delegated tasks and duties.

(B) **Duties.** In the enforcement of this Code, the Zoning Administrator, in conjunction with the Town Building Inspector, shall perform the following duties:

- (1) Issue the necessary "building and zoning," and "use" permits, provided the provisions of this Code and the Town Building Code, relative to buildings and building regulations, have been complied with.
- (2) Keep an accurate record of all permits, numbered in the order of issuance, in a record book provided by the Town for this purpose.
- (3) Maintain accurate records and maps pertinent hereto and any amendments or changes thereto.

(C) **Authority.** In the enforcement of this Code the Zoning Administrator and/or Town Building Inspector shall have the power and authority for the following:

- (1) At any reasonable time and for any proper purpose, to enter upon any public or private premises to make inspections thereof.
- (2) Upon reasonable cause or question as to proper compliance, to revoke any building, zoning or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Code, such revocation to be in effect until reinstated by the Zoning Administrator or the Board of Appeals.
- (3) In the name of the Town and with the authorization of the Town Board, to commence any legal proceedings necessary to enforce the provisions of this Code or the building code, including the collection of forfeitures provided for in this Code.

Section-104. Violations.

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

(B) **Enforcement by injunction.** Compliance with the provisions of this Code may also be enforced by injunctive order at the suit of the Town or one or more owners of real estate situated within the area affected by the regulations of this Code. It shall not be necessary to prosecute for fine or

imprisonment before resorting to injunctive procedures.

- (C) **Declared nuisances.** Any building erected, structurally altered, or placed on a lot, or any use carried on in violation of the provisions of this Code, is declared to be a nuisance per se, and the Town may apply to any court of competent jurisdiction to restrain or abate such nuisance.

Section-105 Validity.

- (A) **Repeal of conflicting Ordinances.** All other ordinances or parts of ordinances in conflict with the provisions of this Code are hereby repealed.
- (B) **Declaration of severability.** The several Sections, subsection, and paragraphs of this Code are hereby declared to be severable. If any Section, subsection, paragraph, or subparagraph of this chapter shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of this Code, or of the Section of which the invalid portion or paragraph may be a part.
- (C) **Effective date.** This Code shall be in full force and effect upon passage and publication by the Town Board and upon approval of the county board of supervisors, said publication to consist of posting of three copies thereof in three public places in said Town.
- (D) **Adoption.** The Code was adopted by the Town Board the ____ day of _____, 2022.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication as a Code of Ordinances pursuant to Wisconsin Statutes Section 66.0103, immediately upon the approval of the Waukesha County Board of Supervisors pursuant to Wisconsin Statutes Section 60.62(3).

Dated this ____ day of _____, 2022.

TOWN OF GENESEE

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Sharon L. Leair, Town Chairman

ATTEST:

Meri Majeskie, Town Clerk

Published and/or posted this _____ day of _____, 2022.

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