

ARTICLE XI. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 95.174. Zoning district numerical regulations.

Section	Map Symbol	District Name	Lot Size		Density			Green Space			Building Location Side Yard(g)			Rear Yard(g)		Height (feet)		F.A.R. (floor area to land area ratio) Maximum Permitted	Floor Area							
			Minimum Total Lot Area in Square Feet	Minimum Width in Feet	One Bedroom	Two Bedrooms	Three Bedrooms*	Minimum Area Per Building in Square Feet or by Bedrooms	Per square foot	Minimum Street Yard, Feet Old-New#	Minimum Corner Yard, Feet Old-New#	Principal Drive Side	Principal Other Side	Parking and Accessory(h) Building	Principal Building	Accessory Building	Principal Building		Accessory Structure	Minimum Required Floor Area in Square Feet Per Building(j) or by Bedrooms(k)	One Bedroom	Two Bedrooms	Three Bedrooms*			
<i>Basic Holding Districts</i>																										
95.175	AG	Agriculture	870,000 (nominal 20 acres)	600				700,000		50	50	20	20	15	40	20	30	20;Farm-85	5%	1,000	1,100	1,200				
95.176	RR-10	Rural residential, 10 acres	435,000 (nominal 10 acres)	300				350,000		50	50	20	20	15	40	20	30	20;Farm-85	5%	1,000	1,100	1,200				
95.176.1	RR	Rural residential	120,000	200				90,000		50	50	20	20	15	40	20	30	20;Farm-85	10%	1,000	1,200	1,400				
<i>Basic Development and Conservation Districts</i>																										
95.177	S/R	Suburban/residence	40,000	150				28,000		50	50	20	15	8	40	8	30	20;Farm-50	20%	1,000	1,200	1,400				
95.178	R-E	Residential estate	25,000	120				14,000		40	40	20	15	8	40	8	30	20	25%	1,000	1,200	1,400				
95.179	R-1	Residential single-family	15,000	100				10,000		30	30	12	8	8	25	8	30	20	25%	1,000	1,100	1,200				
95.180	R-2	Residential single-family	10,000	80				5,000		30	25	12	8	8	25	8	30	20	25%	800	900	1,000				
95.181	RTF	Residential two-family	15,000	100				4,000		30	30	12	12/0-d	8	25	8	30	20	25%	700	800	950				
95.182	R-3	Residential multiple-family, garden apartments	15,000	100	3,200	3,600	4,000	1,500	1,750	2,000	30	30	25	15/0-d	10	40	10	30	20	40%	650	700	900			
95.183	R-4	Residential multiple-family, apartments	20,000	120	(2,500	3,000	3,300)	(1,000	1,250	1,250)	30	30	25	15/0-d	10	40	10	30	20	60%	500	700	850			
95.184	R-5	Residential manufactured/mobile home park	6,000	50	(2,000	2,500	2,700)	(750	750	750)			1 or 2 Fam. use RTF			25	10	10	20	8	15	20	20%	540	650	850
95.184.1	RCS	Rural Conservation Subdivision	435,000 (nominal 10 acres)	**				**		**	**	**	**	**	**	**	**	**	**	**	**	**				
95.185	B-1	Neighborhood convenience retail and service	a	a				For every 3,000 sq. ft. of lot area													Per square foot					
95.185	B-1	Neighborhood convenience retail and service	a	a				1,000		30	30	25/0-d	10/0-d	10	40/0-d	10	30	20	35%	500	700	850				
95.186	B-2	Community retail and service	a	a				1,000		30	30	30/0-d	15/0-d	10	40/0-d	10	40	20	40%	500	700	850				
95.187	B-3	General commercial	a	a				1,000		30	30	30/0-d	15/0-d	10	40/0-d	10	40	20-a	40%	500	700	850				
95.188	B-4	Office	a	a				1,000		30	30	30/0-d	15/0-d	10	40/0-d	10	30	20	35%	500	700	850				

95.189	B-P	Business park	a	a		1,000	50	50	40/0-d	25/0-d	10	50/0-d	15	40	20	35%	500	700	850	
95.190	M-1	Manufacturing and warehousing	a	a		1,000	50	50	50/0-d	25/0-d	10	20/0-d	20	60	60	50%	500	700	850	
95.191	WPD	Wetland protection district	--	--		--	--	--	--	--	--	--	--	--	20	--	--	--	--	
95.192	PUL	Public or utility lands	a	a		1,000	30-f	30-f	40	25	30	50	20	a	20	35%	500	700	850	
<i>Overlay Districts</i>																				
95.193	OCR	Commercial recreation overlay	b	b		b	c	c	c	c	c	c	c	b	b	a&c	b	b	b	
95.194	OIP	Institutional and public service overlay	c	b		b	c	c	c	c	c	c	c	a	b	a&c	b	b	b	
95.195	OC-1	Conservancy overlay	See district for all regulations										c	c	c	c	c	c		
95.196	OAH	Airport height overlay	b	b		b	b	b	b	b	b	b	b	(See district regulations)		c	b	b	b	
95.197	OWC	Woodlands conservation overlay	b	b		c	c	c	c	c	c	c	c	b	b	a&c	b	b	b	
95.198	OWP	Wellhead protection overlay	b	b		b	b	b	b	b	b	b	b	b	b	b	b	b	b	
95.199	OME	Mineral extraction overlay	See district for all regulations.									(See district regulations)		b	b	b	b	b	b	
95.200	OFP	Floodplain overlay	a&c	a&c		b	b	b	b	b	b	a&c	a&c	b	b	a&c	c	c	c	
95.223 et seq.	OCS	County shoreland jurisdiction	a&b	a&b		a&b			a&b	a&b	a&b	a&c	a&c	b	b	a&c	c	c	c	
For further information consult section:			95.126(c)1—4		95.126(d)	95.126(e)	95.125(b)		95.125(c)		95.125(c)		95.125(c)		95.125		95.127(b)(2)		95.127(b)	

FOOTNOTES:

- (*) See section 95.175(b)2. (b) Same as underlying district. (e) Farm building yards must at least equal building height, see section 95.128(e). (h) Minimum parking lot landscaping area, see section 95.153(a)(4).
- (**) See section 95.184.1 (c) Use underlying district as guide. (f) Greater setback required in some cases, see section 95.125(b)(2), (5). (j) If no basement of at least 200 square feet/unit add 100 square feet/DU.
- (a) As necessary to meet other requirements. (d) If common wall construction approved, see section 95.134 et seq. (g) First two feet of eave overhang exempted, section 95.125(b)(3), (c). (k) May substitute for 400 square feet, an attached garage of at least 400 square feet, if 1,100 square feet or more required.

DIVISION 2. BASIC HOLDING DISTRICTS

Sec. 95.175. AG agriculture district.

(a) *Statement of intent.* The AG district provides either a holding function, which is somewhat of a temporary use function but extending to decades rather than months or years; or a development or conservation district function, which means a fairly permanent end-use, depending upon the direction given by the town plan.

- (1) As a holding district this district permits continued agricultural uses as well as new residential development at a low density, which low density is intended to be compatible with farming uses while also providing a reasonable non-farm-income economic use of the land, until more intensive urban development takes place, if such development is anticipated in the town plan. The low density also precludes an overly high level of interim economic investment which could otherwise discourage permanent urban uses anticipated in the town plan.
- (2) As a development/conservation district this district functions to preserve the agriculture, hobby farming, and rural residential parts of the town, for which there is no realistic urban development potential as anticipated in the town plan.
- (3) Permitted uses consistent with these alternative possibilities, range from broadly diverse agriculture activities (prohibiting only those farm uses which, under section 95.128, are found to be incompatible with a partly urban village), to rural residential properties where the emphasis is on being able to keep some farm animals and enjoy small scale or hobby farming, rather than on attaining a strongly residential atmosphere.

(b) *Permitted uses by right are:*

- (1) Agriculture, including as illustrative but not limited to, crop raising, dairying, horticulture including commercial greenhouses, livestock and poultry raising, tree farming; excepting those and similar uses as prohibited in section 95.128.
- (2) Single-family residences, including the right to also conduct agriculture and animal husbandry as regulated in section 95.128. Notwithstanding the lot size requirements for this district set by section 95.174, for each contiguous 870,000 square feet owned at the adoption of this provision or subsequently acquired, one dwelling lot no less than 40,000 square feet and no greater than 135,000 square feet in area (unless the whole 870,000 square feet is being conveyed) exclusive of existing and proposed street right-of-way, may be created provided the remaining portion of the 870,000 square feet is not being counted as the density for another dwelling, and provided this relationship is recorded on the title of both the lot created and on the 870,000 square feet out of which the density of the smaller lot is being claimed.
- (3) Existing cemeteries, churches/temples/synagogues, and religious retreat facilities, but expansions shall only be by conditional use per article VI, or by application of the appropriate overlay districts as suggested in subsection (d) of this section.

(4) Existing public or private parks or recreational fields, including grass aviation landing strips, golf courses, unlighted golf driving ranges and athletic fields and similar uses requiring only nominal accessory structures; but expansions, principal buildings, or night use lighting shall only be by conditional use per article VI or by application of appropriate overlay districts as set forth in subsection (d) of this section.

(5) Public utility transmission and distribution lines, poles or pipes, and related accessories, provided that when a utility proposes a main intercity transmission facility, it shall give notice to the ETZ Committee of such intention and of the date of hearing before the public service commission regulating such use, and before beginning construction of a specific route shall file with the ETZ Committee the mapped description of the route.

(c) *Permitted accessory uses are:*

(1) Uses, buildings and structures normally accessory and incident to the permitted uses.

(2) Quarters for year round household or farm employees.

(3) Home occupations and residential businesses, as defined in section 95.113.

(4) Agricultural signs as regulated in article IX of this chapter.

(5) Residential signs as regulated in article IX of this chapter.

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

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

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

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

(7) The spreading of treated municipal sewage sludge, or the composting of municipal yard wastes, provided the ETZ Committee first approves such spreading or composting area and plan of operations under article V of this chapter, attaching such conditions as the ETZ Committee shall deem appropriate.

(8) Family day care home

(d) *Uses permitted by conditional grant are:*

(1) Expansions of existing cemeteries, religious facilities or recreation fields, including addition of night lighting, as listed under subsection (b)(3), (4) of this section. (See also OIP and OCR districts for alternate regulation.)

- (2) New religious or recreation fields listed in subsection (b)(3), (4) of this section. Recreation uses involving principal buildings shall be processed under the OIP or OCR overlay districts.
- (3) Educational facilities, whether public or private, boarding or nonboarding, including Large group day care center, preschool, elementary, secondary, and post-secondary. (See also OIP overlay district.)
- (4) Seasonal farm labor housing, provided county or state sanitary regulations can be met.
- (5) Conversion of existing farm houses to two-family residences.
- (6) Boarding and riding stables for horses, commercial dog kennels or veterinary clinics.
- (7) Public fire stations or utility transmission substations. (See also PUL or OIP district.)
- (8) Storage of nonagricultural trucks and construction equipment.
- (9) Communications broadcasting and relay towers.
- (10) Motor vehicle salvage yards.

Sec. 95.176 RR-10 rural residential district.

(a) *Statement of intent.* The RR-10 district, as with the AG and the RR districts, provides either a holding or a development-conservation function, depending upon the town plan and upon the wishes of the owner.

- (1) As a holding district this district permits residential development at a low, rural density, thereby also making possible the enjoyment of hobby farming and the keeping of some farm livestock, as regulated in section 95.128, until public sewers arrive and resubdivision takes place, if the owner so wishes, to more urban sized residential lots as provided for in this chapter. (See section 95.214.)
- (2) As a development/conservation district this district can also provide for permanent rural residential living at the low density, larger lot size provided for in section 95.174, where sewers are not available for the foreseeable future, or where owners wish to maintain the large lot after installation of public sewers.

(b) *Permitted uses by right are:*

- (1) Single-family residences, including the right to also conduct agriculture and animal husbandry as regulated in section 95.128.
- (2) Agriculture, including as illustrative but not limited to, crop raising, dairying, horticulture including commercial greenhouses, livestock and poultry raising, tree farming; excepting those and similar uses as prohibited in section 95.128.

- (3) Existing cemeteries, churches/temples/synagogues and religious retreat facilities, but expansions shall only be by conditional use per article VI of this chapter, or by application of appropriate overlay districts as suggested in subsection (d) of this section.
- (4) Existing public or private parks or recreational fields, including grass aviation landing strips, golf courses, unlighted golf driving ranges and athletic fields and similar uses requiring only nominal accessory structures; but expansions, principal buildings, or night use lighting shall only be by conditional use per article VI of this chapter or by application of appropriate overlay districts as set forth in subsection (d).
- (5) Public utility transmission and distribution lines, poles or pipes, and related accessories, provided that when a utility proposes a main intercity transmission facility, it shall give notice to the ETZ Committee of such intention and of the date of hearing before beginning construction of a specific route shall file with the ETZ Committee the mapped description of the route.
- (6) Single-family residences, including the right to also conduct agriculture and animal husbandry as regulated in section 95.128. Notwithstanding the lot size requirements for this district set by section 95.174, for each contiguous 435,000 square feet owned at the adoption of this provision or subsequently acquired, one dwelling lot no less than 40,000 square feet and no greater than 135,000 square feet in area (unless the whole 435,000 square feet is being conveyed) exclusive of existing and proposed street right-of-way, may be created, provided this relationship is recorded on the title of both the lot created and on the 435,000 square feet out of which the density of the smaller lot is being claimed. There shall be a limit of 2 dwelling units per 10 acres.

(c) *Permitted accessory uses are:*

- (1) Uses, buildings and structures normally accessory and incident to the permitted uses.
- (2) Quarters for year round household or farm employees.
- (3) Home occupations and residential businesses, as defined in section 95.113.
- (4) Agricultural signs as regulated in article IX of this chapter.
- (5) Residential signs as regulated in article IX of this chapter.
- (6) One roadside produce sale stand per farm, for the sale principally of products produced by that farm and subject to the following:
 - a. Off-street parking for a minimum of four vehicles shall be provided.
 - b. Stand setback of 30 feet to the existing road right-of-way line and 20 feet from any other lot line shall be provided.
 - c. Located where the stand would not require vehicles to back onto the highway and not be creating any other traffic hazard, and where the permitted driveways shall be so designed and located as to minimize interference with normal highway traffic flow.

- (7) Family day care home
 - (8) The spreading of treated municipal sewage sludge, or the composting of municipal yard wastes, provided the ETZ Committee first approves such spreading or composting area and plan of operations under article V of this chapter, attaching such conditions as the committee shall deem appropriate.
- (d) *Uses permitted by conditional grant are:*
- (1) Expansions of existing cemeteries, religious facilities, or recreation fields, including addition of night lighting, as listed under subsection (b)(2), (3) of this section. (See also OIP and OCR districts for alternate regulation.)
 - (2) New religious or recreation fields listed in subsection (b)(2), (3) of this section. Recreation uses involving principal buildings shall be processed under the OIP or OCR overlay districts.
 - (3) Educational facilities, whether public or private, boarding or nonboarding, including Large group day care center, preschool, elementary, secondary and postsecondary. (See also OIP overlay district.)
 - (4) Boarding and riding stables for horses, commercial dog kennels, or veterinary clinics.
 - (5) Public fire stations or utility transmission substations. (See also PUL or OIP districts.)
 - (6) Communications broadcasting and relay towers.
 - (7) Storage of nonagricultural trucks and construction equipment.

Sec. 95.176.1 RR rural residential district.

(a) *Statement of intent.* The RR district, as with the AG and RR-10 districts, provides either a holding or a development-conservation function, depending upon the town plan and upon the wishes of the owner.

- (1) As a holding district this district permits residential development at a low, rural density, thereby also making possible the enjoyment of hobby farming and the keeping of some farm livestock, as regulated in section 95.128, until public sewers arrive and resubdivision takes place, if the owner so wishes, to more urban sized residential lots as provided for in this chapter. (See section 95.214.)
- (2) As a development/conservation district this district can also provide for permanent rural residential living at the low density, larger lot size provided for in section 95.174, where sewers are not available for the foreseeable future, or where owners wish to maintain the large lot after installation of public sewers.

(b) *Permitted uses by right are:*

- (1) Single-family residences, including the right to also conduct agriculture and animal husbandry as regulated in section 95.128.
- (2) Existing cemeteries, churches/temples/synagogues and religious retreat facilities, but expansions shall only be by conditional use per article VI of this chapter, or by application of appropriate overlay districts as suggested in subsection (d) of this section.
- (3) Existing public or private parks or recreational fields, including grass aviation landing strips, golf courses, unlighted golf driving ranges and athletic fields and similar uses requiring only nominal accessory structures; but expansions, principal buildings, or night use lighting shall only be by conditional use per article VI of this chapter or by application of appropriate overlay districts as set forth in subsection (d).
- (4) Public utility transmission and distribution lines, poles or pipes, and related accessories, provided that when a utility proposes a main intercity transmission facility, it shall give notice to the ETZ Committee of such intention and of the date of hearing before beginning construction of a specific route shall file with the ETZ Committee the mapped description of the route.

(c) *Permitted accessory uses are:*

- (1) Uses, buildings and structures normally accessory and incident to the permitted uses.
- (2) Quarters for year round household or farm employees.
- (3) Home occupations and residential businesses, as defined in section 95.113.
- (4) Agricultural signs as regulated in article IX of this chapter.
- (5) Residential signs as regulated in article IX of this chapter.
- (6) One roadside produce sale stand per farm, for the sale principally of products produced by that farm and subject to the following:
 - a. Off-street parking for a minimum of four vehicles shall be provided.
 - b. Stand setback of 30 feet to the existing road right-of-way line and 20 feet from any other lot line shall be provided.
 - c. Located where the stand would not require vehicles to back onto the highway and not be creating any other traffic hazard, and where the permitted driveways shall be so designed and located as to minimize interference with normal highway traffic flow.
- (7) Family day care home
- (8) Husbandry. The keeping or raising of domestic livestock for show, breeding or other use incidental to the principal use of the premises subject to the following:

- a. The keeping or raising of hogs or fur-bearing animals shall not be permitted.
 - b. Not more than one head of livestock and 20 fowl shall be permitted per 40,000 square feet of lot area, nor shall any such livestock or fowl be permitted on a lot less than 120,000 square feet in area exclusive of street right-of-way.
 - c. Stables, barns, poultry houses, or similar structures not in excess of 1,000 square feet, are permitted; provided that no building housing domestic livestock or poultry shall be closer than 50 feet to any lot line.
- (9) The composting of municipal yard wastes and recycling of natural materials provided the ETZ Committee first approves such composting area and plan of operations under article V of this chapter, attaching such conditions as the committee shall deem appropriate.
- (d) *Uses permitted by conditional grant are:*
- (1) Expansions of existing cemeteries, religious facilities, or recreation fields, including addition of night lighting, as listed under subsection (b)(2), (3) of this section. (See also OIP and OCR districts for alternate regulation.)
 - (2) New religious or recreation fields listed in subsection (b)(2), (3) of this section. Recreation uses involving principal buildings shall be processed under the OIP or OCR overlay districts.
 - (3) Educational facilities, whether public or private, boarding or nonboarding, including Large group day care center, preschool, elementary, secondary and postsecondary. (See also OIP overlay district.)
 - (4) Boarding and riding stables for horses, commercial dog kennels, or veterinary clinics.
 - (5) Public fire stations or utility transmission substations. (See also PUL or OIP districts.)
 - (6) Communications broadcasting and relay towers.

(Ord. of 12-23-2011)

DIVISION 3. BASIC DEVELOPMENT AND CONSERVATION DISTRICTS

Sec. 95.177. S/R suburban/residence district. (Formerly the A/R agriculture/residence district)

(a) *Statement of intent.* The S/R district is intended to be applied over existing subdivisions developed without public sewer according to the previous regulations of this district, which called for a lot width wide enough for on-site soil absorption sewage treatment but too narrow to be resubdivided to accommodate the cost of public sewer installation, through sale of a vacant lot for development. For these existing situations and very limited new adjacent or intervening situations not capable of meeting the regulations for new subdivisions with sewers the previous lot width and area regulations of this district are continued under section 95.174.

(b) *Permitted uses by right* are all uses as permitted by right in the R-E district.

- (c) *Permitted accessory uses* are all accessory uses as permitted in the R-E district.
- (d) *Uses permitted by conditional grant* are all conditional uses permitted in the R-E district.

Sec. 95.178. R-E residential estate district.

(a) *Statement of intent.* The R-E district is intended to provide spacious homesites for residential development of a suburban character, limited to single-family homes on individual lots. In keeping with a peaceful single-family environment, other uses that provide service to residential areas such as schools, churches, high-activity parks, and certain institutional uses, but which can also stress a peaceful atmosphere, are permitted only on a conditional use basis.

(b) *Permitted uses by right* are:

- (1) Single-family detached residences.
- (2) Public or private parks and recreation areas, but not including facilities for organized athletics except as permitted as a conditional use.
- (3) Public utility transmission and distribution lines, poles or pipes, and related accessories, provided that when a utility proposes a main intercity transmission facility, it shall give notice to the ETZ Committee of such intention and of the date of hearing before the public service commission regulating such use, and before beginning construction of a specific route shall file with the ETZ Committee the mapped description of the route.

(c) *Permitted accessory uses* are:

- (1) Private garages, carports and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation, residential business, or conditional use, provided that no such garage shall be erected prior to the erection of the principal building to which it is accessory. (See also section 95.154.)
- (2) Quarters for household employees, provided that such quarters shall be occupied only by individuals employed full time on the premises and their families.
- (3) Home occupations and residential businesses as defined in section 95.113.
- (4) Signs as regulated in article IX of this chapter, except that residential business signs may be as defined in section 95.113.
- (5) Home gardening and horticulture not involving greenhouses in excess of 500 square feet in area.
- (6) Service buildings and facilities normally incident to the use of public park or recreation area.

(7) Family day care home

(d) *Uses permitted by conditional grant* are:

- (1) Recreational and social facilities, such as athletic fields involving organized teams and leagues; golf courses (but not including separate golf driving ranges or miniature golf); grounds, courts and fields for noncommercial recreation clubs and lodges; noncommercial recreation and community centers and swimming pools. (See alternate of OCR and OIP overlay districts.)
- (2) Schools, public and private. (See also OIP district.)
- (3) Religious facilities such as churches/temples/synagogues; convents, rectories and parsonages, retreat houses; cemeteries. (See also OIP district.)
- (4) Care centers such as nursing and convalescent homes; Large group day care centers; hospices but not hospitals or clinics; community living arrangements as regulated in Wis. Stats. § 62.23. (See also OIP overlay district.)
- (5) Public utility offices and installations and substations, municipal and community water towers, pump stations. (See also OIP and PUL districts.)
- (6) Two-family residences where the second unit does not exceed 60 percent of the floor area of the principal unit, its occupancy is intended for a family member related by blood, adoption or marriage to the occupants of the principal unit, at least one entrance to the second unit is through the principal unit, and where the overall appearance of the structure resembles that of a single-family residence.

Sec. 95.179. R-1 residential single-family district.

(a) *Statement of intent.* The R-1 district is intended to provide for the same peaceful single-family environment as the R-E district, at somewhat higher density, which translates to smaller required minimum lots and home sizes.

(b) *Permitted uses by right* are all uses as permitted by right in the R-E district.

(c) *Permitted accessory uses* are all accessory uses as permitted in the R-E district.

(d) *Uses permitted by conditional grant* are all conditional uses permitted in the R-E district.

Sec. 95.180. R-2 residential single-family district.

(a) *Statement of intent.* The R-2 district is intended to provide for the same peaceful single-family environment as the R-E district but at a higher density than the R-E and R-1 districts, in order to permit such development at urban densities.

- (b) *Permitted uses by right* are all uses as permitted by right in the R-E district.
- (c) *Permitted accessory uses* are all accessory uses as permitted in the R-E district.
- (d) *Uses permitted by conditional grant* are all conditional uses permitted in the R-E district.

Sec. 95.181. RTF residential two-family district.

(a) *Statement of intent.* The RTF district is intended to provide for two-family dwellings on spacious lots compatible in size with the R-1 through R-E districts, since this district is shown in the town plan to be used in transitional situations between single-family districts and other development.

(b) *Permitted uses by right* are:

- (1) Two-family residences (also called duplex residences, attached residences, semidetached dwellings, and townhouses or townhomes).
 - (2) All uses as permitted by right in the R-E district.
- (c) *Permitted accessory uses* are all accessory uses as permitted in the R-E district.
- (d) *Uses permitted by conditional grant* are all conditional uses permitted in the R-E district.

Sec. 95.182. R-3 residential multiple-family district, garden apartments.

(a) *Statement of intent.* The R-3 district is intended to provide for multiple-family dwellings constructed at the lowest end of the urban multiple-family density range, where the emphasis on unit design is toward fewer units per building, and few units per entrance. The emphasis on lower mass of the structure requires limiting the dwellings per building; and this limitation of the total bulk of the structure makes the units more compatible with single- and two-family residences, which are often going to be in close proximity to this district under the town plan.

- (1) *Garden apartments and townhouses.* The low density of this district is intended to produce sufficient open space to allow room for patio and gardening areas, hence the term "garden apartments" to signify the intended close kinship of this district to single-family residential living. The attached or row form of dwellings, called "townhouses or townhomes" is especially characteristic of this district.
- (2) *Condominium.* While the majority of the units constructed will likely be for rental housing, this district is also intended to be used for more spacious higher quality units to be sold as condominiums, to be located in areas of very high residential appeal, and intended to provide service to those residing in nearby detached dwellings who, especially in the retirement years, may seek housing not requiring personal responsibility for maintenance.

(b) *Permitted uses by right* are:

- (1) Multiple-family dwellings of not less than two nor more than eight dwellings per structure, subject to approval by the ETZ Committee of building, site, and operational plans per article V of this chapter.
- (2) Public parks and recreation areas, but not including facilities for organized athletics except as a permitted conditional use.
- (3) Public utility transmission and distribution lines, poles and other accessories provided that when a utility proposes a main intercity transmission facility, they shall give notice to the ETZ Committee of such intention and of the date of hearing before the public service commission, and before beginning construction of a specific route shall file with the ETZ Committee a mapped description of the route of such transmission line.
- (4) Existing single-family dwellings. Any lot to be created for such dwellings within this district shall be approved by the ETZ Committee as to the setbacks and offsets that will result, but shall, in any case, at least meet the R-2 standards.

(c) *Permitted accessory uses* are:

- (1) Garages, carports and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation, residential business or conditional use, serving exclusively the occupants of the premises, their guests and service employees.
- (2) Home occupations and residential businesses, as defined in section 95.113.
- (3) Signs as regulated in article IX of this chapter.
- (4) Recreational and service building incident to the permitted uses.
- (5) Family day care home

(d) *Permitted uses by conditional grant* are all uses as permitted by conditional grant in the RTF district.

(e) *Special regulations.*

- (1) The ETZ Committee shall not approve building plans that do not treat all exterior walls of all structures permitted in this section with acceptable materials that present an equally finished facade to all sides.
- (2) Buildings not to exceed 12 units per structure may be approved by the ETZ Committee provided the specific architectural design and site treatment is not at variance with the statement of intent of this district.

Sec. 95.183. R-4 residential multiple-family district, apartments.

(a) *Statement of intent.*

- (1) *Generally.* The R-4 district is intended to provide for multiple-family dwellings constructed at the lower to moderate end of the urban multiple-family density range, with the lower density imposed to preserve adequate open space if surface parking is utilized, and the higher density permitted where underground parking is involved in the basement of the structures.
- (2) *Occupancy and bulk.* This district will typically serve individuals and childless couples who do not require single-family or two-family space. This lower space need translates to a smaller minimum required floor area and less land per dwelling unit. Since this district according to village plan guidelines will typically occur near principal traffic arteries, shopping facilities and work opportunities, the permissible bulk of the structures can be larger in relation to the mass of such commercial and industrial structures than the permissible bulk in the R-3 district, where single-family compatibility is important. Nevertheless, given the transitional role that this district will provide between single-family residential and nonresidential areas, some restriction on the bulk of this district is still necessary to relate to single-family dwellings, which will frequently be nearby.

(b) *Permitted uses by right are:*

- (1) Multiple-family dwellings of not less than two nor more than 12 dwellings per structure, subject to approval by the ETZ Committee of building, site and operational plans per article V of this chapter.
- (2) Public parks and recreation areas, but not including facilities for organized athletics except as a permitted conditional use.
- (3) Public utility transmission and distribution lines, poles and other accessories; provided that when a utility proposes a main intercity transmission facility, they shall give notice to the ETZ Committee of such intention and of the date of hearing before the public service commission, and before beginning construction of a specific route shall file with the ETZ Committee mapped description of the route of such transmission line.
- (4) Existing single-family dwellings. Any lot to be created for such dwellings within this district shall be approved by the ETZ Committee as to the setbacks and offsets that will result, but shall, in any case, at least meet the R-2 standards.

(c) *Permitted accessory uses are:*

- (1) Garages, carports and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation, residential business or conditional use, serving exclusively the occupants of the premises, their guests and service employees.
- (2) Home occupations and residential businesses, as defined in section 95.113.
- (3) Signs as regulated in article IX of this chapter.
- (4) Recreational and service buildings incident to the permitted uses.

(5) Family day care home

(d) *Permitted uses by conditional grant* are all uses as permitted by conditional grant in the RTF district.

(e) *Special regulations.*

(1) The ETZ Committee shall not approve building plans that do not treat all exterior walls of all structures permitted in this section with acceptable materials that present an equally finished facade to all sides.

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

Sec. 95.184. R-5 residential manufactured/mobile home park district.

(a) *Statement of intent.* The R-5 district is intended to provide for single-family detached housing that is totally assembled off the site and then transported to its place of occupancy (the "mobile" or "manufactured" home) for utility hookup, producing the similar livable floor area as an apartment unit in the R-3 or R-4 district, but at a density midway between those districts and the RTF district.

(1) *Separate subdivisions.* The nonstandard architectural appearance of the units permitted in this district, as well as varying practices involving site leasing rather than individual unit lot ownership, and the use of private rather than public streets, make it impractical to provide for such units in the other districts of this chapter, requiring instead this separate regulatory district to be applied only to planned manufactured/mobile home parks.

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

(b) *Permitted uses by right* are the following, subject to approval by the ETZ Committee of building, site and operational plans as set forth in article V of this chapter, giving special attention to the items identified under subsection (e) of this section:

(1) Mobile or manufactured home detached dwelling units in planned manufactured/mobile home parks.

(2) Public or private parks and recreation areas, but not including facilities for organized athletics.

(c) *Permitted accessory uses:*

- (1) All accessory uses as permitted in the R-E district except detached greenhouses unless located in common open areas and husbandry.
- (2) Community building for social gatherings, Large Group day care center, crafts, laundry or similar common usage for the benefit of the park occupants.

(d) *Uses permitted by conditional grant* are:

- (1) Public utility installations and substations.
- (2) Municipal and community water towers.
- (3) Pump stations.

(See also OIP overlay district.)

(e) *Special regulations.* In reviewing and approving building, site and operational plans under article V of this chapter as required in subsection (b) of this section, the ETZ Committee shall give particular attention to:

- (1) Landscape screening of the perimeter, which area shall be no less than 20 feet wide.
- (2) Typical individual lot landscape and paving standards, which the ETZ Committee may require be enforceable through covenants recorded on the title of each lot.
- (3) Landscaping and development of any common areas.
- (4) Whether a nonthrough traffic pattern would warrant public street rights-of-way less than the standard required width, but not less than 50 feet, if approved by the village board.

Sec. 95.184.1. RCS rural conservation subdivision district.

(a) *Statement of intent.* The RCS district is intended to preserve rural landscape character, sensitive natural areas, farmland, and other large areas of open land, while permitting residential development at low, rural densities, in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:

- (1) To maintain and protect the Town's rural character by preserving important landscape elements, including those areas containing such unique and environmentally sensitive natural features as woodlands, hedgerows, stream corridors, wetlands, floodplains, shorelands, prairies, ridgetops, steep slopes, and critical species habitat by setting them aside from development.
- (2) To preserve scenic views and to minimize views of new development from existing streets.

- (3) To provide for the unified and planned development of tracts of a nominal 10 acres or larger in size for clustered, single family, low-density residential uses, incorporating large areas of permanently protected open space.
- (4) To provide for greater design flexibility in the siting of dwellings and other development features than would be permitted by the application of standard district regulations in order to minimize the disturbance of rural landscape elements, scenic quality, and overall aesthetic value of the landscape.
- (5) To increase flexibility and efficiency in the siting of services and infrastructure by reducing street length, utility requirements, drainage requirements, and the amount of paving required for residential development, where possible.
- (6) To create groups of dwellings with direct visual and physical access to common open space.
- (7) To permit active and passive recreational use of common open space by residents of developments within this district or by the public.
- (8) To reduce erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes.
- (9) To allow for the continuation of agricultural uses in those areas best suited for such activities and when such activities are compatible with adjoining residential uses.
- (10) To permit various means for owning common open space and for protecting it from development in perpetuity.
- (11) To create an attitude of stewardship, or caring, for the land within common open space by requiring a land management, or stewardship, plan for the common open space.
- (12) To implement the objectives of the adopted Weston Comprehensive Plan or elements thereof.
- (13) Uniform and Individual Lot Regulations: This chapter is predicated upon regulating the land development and use maintenance process primarily on an individual lot or tract basis, with all lots in the same district being subject to regulations which are uniform throughout that district, as prescribed by ss.62.23 (7) (b) Wis. Stats., in order to achieve the Purposes In View set forth in ss.62.23 (7) (c) and in section 95.100-95.140 of this chapter.
- (14) Diversified and Group Lot Regulations: However, as also provided for in said ss.62.23 (7) (b), Wis. Stats. with the consent of the land owners, there may be, and hereby is established, a special district in which the regulations need not be uniform throughout the district, so that there may be permitted development regulations which have the same Purposes In View as ss.62.23 (7) (c) and section 95.100-95.140 of this chapter, but which seek to allow regulation on a project basis, including possibly allowing more than one principal structure per lot, which regulations as set forth in said ss.62.23 (7) (b) Wis. Stats., will tend to promote over time the maximum benefits of:
 - i. Coordinated area site planning.

- ii. Safe and efficient pedestrian and vehicle traffic system.
- iii. Attractive recreation and landscaped open spaces.
- iv. Economic design and location of public and private utilities, and community facilities, insuring adequate standards for construction and planning.

(b) *District establishment.*

- (1) *RCS Rural Conservation Subdivision District.* The regulations of this Section shall operate in conjunction with the application to specific tracts of land of the RCS Rural Conservation Subdivision District as established in Article X and Article XI of this chapter.
- (2) *Minimum Area Required.* In order to be regulated under this section, proposed project plans must be no less than nominal 10 acres.
- (3) *Ownership Consent.* As required by ss.62.23 (7) (b) Wis. Stats. a proposed development at the time of application of the RCS Rural Conservation Subdivision District shall require the consent of the owners to the regulations as shall apply to their individual tracts through the approved RCS district project plan.

(c) *Uses permitted.* Land within the Rural Conservation Subdivision District may be used for the following purposes:

(1) *Uses Permitted By Right.*

- a. Single-family residential uses as follows:
 - 1. Clustered single-family detached dwellings, with a portion of the gross development tract in common open space. The amount of land dedicated to common space shall be based on the size of the proposed development and the average lot size in the gross development.
 - 2. Single-family farmstead dwellings with or without associated agricultural structures.
- b. Agricultural activities including:
 - 1. The cultivation, harvesting, and sale of crops and related farm projects.
 - 2. The keeping or raising of horses, poultry, beef and domestic livestock, and all related activities shall be permitted on a lot of 3 acres or more. Such use shall be limited to one animal unit per acre in the proposed development. Any activity shall meet the requirements of Section 95.128 (e).
 - 3. Orchards, nurseries, greenhouses, and related horticultural uses.
 - 4. Growing and sale of Christmas trees.
 - 5. Agricultural structures, such as barns, silos, storage sheds, cribs, coops, and stables.

- c. Open space uses, primarily passive in nature, including wildlife sanctuary, forest preserve, nature center, trails, picnic areas, and similar uses.
 - d. Conservation of natural features in their existing state.
 - e. Easements for access, drainage, sewer and water lines, or other public purposes.
 - f. Stormwater management facilities for the proposed development, including detention and retention basins.
- (2) The following uses are permitted in common open space in Rural Conservation Subdivision Developments:
- a. Uses in Sec. 95.184.1 (c)(1).
 - b. Water supply and sewerage facilities for individual lots, groups of lots, or the entire development.
 - c. Utility and street rights-of-way, except that their land areas shall not count toward the minimum open space requirement as outlined in Sec. 95.184.1(g)(3).
- (3) Permitted Accessory Uses
- a. Attached and detached private garages and storage structures, provided that:
 - 1. One detached garage, not exceeding 800 square feet, shall be permitted on a lot, in addition to any garage structure, attached or detached.
 - 2. One detached storage structure, not exceeding 500 square feet, shall be permitted on a lot, in addition to any garage structure, attached or detached.
 - b. Home occupations, which are clearly incidental to the principal residential use, provided that the requirements of Article III, General Regulations, are met.
- (4) The following uses and activities are prohibited in common open space areas in Rural Conservation Subdivision Developments:
- a. The use of non-recreational motor vehicles except on public streets and parking areas. Maintenance, law enforcement, emergency, and farm vehicles are permitted, as needed.
 - b. Cutting of healthy trees, regrading, topsoil removal, altering, diverting or modifying water courses or bodies, except in compliance with an approved land stewardship plan, as described in Sec. 95.184.1(k).
 - c. Intensive animal feedlot operations.
- (d) *Procedure.*

- (1) Pre-Petition Conference: Prior to official submittal of a petition, the petitioner shall meet with the ETZ Committee for a preliminary discussion as to the scope and proposed nature of the contemplated development, especially as relates to the petitioner's intentions to submit a General or Detailed application.
- (2) Petition: Following the pre-petition conference, petition may be made to the Zoning Administrator by the owners or agents of properties proposed for such development, to amend the zoning map by the overlaying of an RCS District in order to permit the application of the provisions of this section to such development. Such petition shall be accompanied by a fee as required in Sec. 95.119.
 - a. Statement describing the general character of the intended development and the desirability of applying the requirements of this section and the ORC district rather than those ordinarily applicable through basic underlying zoning. This statement should at least include:
 1. Statistical data on total size of the project area, area of open space, residential density computation and proposed number of dwelling units, minimum lot size and average lot size, population analysis, market analysis, economic analysis, impact upon municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 2. A Financial Factors general summary including the value of structures, estimated improvement costs, amount proposed for landscaping and special features, estimated sale or rental price, and total anticipated development cost of the project.
 3. Organized and Service Structure general outline related to intended property owner's association, deed restrictions, and provision of private services.
 - b. A General Development Plan and related maps and plans including descriptive statements of objectives, principals and standards used on its formulation of the project showing at least the following information as may be required by the ETZ Committee to apply the criteria for approval as hereinafter set forth:
 1. An accurate map of the project area including its relationship to surrounding properties.
 2. The pattern of public and private roads, and intended design standards.
 3. The size, arrangement and location of lots.
 4. The location of common open space areas and areas reserved or dedicated for public uses such as school, park, nature preserves, etc.
 5. The location of present and proposed private or public sanitary sewer and other utility facilities if necessary to an evaluation of the project plan.
 6. Existing topography and storm drainage pattern and proposed storm drainage system showing basic topography changes, if deemed necessary for project evaluation.

7. A draft Land Stewardship Plan consistent with Sec. 95.184.1(k) (2).
 8. To aid the ETZ Committee in determining whether the applicant has accomplished the intent and objectives as described in Subsection 95.184.1(a) and has met the design standards for Rural Conservation groups and common open space as described in Subsections 95.184.1(g) and 95.184.1(h), the initial application for any development shall include an inventory and site analysis of the tract.
- (3) Referral to ETZ Committee: Such petition shall be referred to the ETZ Committee and processed as a zoning change. Upon completion of necessary study and investigation, the ETZ Committee shall make its recommendation to the Village Board as to the appropriateness and desirability of the application of the RCS District as relates to the suitability of the site and development plans and any additional conditions which the ETZ Committee may feel necessary or appropriate.
 - (4) Public Hearing: The ETZ Committee, before taking affirmative action to approve such petition, shall hold a public hearing pursuant to statutory provisions for zoning amendments. Notice for such hearing shall include reference to the consideration of the proposed project development plans coincident with the requested zoning change to RCS.
 - (5) Disposition of Village Board: The Village Board, after considering the recommendation of the ETZ Committee will accept, disapprove or outline required modifications to the Rural Conservation Subdivision.
 - (6) Waiver: The ETZ Committee and the village may waiver any of the Requirements in Sections 95.184.1 (g) through 95.184.1 (i), provided that the changes do not impact the provisions of Sec. 95.184.1(a) and the requirements of Article III, General Regulations are met.

(e) *Basis for approval.*

The ETZ Committee, in making its recommendations, and the Village Board, in making its determination, shall give consideration and satisfy themselves as to the following:

- (1) Adequate Professional Assistance: That the project plan has been prepared with adequate professional assistance, especially as relates to justifying deviation from standards as set forth in the zoning regulations or from other development standards such as for streets and utilities, and to achieving (2) and (3) below.
- (2) Conformity to Town Plan: That the project plan serves to implement the spirit and intent of the Town Plan, especially as relates to preservation of conservation areas and creation of common open spaces, and to creation of a more diversified and interesting use pattern than might otherwise result from application of underlying zoning patterns. The town plan will be used as a guide for all future land use decisions considered by the ETZ Committee and village through this chapter.
- (3) Achievement of Purposes and Benefits: That the project plan achieves the Purposes In View for zoning as set forth in ss.62.23(7) (c) Wis. Stats. and Section 95.105 of this Ordinance.

(4) Proposed Residential Developments:

- a. That such development will create an attractive residential environment of sustained desirability and economic stability, including placement of structures in relation to terrain and soils, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the neighborhood.
- b. The general design and appearance of any structures in the development shall take into consideration the generally acceptable standards of good taste and particularly in terms of functional relationship and grades to its own site and the effect upon adjacent and surrounding properties.
- c. That the population composition of the development will not result in adverse effect from that anticipated in the Town Plan upon the community's capacity to provide needed school or other municipal service facilities.
- d. Density Increase Permitted: That an increase in the allowable maximum density not to exceed 10%, may be permitted upon recommendation of the ETZ Committee, that the increased density is justified in terms of the relationship to open areas, service demand and the total quality and character of the project.
- e. The ETZ Committee shall review the application for rezoning in light of the area included in the rezoning petition in relationship to the total property owned by the petitioner.

(f) *Determination.*

- (1) Denial or Approval: The Village Board after due consideration, and upon recommendation of the ETZ Committee, may deny or approve the petition as submitted or approve the petition subject to changes or additional conditions. Petitions, which are approved, become final only after application of the RCS District as provided for in Article XIV. Changes and Amendments.
- (2) Representations and Conditions Incorporated: The General or Detailed Approval of a petition and consequent amending of the Zoning Map of the RCS District shall be based upon, and thereby incorporate, all the representations contained in the petition and its accompanying written and other exhibits offered by the petitioner, as modified by the ETZ Committee as part of the review and approval process.
 - a. General Approval: Plans submitted for such an approval need not necessarily be completely detailed at the time of zoning, provided they are of sufficient detail to satisfy the ETZ Committee and Village Board as to the general character, scope and appearance of the proposed development. Such preliminary plan shall at least designate the pattern of proposed streets, and size and arrangement of lots as in the preliminary platting process, which may indeed also be involved, the basic pattern of land use, with an illustration of a "typical" example of the development proposed. The approval of such preliminary plan shall be conditioned upon the subsequent submittal and approval of

more specific and detailed plans as the development progresses, so that all detailed approvals are complete before an Occupancy Certificate is required.

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

(3) Subsequent Changes: Proposed changes to approved project plans, judged insubstantial by the ETZ Committee, may be approved by the ETZ Committee and added to the project file. Proposed changes which the ETZ Committee judges to be substantial shall require approval by the Village Board, after review and recommendation by the ETZ Committee and after Public Hearing as set forth in Sec. 95.184.1(d)(4) preceding.

(g) *Density and Dimensional Standards.*

(1) Minimum tract size: nominal 10 acres.

(2) Maximum density: The average lot size including common open space shall be one dwelling unit per one and two-thirds gross acres or 72,750 square feet. Existing dwellings that may or may not be part of the farmstead shall be counted toward the total density.

(3) Minimum common open space: The amount of land required to meet the common open space requirements will be calculated using the higher percentage of either the size of the development or the average lot size:

Size of Development	% open space requirement
10 to 29.99 acres	50%
30 to 39.99 acres	45%
40 acres and larger	40%

Average lot size	% open space requirement
.75 to 1.499 acres	50%
1.5 to 1.749 acres	45%
1.75 acres and larger	40%

(Note: For the purpose of calculating the allowable density and open space requirements a proposed Rural Conservation Subdivision would need to meet the higher of the open space requirements based on the size of the development or the average lot size. The average lot size is determined by looking at the density of lots in the portion of the property that is not dedicated to meet the open space requirements. While the development could include lots as small as 0.75 acres, the average of all of the proposed lots would need to meet or exceed the maximum density requirement of no more than one dwelling unit per one and two-thirds acres, which includes open space.

For example, if a property owner wished to develop 20 acres of land, they would need to set aside 50% of the land based on the size of the development for open space. This approach would allow the development of approximately ten (10) one-acre lots. If they decided to have a more dense subdivision with the average lot size of 0.75 acres, the open space requirements would be increased to 50%. This approach would allow the owner to develop approximately twelve (12) ¾ acre lots. In both cases, the average lot size including open space is above the one and two-thirds acre minimum required.)

(4) Recommended minimum Lot are ¾ acres or 32,670 square feet

For an existing farmstead on a tract used for Rural Conservation Subdivision Development, the minimum lot area shall be 120,000 square feet or a lot large enough to accommodate all structures within a building envelope created by a 100-foot setback from all sides of the lot, whichever is larger. For farmsteads with livestock, the setback shall be increased to 200 feet.

(5) Minimum lot width at building setback line 100 feet

The diameter of a cul-de-sac turn-around (measured as the outside of the right-of-way) shall not be less than 100 feet. On the bulb of a cul-de-sac or on horizontal curves having a radius less than 100 feet, lot width may be reduced to a minimum of 30 feet at the street. When dwelling units are not located on individual lots, such as in a condominium development, they shall be separated from one another by a minimum distance of 100 feet.

(6) Minimum front yard 40 feet

(7) Minimum side yard 15 feet

(8) Minimum rear yard 40 feet

(9) Accessory buildings and Agricultural Structure 15 feet side yard
 20 feet back yard
 Setback from side and Rear lot lines (accessory Buildings area not permitted In front yards)

(10) Maximum building coverage 25 percent

(11) Maximum building height 30 feet (principal structure)
 20 feet (accessory structure)
 85 feet (accessory farm structure)

(12) Separation distances for cluster groups.

a. The outer boundaries of all cluster groups shall conform to the following separation distances:

1. From external arterial street rights-of-way, or from scenic 100 feet

roads, if defined in the town Comprehensive Plan.

2. From all other external street rights-of-way. 100 feet
 3. From cropland or pastureland 100 feet
 4. From existing buildings or barnyards housing livestock 300 feet
 5. From other cluster groups 100 feet
 6. From wetlands, floodplains, or watercourses 35 feet
 7. From active recreation areas, such as courts or playing fields 100 feet
- b. All separation areas for cluster groups along existing streets shall be landscaped in accordance with Section 95.184.1(j), in order to block views of new residential development, preserve scenic views, and protect rural landscape character.
- c. The design and dimensional standards specified in Sec. 95.184.1(g) may be reduced under the following circumstances:
1. The separation distances along existing arterial streets and tract boundaries may be reduced to a minimum of 50 feet if the applicant can demonstrate that existing vegetation, topography or a combination of these form an effective visual screen.
 2. All other separation distances may be reduced by 50 percent if the applicant can demonstrate that such reduced setbacks improve the plan's compliance with the cluster group design standards in Sec.95.184.1(h), the intent of this Ordinance, and the objectives of the town Comprehensive Plan.

(13) Lot Averaging: For the purpose of providing additional flexibility beyond that already gained by the use of clustering, lot averaging shall be permitted as follows:

1. The area of a lot may be reduced below the minimum, provided that the area by which it is reduced is added to another lot, and further provided that, in all cases, proper water supply and sewerage facilities shall be provided.
2. Lot areas, widths, setbacks shall not be reduced below the following minimum requirements:

Area	.5 acres or 21,780 square feet
Width	100 feet
Front Yard	40 feet
Side Yard	15 feet

Rear Yard 40 feet

Accessory Buildings:

Side Yard 15 feet

Rear Yard 20 feet

3. All other density and dimensional standards of this ordinance shall apply to lots whose areas are averaged.
4. All lots that are large enough to be further subdivided shall be deed restricted against further subdivision, designating the owner, their heirs, successors, and assigns as the grantee of the easement. The town shall hold a conservation easement on such lots. The restrictions of the easement shall be enforceable either by the grantee, their heirs, successors, and assigns or by the Town or its designee.

(h) *Design Standards for Cluster Groups.*

The following standards shall apply to all cluster groups:

- (1) All dwelling units shall be grouped into cluster groups, each of which shall contain no more than 20 units and be surrounded by common open space.
- (2) The maximum number of lots in a cluster group may be increased and cluster groups may be assembled into larger groupings, with the approval of the ETZ Committee and the Village Board and provided that the applicant can demonstrate that such an alternative plan is more appropriate for the tract concerned and will meet both the general intent and design standards of this Ordinance.
- (3) A plat may contain one or more cluster groups.
- (4) Cluster groups shall be defined by the outer perimeter of contiguous lotted areas or abutting streets and may contain lots, streets, and cluster group open space. When the development does not include individual lots, as in a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is closer to any unit than 100 feet.
- (5) The outer boundaries of each cluster group shall meet the separation distance requirements specified in Sec. 95.184.1(g).
- (6) Cluster groups shall be defined and separated by common open space in order to provide direct access to common open space and privacy to individual lot or yard areas. Cluster groups may be separated by streets if the street right-of-way is designed as a boulevard.
- (7) Cluster groups containing 11 or more dwelling units must provide internal open space at a minimum rate of 2,000 square feet per dwelling unit. Such open space shall meet the following standards:
 - a. Common open space located within cluster groups shall be counted toward meeting the common open space requirements.

- b. The common open space shall be configured as a cul-de-sac island, an island within a larger loop or an “eyebrow” (a semi-circular loop), an island in a boulevard street, or a common green area. Common green areas surrounded by lots on up to three sides shall be designed space for common use by all residents within the cluster groups.
- c. The open space shall have a minimum street frontage of 100 feet.
- d. Internal open space may contain parking areas, but these shall not be included in the required 2,000 square feet of internal open space per lot area.

(8) All lots in a cluster group shall take access from interior streets.

(9) Notwithstanding the provisions of Sec. 95.125(b)(4)a., relating to setback requirements, and of Sec. 95.126(a) and (b), relating to street access, if in reviewing the overall plan for the lots to be served and of the subdivision, the ETZ Committee finds that it is not in the public interest to require direct public street access at the time of the plan or zoning approval, the ETZ Committee may approve the use of shared private driveways that lead to public streets. In the case where a shared driveway is approved, the adjoining property owners shall maintain the driveway as a private street.

(10) All lots in a cluster group shall abut common open space to the front or rear. Common open space across a street shall qualify for this requirement.

(11) In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime farmland soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than 25 percent of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and onsite septic system.

(i) *Design Standards for Common Open Space.* On all tracts developed in the Rural Conservation Subdivision Overlay, a portion of the gross land area shall be set aside as protected common open space. This common open space shall meet the following standards:

(1) For the purposes of this section, gross land area includes all lands within the tract, except existing street, railway, and utility rights-of-way.

(2) Common open space shall comply with the following design standards:

- a. The location of common open space shall be consistent with the objectives of the town Comprehensive Plan.
- b. All common open space areas shall be part of a larger continuous and integrated open space system. At least 75 percent of the common open space areas shall be contiguous to another common open space area. For the purposes of this section, contiguous shall be defined as located within 100 feet across which access is possible, for example, on opposite sides of an internal street.

- c. Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this Ordinance. Primary and secondary environmental corridors and isolated natural areas are of particular significance for protection.
- d. Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance or restore their overall condition and natural processes, as recommended by professionals in the area being modified and in compliance with an approved land stewardship plan as described in Sec. 95.184.1(k):
 - 1. Woodland management.
 - 2. Reforestation.
 - 3. Meadow management.
 - 4. Wetlands management.
 - 5. Streambank protection.
 - 6. Buffer area landscaping.
- e. All wetlands, floodplains, unique wildlife habitat areas, steep slopes over 12 percent, 100 percent of lowland environmental corridor, and at least 80 percent of upland primary environmental corridor shall be contained in common open space.
- f. Maximize common boundaries with existing or future open space on adjacent tracts, as shown in the town Comprehensive Plan.
- g. In order to preserve scenic views, ridgetops and hilltops should be contained within common open space wherever possible. Trees shall not be removed from ridgetops or hilltops.
- h. No woodlands shall be removed and at least 75 percent of the area of existing woodlands shall be contained within common open space; 25 percent of the area of existing woodlands may be used for lots and residential development. This limitation may be exceeded under the following conditions:
 - 1. The site is primarily wooded, and development at permitted density would not be possible without encroaching further on woodlands.
 - 2. Any encroachment on woodlands beyond 20 percent shall be the minimum needed to achieve maximum permitted density, as determined by the ETZ Committee.
- i. No common open space shall be less than 10,000 square feet in area, and not less than 30 feet in its smallest dimension. Open space not meeting this standard shall not be counted toward the total common open space requirement.

- j. The boundaries of common open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features should be added to enable residents or the public, if applicable, to distinguish where common open space ends and private lot areas begin. Where structural demarcations, such as fences, are used, they shall be the minimum needed to accomplish the objective.
 - k. Trails in common open space located within 50 feet of homes in cluster groups shall be identified by plantings, fences, or other landscape features.
 - l. Under no circumstances shall all common open space be isolated in one area of the development. Common open space shall be distributed appropriately throughout the development to properly serve and enhance all dwelling units, cluster groups, and other common facilities.
 - m. Common open space shall include lands located along existing public roadways in order to preserve existing rural landscape character as seen from these roadways, and shall, in no case, contain less than the required buffer, setback area, or separation distance.
- (3) Safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas that are not used for agricultural purposes, in accordance with the following:
- a. At least one access point per cluster group shall be provided, having a width equal to or greater than 100 feet the minimum width of a lot within the cluster group. This width may be reduced to no less than 50 feet if the applicant can demonstrate that, due to natural site constraints, meeting the lot width requirement would run counter to the objectives of this Ordinance.
 - b. Access to common open space used for agriculture may be restricted for public safety and to prevent interference with agricultural operations.
- (4) The following areas shall not be included in the calculation of common open space areas:
- a. Private lot areas.
 - b. Street and highway rights-of-way, public or private.
 - c. Railway and utility rights-of-way.
 - d. Parking areas.
 - e. Areas not meeting the requirements of sec. 95.184.1(i)(2)i.
- (5) Development meeting common open space requirements of this Section shall be exempt from the Parkland Dedication requirements of Section 50.105, Village Code of Ordinances.
- (j) *Landscaping.*
- (1) Preservation of existing natural landscape.

- a. For the purpose of conserving the natural landscape and in recognition of the time value of existing vegetation, the preservation of existing vegetation shall always be preferred to the installation of new plant material.
- b. Within all required separation areas between cluster groups and external streets and tract boundaries, existing woodlands and hedgerows shall be retained to the maximum extent possible.
- c. Suitable existing vegetation shall be credited toward the landscaping requirements of this Section when, in the opinion of the ETZ Committee and the Village Board, it would equal or exceed the visual impact of the new required plant material after two years of growth.

(2) Street trees

- a. Street trees may be planted, but are not required, along internal streets passing through common open space.
- b. Informal arrangements are encouraged for street trees, to avoid the urban appearance that regular spacing may evoke.
- c. Street trees shall be located so as not to interfere with the installation and maintenance of utilities and paths, trails, or sidewalks that may parallel the street.

(3) Buffers

- a. Within all required separation areas between external streets and cluster groups, a planted buffer area at least 25 feet in width shall be established. Where no natural trees and shrubs exist, plant materials as specified in the Subdivision Regulations shall be planted.
- b. Planted buffers within separation areas between cluster groups are encouraged, to enhance privacy and a rural appearance between lots.
- c. Buffers consisting of an informal arrangement of native plant species combined with infrequent mowing are strongly encouraged, to create a low-maintenance, naturalized landscape.

(k) *Ownership and Maintenance of Common Facilities and Open Space.*

(1) Ownership: The following methods may be used, either singly or in combination, to own common facilities and open space. Common facilities and open space shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no change in the common facilities or open space. Ownership methods shall conform to the following:

- a. Homeowners Association: Common facilities and open space shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provision set forth herein. The homeowners association shall be governed according to the following:

1. The applicant shall provide to the ETZ Committee and Village Board a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities.
 2. The organization shall be established by the owner or applicant and shall be operating (with financial subsidy by the applicant, if necessary) prior to the sale of any dwelling units in the development.
 3. Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
 4. The organization shall be responsible for maintenance and insurance of common facilities.
 5. The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities.
 6. The organization shall have or hire adequate staff to administer, maintain, and operate common facilities.
 7. The applicant for any tract proposed to contain common facilities or open space shall arrange with the Town Assessor a method of assessment of the common facilities, which will allocate to each tax parcel in the development a share of the total assessment for such common facilities.
 8. Written notice of any proposed transfer of common facilities or open space by the homeowners association or the assumption of maintenance of common facilities must be given to all members of the organization and to the ETZ Committee and Village Board at least 30 days prior to such event.
- b. Condominium: Common facilities or open spaces shall be controlled through the use of condominium agreements. The requirements of such agreements shall be approved by the ETZ Committee and the Village Board after review by the Village attorney and shall be in conformance with the “Condominium Ownership Act” of 1977 (Chapter 703, Wisconsin Statutes), as amended. All common open space and other common facilities shall be held as “common element” by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.
- c. Fee simple dedication to the Town or to other public agency.

The Town or other public agency acceptable to the Town may, but shall not be required to, accept any portion of the common facilities, provided that:

1. There shall be no cost of acquisition to the Town (other than costs incidental to the transfer of ownership, such as title insurance).

2. Any facilities so dedicated shall be accessible to the residents of the Town, if the Town so chooses.
 3. The Town or other public agency shall maintain such facilities.
 4. The residents of the development shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.
- d. Dedication of conservation easements to the Town or other public agency acceptable to the Town. The Town may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:
1. There is no cost of easement acquisition to the Town (other than costs incidental to the transfer of ownership, such as title insurance).
 2. A satisfactory maintenance agreement shall be reached between the owner and the Town.
 3. Lands under a Town easement may or may not be accessible to the residents of the Town.
- e. Fee simple dedication to a private conservation organization. With approval of the Town, an owner may dedicate any portion of the common facilities to a private, nonprofit conservation organization, provided that:
1. The organization is acceptable to the Town and is a bona fide conservation organization.
 2. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
 3. A maintenance plan and program acceptable to the Town is established in accordance with Sec. 95.184.1(k)(2).
- f. Transfer of easements to a private conservation organization. With approval of the Town, an owner may transfer conservation easement on common facilities to a private, nonprofit conservation organization, provided that:
1. The organization is acceptable to the Town and is a bona fide conservation organization.
 2. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.

3. A maintenance plan and program acceptable to the Town is established in accordance with Sec. 95.184.1(k)(2).
- g. Ownership retained by the original landowner. Ownership of common space and facilities may be retained by the original landowner provided that:
 1. The Town and residents of the development shall hold conservation easements on the land, protecting it from any further development. Said easements shall be delineated on the final plat and deed restrictions and recorded with the Register of Deeds.
 2. Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.
- h. Other methods acceptable to the Town Board.

(2) Maintenance and operation of common facilities.

- a. A plan and narrative for the use, maintenance, and insurance of all common facilities and open space, including provisions for funding, shall be provided to, and approved by the ETZ Committee and Village Board prior to preliminary plan approval. Such plan shall:
 1. Define ownership.
 2. Establish necessary regular and periodic operation and maintenance responsibilities.
 3. Estimate staffing needs, insurance requirements, and other associated costs and define the means of funding the same on an on-going basis.
 4. Include a Land Stewardship Plan specifically focusing on the long-term management of common open space lands. A draft land Stewardship Plan shall be submitted at the time of preliminary plan review, and a final Land Stewardship Plan at the time of final plan approval.

The Land Stewardship Plan shall include a narrative, based on the site analysis required in Sec. 95.184.1(d)(2)a. and b., describing:

1. Existing conditions including all natural, cultural, historic, and scenic elements in the landscape.
2. Objectives for each common open space area, including:
 - a. The proposed end-state for the area; and the measures proposed for achieving the end state.
 - b. Proposed restoration measures including:
 1. Measures for correcting increasingly destructive conditions, such as erosion: and

2. Measures for restoring historic features.
3. A maintenance and operations plan identifying operation needed for maintaining the stability of the resources, including:
 - i. Mowing schedules.
 - ii. Weed control.
 - iii. Planting schedules.
 - iv. Clearing and cleanup.
 - v. At the Town's discretion, the applicant may be required to place in escrow sufficient funds for the maintenance and operation costs of common facilities and open space for a maximum of five years.
3. In the event that the organization established to own and maintain common facilities, or any successor organization thereto, fails to maintain all or any portion of the aforesaid common facilities in reasonable order and condition in accordance with the development plan and all applicable laws, rules, and regulation, the Town/Village may serve written notice upon such organization and upon the residents and owners of the uses relating thereto, setting forth the manner in which the organization has failed to maintain the aforesaid common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Ordinance, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The Town/Village may enter the premises and take corrective action.

The costs of corrective action by the Town/Village shall be levied as a special assessment against the properties that have the right of enjoyment of the common facilities.

- (3) Leasing of common open space lands. Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that the use is consistent with the uses permitted by right under Sec. 95.184.1(c), and:
 - a. The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
 - b. The common open space lands to be leased shall be maintained for the purposes set forth in this Ordinance.
 - c. The operation of such leased open space lands may be for the benefit of the residents of the development only or may be open to the public, if so determined by the residents.

(4) Conservation: Common open space shall be restricted in perpetuity from further subdivision or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the ETZ Committee and the Village Board and duly recorded in the office of the County Register of Deeds.

(1) *Sewerage and Water Supply Facilities.*

(1) Sewerage Facilities.

a. Sewerage facilities for conservation development may consist of any system meeting the requirements of the Wisconsin Department of Commerce for private sewerage systems or the Wisconsin Department of Natural Resources for public sewerage systems, including:

1. Public, community systems consisting of:

- a. Dispersed community systems, serving two or more dwellings, but not the entire development.
- b. Centralized community systems, serving the entire development.

2. Public, municipal systems, serving all or parts of the entire development.

- a. Common open space may be used for some or all of the elements of any of the systems listed above.
- b. All sewerage facilities shall be consistent with the requirements of the Village Subdivision Regulations.

(2) Water Supply Facilities: Water supply facilities may consist of any of the following systems, provided they meet the requirements of the Wisconsin Department of Natural Resources:

- a. Private, individual wells.
- b. Private, non-community wells.
- c. Private, community wells.
- d. Public water supply system.

Sec. 95.185. B-1 neighborhood convenience retail and service district.

(a) *Statement of intent.*

(1) *Generally.* The B-1 district is intended to provide for individual or small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood; and the character, appearance and operation of these establishments are compatible with the surrounding or adjacent area, which in most cases will be residential.

(2) *Limitations.* The expected close proximity of this district to residential areas makes it necessary to regulate uses, structures and their placement on their lots within this district so as to:

- a. Limit the bulk of buildings to a mass similar to residential buildings as permitted in this article;
 - b. Limit the amount of land area at any one location placed within this district;
 - c. Limit certain deleterious aspects of some businesses as a precondition to their locating in this district; and
 - d. Treat as conditional uses certain other uses which, without substantial modification, would otherwise constitute an incompatible use to existing or planned nearby residential development.
- (b) *Permitted Uses.* The following uses are permitted in the B-1 District subject to approval by the ETZ Committee of building, site and operational plans (see Article V of this chapter):
- (1) Art and school supply stores.
 - (2) Barbershops.
 - (3) Bakeries -- where product produced is sold on the premises and at retail.
 - (4) Beauty shops and hair styling salons.
 - (5) Branch banks.
 - (6) Candy and ice cream stores.
 - (7) Clothing stores and wearing apparel shops.
 - (8) Convenience stores.
 - (9) Drugstores.
 - (10) Dry cleaning and laundry receiving stations, processing to be done elsewhere.
 - (11) Food stores, grocery stores, meat markets, fish markets, bakeries, and delicatessens.
 - (12) Hardware, domestic appliance, and paint and wallpaper stores.
 - (13) Laundromats, automatic, self-service only, or hand laundries - employing not more than two persons in addition to one owner or manager.
 - (14) Liquor stores, package goods only.
 - (15) Newspaper distribution agencies for home delivery and retail trade.
 - (16) Restaurants, not including entertainment, dancing, and serving of alcoholic beverages.
 - (17) Shoe stores.

- (18) Signs, as regulated herein.
- (19) Studios.
- (20) Telephone booths and coin telephones.
- (21) Temporary buildings for construction purposes, for a period not to exceed the duration of such construction.
- (22) Variety stores.
- (23) Single-family dwellings
- (24) Accessory uses, incidental to, and on the same zoning lot as a principal use.

Provided, however, the following classes of uses including those of the foregoing permitted uses are permitted uses by right, but subject to the following restrictions and approval by the ETZ Committee of building site and operational plans (see Article V of this chapter):

- (i) Retail stores and shops offering convenience goods and personal services, provided that they individually do not exceed 3,200 square feet of primary floor area.
- (ii) Business, professional or public service offices providing they do not exceed 2,400 square feet of primary floor area.
- (iii) Customer service establishments such as financial services, shoe repair, barber shops and beauty shops, studios and similar uses, providing each does not exceed 1,600 square feet of primary floor area, and not offering drive-through facilities.
- (iv) Public utility transmission and distribution lines, poles and other accessories; provided that when a utility proposes a main intercity transmission facility, it shall give notice to the ETZ Committee of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the ETZ Committee a mapped description of the route of such transmission line.

(c) *Permitted accessory uses* are the following, subject to approval by the ETZ Committee of building, site and operational plans (see article V of this chapter):

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

(6) Family day care home.

(d) *Permitted uses by conditional grant* are:

(1) Automobile fuel sales.

(2) Rental apartments as a secondary use of a commercial building, and on other than the ground floor level.

(3) Restaurants, taverns, bars, etc., not offering live entertainment.

(4) Small animal veterinary clinics and accessory indoor boarding kennels.

(5) Large group day care center, assisted living or retirement homes, nursing or convalescent centers, including hospices but not hospitals. (See Large group day care center)

(e) *Special regulations*.

(1) This district should not normally be applied to parcels or groups of parcels whose primary floor area would total as a group more than 20,000 square feet.

(2) Outside storage uses such as travel-moving vehicle or trailer rental, sale of motor vehicles, outside display of merchandise or goods storage are not permitted.

(3) Outdoor sound systems, cooking odors from food preparation, high-intensity site lighting, drive-through facilities, and late hours of operation each pose special stress to nearby residential uses and should not be ordinarily approved in this district as part of permitted uses unless the ETZ Committee is satisfied in the specific circumstances that the degree of such aspects would be reduced below stress levels, or that mitigation measures would adequately protect nearby residential areas.

(Ord. of 12-23-2011)

Sec. 95.186. B-2 community business district.

(a) *Statement of intent*.

(1) *Generally*. The B-2 district is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, offices and service establishments serving the needs of the larger community area. The size and location of such districts shall be based upon evidence of justifiable community need, of adequate customer potential, and of satisfactory relationship to the arterial highway system, and other related facilities. The impact on adjacent residential uses because of traffic, size of buildings, hours of operation and the need for some arrangement of the uses within the district with respect to compatibility and interchange of customer traffic will require ETZ Committee approval of specific development plans.

(2) *Limitations*. Uses that depend upon a substantial amount of outdoor storage of their product such as building supply yards, motor vehicle equipment sales and service, or that present

other types of characteristics such as an outdoor theater, trucking terminal, motor vehicle body repair, and similar uses, tend to be incompatible with the retail shopping center and office developments that form the core of the permitted uses of this district. Consequently such uses are prohibited as uses of right in this district.

(b) *Permitted Uses.* Any use permitted in the B-1 DISTRICT, shall be permitted in the B-2 DISTRICT; and, in addition the following uses shall be permitted subject to the approval by the ETZ Committee of building, site and operational plans (see Article V of this chapter):

- (1) Antique shops.
- (2) Art shops or galleries, but not including auction rooms.
- (3) Automobile accessory stores.
- (4) Banks and financial institutions.
- (5) Bicycle sales, rental, and repair stores.
- (6) Business service centers.
- (7) Business, professional and public service offices.
- (8) Book and stationary stores.
- (9) Business machine sales and service.
- (10) Camera and photographic supply stores.
- (11) Carpet and rug stores, retail sales only.
- (12) Catering establishments.
- (13) China and glassware stores.
- (14) Clubs and lodges, non-profit and fraternal.
- (15) Coin and philatelic stores.
- (16) Craft and fabric supply stores.
- (17) Custom dressmaking.
- (18) Department stores.
- (19) Dry cleaning establishments.
- (20) Dry goods stores.

- (21) Electrical and household appliance stores, including radio, computer and television sales.
- (22) Employment agencies.
- (23) Fast food establishments.
- (24) Furniture stores, including upholstering when conducted as part of the retail operations and secondary to the principal use.
- (25) Furrier shops, including the incidental storage and conditioning of furs.
- (26) Garden supply, tool, hardware and seed stores.
- (27) Gift shops.
- (28) Hobby shops, for retail or items to be assembled or used away from the premises.
- (29) Hotels and motels.
- (30) Interior decorating shops, including upholstering and making of draperies, slipcovers, and other similar articles, when conducted as part of the retail operations and secondary to the principal use.
- (31) Jewelry stores, including watch repair.
- (32) Leather goods and luggage stores.
- (33) Locksmith shops.
- (34) Medical and dental clinics.
- (35) Meeting halls.
- (36) Millinery shops.
- (37) Musical instrument sales and repair.
- (38) Office machine sales and servicing.
- (39) Office supply stores.
- (40) Optician sales, retail.
- (41) Orthopedic and medical appliance stores.
- (42) Pawnshops.
- (43) Pet shops.

- (44) Music stores.
- (45) Photography studios, including the developing of film and pictures when conducted as part of the retail business on the premises.
- (46) Physical fitness and health services facilities and health and fitness facilities.
- (47) Picture framing, when conducted for retail trade on the premises only.
- (48) Plumbing and heating sales shop.
- (49) Post offices.
- (50) Produce markets.
- (51) Radio, computer and television service, sales, and repair shops.
- (52) Restaurants -- including the serving of alcoholic beverages if incidental to the serving of food as a principal activity, but not including live entertainment or dancing.
- (53) Sewing machine sales and service -- household appliances only.
- (54) Shoe stores.
- (55) Sporting goods stores.
- (56) Tailor shops.
- (57) Taverns, but not including live entertainment or dancing.
- (58) Taxidermists.
- (59) Theaters, indoor.
- (60) Ticket agencies, amusement.
- (61) Tobacco shops.
- (62) Toy stores.
- (63) Travel bureaus and transportation ticket offices.
- (64) Undertaking establishments and funeral parlors.

(c) *Permitted accessory uses* are the following, subject to approval by the ETZ Committee of building, site and operational plans (see article V of this chapter):

- (1) All accessory uses as permitted in the B-1 district.

(2) Signs as regulated in article IX of this chapter.

(d) *Uses permitted by conditional grant* are:

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

(2) Large group day care center, assisted living or retirement homes, nursing or convalescent centers, including hospices but not hospitals. (See Large group day care center).

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

(Ord. of 12-23-2011)

Sec. 95.187. B-3 general business district.

(a) *Statement of intent.* The B-3 district is intended to provide space for a widely diversified range of commercial uses, including those retail or service uses with a wholesale aspect and those businesses, both small and large, not suited to the B-1 or B-2 districts, including those with extensive outdoor product storage or display.

(1) *Site characteristics.* The uses to be located in this district traditionally need individually owned sites near other major commercial activity and facing or near important traffic arterials, but relying much less upon interchange of customers between adjacent uses as found among B-1 and B-2 uses. To discourage the stripping of B-3 uses along the principal arterial highways, thereby damaging the capacity of such arterials to move traffic safely as set forth in section 95.152, wherever possible uses should be arranged in general business parks. Where stripping is unavoidable, the traffic management measures set forth in section 95.152 will need to be carefully followed.

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

(b) *Permitted uses by right.* Any use permitted by right or by conditional use in the B-1 or B-2 Districts shall be permitted in the B-3 DISTRICT; and in addition, the following uses shall be permitted subject to approval by the ETZ Committee of building, site and operational plans as set forth in Article V of this chapter:

(1) Amusement establishments including: bowling alleys, pool halls, dance halls, swimming pools, skating rinks, archery ranges, shooting galleries, and similar amusement facilities.

(2) Animal hospitals and veterinary clinics.

(3) Auction rooms.

(4) Automobile service stations.

- (5) Boat showrooms.
- (6) Building materials and product sales.
- (7) Car washes.
- (8) Contractor or construction offices, excluding shops and yards.
- (9) Exterminating shops.
- (10) Farm implement sales.
- (11) Feed and seed stores.
- (12) Fuel and ice sales.
- (13) Garages, automotive repair -- for storage, repair and servicing of motor vehicles, including body repair, painting, and engine rebuilding. No outdoor storage of salvage vehicles or parts of vehicles shall be permitted.
- (14) Greenhouses, landscaping businesses and nurseries.
- (15) Laboratories -- medical, dental and indoor testing facilities.
- (16) Laundries -- room or rooms containing the laundering process (washing, drying, ironing, and wrapping) shall not exceed a total of 2,400 square feet in area.
- (17) Model homes and garage displays.
- (18) Motor cycle and recreational vehicle shops.
- (19) Motor vehicle, recreational vehicle, motorcycle and mobile home sales.
- (20) Parking garages or structures.
- (21) Restaurants and taverns – outdoor dining, live entertainment and dancing permitted.
- (22) Schools -- music, dance, business, commercial or trade.
- (23) Self-storage facilities.
- (24) Commercial pet establishments as defined in Chapter 10 Animals – includes pet shops, grooming shops, animal daycare and animal boarding kennels. If outdoor runs and exercise areas are used, they shall be located a minimum of two hundred (200) feet from any residential zoning district. All animals shall be kept either within completely enclosed structures or under direct control of the owner or commercial pet establishment operator or staff at all times, and shall be kept within completely enclosed structures between the hours of 9:00 PM and 7:00 AM. (Also see Chapter 10 Animals for additional regulations).

(c) *Permitted accessory uses* are any accessory uses, including signs, as permitted in the B-1 and B-2 districts, as well as any others customarily associated with the permitted uses of this district.

(d) *Uses permitted by conditional grant* are retail or service uses involving related indoor manufacturing (cabinet shops, heating and cooling equipment sales and service with on-site ductwork fabrication, etc.), where the manufacturing floor area does not exceed 5,000 square feet. (See M-1 district for floor areas over 5,000 square feet.)

(Ord. of 12-23-2011)

Sec. 95.188. B-4 office district.

(a) *Statement of intent.* The B-4 district is intended to provide for individual sites, or for planned groupings on single larger sites or on subdivided larger sites, of office buildings and related service uses serving the needs of both the neighborhood and of the larger community area. ETZ Committee approval of the building, site and operational plans of each such building proposal will be necessary to achieve a satisfactory relationship of the office use and its operating characteristics to possible adjacent residential uses, to the arterial highway system, and in some cases to adjacent retail and customer service uses where shared parking is likely and some interchange may occur between these various uses.

(b) *Permitted uses by right* are offices, whether for single- or multiple-tenant use, including business, professional, governmental or other institutional occupancy as well as for medical and dental clinics, subject to approval by the ETZ Committee of building, site and operational plans (see article V of this chapter).

(c) *Permitted accessory uses* are the following, subject to approval by the ETZ Committee of building, site and operational plans (see article V of this chapter):

- (1) Incidental service uses such as product or service display area, warehousing and repair service, customer or employee services, including restaurants, cafeterias, Large group day care centers, studios or instructional areas, provided that these uses are accessory or subordinate to the principal office use by not comprising cumulatively more than 30 percent of the floor area.
- (2) Off-street parking or loading areas. (See article VIII of this chapter.)
- (3) Signs subject to the regulations of article IX of this chapter.
- (4) Any other structure or use normally accessory to the principal permitted uses.

(d) *Permitted uses by conditional grant* are:

- (1) Banks, savings and loans, credit unions and similar financial service facilities having drive-up window service.
- (2) Rental apartments as a secondary use on other than the ground floor level.
- (3) Large group day care centers not accessory to a principal office use.

Sec. 95.189. B-P business park district.

(a) *Statement of intent.* The B-P district is intended to provide space where office, retail and customer service uses may be mixed with industrial uses in a highly landscaped setting free of outside storage or display, where the setting is highly visible to one or more main traffic arteries, all of the uses seek or require such exposure, and all are willing to adhere to a higher standard of architectural and grounds appearance to maximize the benefit of such visibility.

(b) *Permitted Uses.* Permitted uses by right are subject to approval by the ETZ Committee of building, site and operational plans as set forth in Article V of this chapter.

- (1) Any use permitted by right or conditional use in the B-1 through B-4 Districts shall be permitted in the B-P DISTRICT except self-storage facilities and dwellings and rental apartments as a secondary use and further excepting those uses with outside storage or display;
- (2) Uses permitted in M-1 may be considered by conditional grant and such uses may not utilize outside storage or display.

(c) *Permitted accessory uses* are any accessory uses, including signs, permitted in the B-1 through B-4, as well as any others customarily associated with the permitted uses of this district, but excluding those involving outside storage or display, subject to approval by the ETZ Committee of building, site and operational plans under article V of this chapter.

- (1) Self-storage facilities.
- (2) Uses permitted by right in M-1, which agree to a grant for specific time period as provided for under section 95.142(i) in order to allow for site-specific testing of the questionable standard.
- (3) Uses which at the time of zoning permit application are questionable as to compliance with one or more of the performance standards of article IV of this chapter, which agree to a grant for specific time period as provided for under section 95.142(i) in order to allow for site-specific testing of the questionable standard.

(e) *Special regulations.*

- (1) The ETZ Committee shall not approve building plans that do not treat all exterior walls of all structures permitted in this district with acceptable materials that present an equally finished facade to all sides.
- (2) Necessary loading docks and enclosed waste storage awaiting pickup must be especially well treated in terms of site placement and landscape and other suitable screening.

(Ord. of 12-23-2011)

Sec. 95.190. M-1 manufacturing and warehousing district.

(a) *Statement of intent.* The M-1 district is intended to provide for all industrial uses that would not violate the performance standards of article IV of this chapter. In the context of this district, "industrial" is intended to mean those activities that make or add value to goods through various manufacturing processes.

- (1) *Related functions.* This district also provides for warehousing and transportation activities, both as ancillary activities of manufacturing, and as independent facilities and services. Warehousing is also intended to encompass inside or outside storage of raw materials or finished goods, as well as of equipment used on or off the premises.
- (2) *Industrial service functions.* Retail and service functions providing direct service to industry are also permitted, as well as those having extensive outside storage which are not industrial or serving industry but which are also permitted in this district on the basis of visual and functional impact compatibility rather than similarity of use.

(b) *Permitted Uses.* Permitted uses by right are subject to approval by the ETZ Committee of building, site and operational plans as set forth in Article V of this chapter. Subject thereto the following uses are permitted in the M-1 District.

- (1) Bakeries -- commercial for off premises sales.
- (2) Bedding manufacturing.
- (3) Boot and shoe manufacturing.
- (4) Bottling companies.
- (5) Building materials sales and storage.
- (6) Carpet manufacturing.
- (7) Cartage and express facilities.
- (8) Cloth products manufacturing.
- (9) Contractors shops and yards.
- (10) Cosmetic production.
- (11) Dairy products.
- (12) Dwellings for watchmen and their families, located on the premises where they are employed in such capacity.
- (13) Electronic and scientific precision instruments – manufacture and sales.
- (14) Feed and seed sales.
- (15) Garages -- for storage, repair and servicing of motor vehicles.
- (16) General warehousing.
- (17) Glass products.

- (18) Graphite products manufacture.
- (19) Greenhouses -- wholesale.
- (20) Laboratories - research and testing.
- (21) Light machinery production - appliances, business machines, etc.
- (22) Lithographing.
- (23) Manufacturing, assembly, fabrication, and processing operations, including retail materials storage and warehousing.
- (24) Motor freight terminals.
- (25) Musical instruments manufacture.
- (26) Orthopedic and medical appliance manufacture.
- (27) Pottery and ceramics manufacture.
- (28) Printing and publishing.
- (29) Public utility and service uses.
- (30) Restaurants.
- (31) Rope, cord and twine manufacture.
- (32) Signs, as regulated hereunder.
- (33) Sporting goods manufacture.
- (35) Telecommunication towers.
- (36) Warehousing and storage.
- (37) Wearing apparel manufacture.
- (38) Weighing stations, operated by the State of Wisconsin.
- (39) Accessory uses, incidental to, and on the same lot as the principal use.
- (40) Other uses determined by the ETZ Committee to be of the same general character as the uses permitted hereinabove, and not found to be obnoxious, unhealthful, or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust, odors, toxic or noxious matter, glare or heat, or fire or explosive hazards.

(c) *Permitted accessory uses* are, subject to approval by the ETZ Committee of building, site and operational plans under article V of this chapter:

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

(d) *Uses Permitted by Conditional Grant*. Uses permitted by conditional grant are uses that, at the time of the zoning permit application, are questionable as to compliance with one or more of the performance standards of Article IV of this chapter. Such uses include the following:

- (1) Abrasives manufacture.
- (2) Asphalt products manufacture.
- (3) Brick and structural clay products manufacture.
- (4) Chemical processing and manufacturing.
- (5) Concrete mixing plants.
- (6) Electroplating.
- (7) Feed mills.
- (8) Food manufacture, packaging and processing.
- (9) Foundries and forge plants.
- (10) Fur processing
- (11) Grain storage and processing.
- (12) Gypsum manufacture.
- (13) Heavy machinery production.
- (14) Insulating materials manufacture.
- (15) Junk yards and auto graveyards.

- (16) Leather tanning and processing.
- (17) Linoleum manufacturing.
- (18) Machine shop.
- (19) Meat packing.
- (20) Metal reduction and refinement.
- (21) Metal stamping.
- (22) Mining operations.
- (23) Paint products manufacture.
- (24) Paper products manufacture.
- (25) Petroleum products storage and processing.
- (26) Plastics manufacture.
- (27) Rubber processing or manufacture.
- (28) Sewage treatment plants, municipal.
- (29) Soap manufacture.
- (30) Steel manufacture.
- (31) Stone products manufacture.
- (32) Other manufacturing, processing, or storage uses determined by the ETZ Committee to be of the same general character as the uses permitted hereinabove and not found to be obnoxious, unhealthful, or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust, odors, toxic or noxious matter, glare or heat, or fire or explosive hazards.

Sec. 95.191. WPD wetland protection district.

(a) *Statement of intent.* The WPD district is intended to preserve, protect and enhance wetlands, some of which lands under Wis. Stats. § 66.231 must be so protected by state mandate, and others of which are protected as called for in the town plan. (See definition of wetlands in section 95.113.)

(b) *Permitted uses by right* are:

- (1) Agricultural uses, provided they do not involve extensions of cultivated areas, extension of or creation of new drainage systems, and further provided that they do not substantially disturb

or impair the natural fauna, flora, topography, or water regimen.

- (2) Fishing.
- (3) Grazing in dry conditions.
- (4) Hunting if permitted under other town laws.
- (5) Preservation of scenic, historic and scientific areas.
- (6) Public fish hatcheries.
- (7) Public or private parks, where left in a natural, undeveloped, open-space use.
- (8) Sustained yield forestry if conducted under a U.S. Soil Conservation Service management plan.
- (9) Stream, bank and lakeshore protection.
- (10) Water retention and wildlife preserves.

(c) *Permitted accessory uses* are structures accessory to principal uses, not intended for human habitation or the confined housing of animals or livestock.

(d) *Uses permitted by conditional grant.* No conditional uses shall be permitted in this district except:

- (1) Sod farming.
- (2) Utility facilities (except buildings and substations) such as underground watertight conduits, telephone and electric poles, etc., constructed in conformance with Wis. Admin. Code NR § 116.12.
- (3) Public road crossings of the wetland provided other routes have first been studied and discarded, and provided the construction technique and final roadway design used do not permanently impair the overall function of the wetland being crossed. Where some permanent damage appears unavoidable, the ETZ Committee, if satisfied the crossing is in the public interest, may require compensating measures that create at least an equal amount of wetlands nearby or elsewhere, or which preserve an equal or larger area of wetland nearby or elsewhere that is otherwise not protected.

(e) *Special regulations.*

- (1) Where a lot or parcel of land is located partially within this district and partially within an adjoining district having minimum land area or open space requirements to meet the standards of that district as set forth in section 95.174, that portion of the lot or parcel which falls within this district may be counted toward the section 95.174 standard but not to exceed 40 percent of that standard, and provided the physical arrangement of the wetland does not preclude satisfactory positioning of the lot or parcel.

- (2) No private well used to obtain water for human consumption nor soil absorption sewage effluent treatment system or holding tank shall be placed within this district.

Sec. 95.192. PUL public or utility lands.

(a) *Statement of intent.* The PUL district is intended to eliminate the ambiguity of maintaining an unrelated use district for areas that are under public or private utility ownership and where the use for public purpose is anticipated to be permanent. To qualify for this district, land must be owned by the municipal, county, state or federal government or any of their agencies, or by a public utility subject to the jurisdiction of such regulatory bodies as the public service commission or state aeronautics board.

(b) *Permitted uses by right* are the following, subject to approval by the ETZ Committee of building, site and operation plans:

- (1) Public schools, libraries, museums, auditoriums, art galleries, concert halls or similar facility designed to serve the educational or cultural needs of the community.
- (2) Public administrative offices and public service buildings, including fire and police stations.
- (3) Public parks and recreational areas, but not including facilities for organized athletics except as a permitted conditional use.
- (4) Public parking lots.
- (5) Public utility offices, installations, transmission and distribution facilities.
- (6) Airports.

(c) *Permitted accessory uses* are:

- (1) Residential quarters for employees or caretaker.
- (2) Garages for storage of vehicles used in conjunction with the operation of the permitted facility.
- (3) Parking and service areas and structures serving the employees or for the public using the permitted facility per article VIII of this chapter.
- (4) Signs as regulated in article IX of this article.
- (5) Service buildings and facilities normally accessory to the principal use permitted.

(d) *Uses permitted by conditional grant* are:

- (1) Public service yards containing outside storage, or overnight outdoor parking.
- (2) Public parking structures.

- (3) Public penal, reform, disciplinary and mental institutions.
- (4) Public hospitals or sanitariums. (See also OIP district.)
- (5) Military installations.
- (6) Public outdoor recreational facilities for organized athletics.

DIVISION 4. OVERLAY DISTRICTS*

Sec. 95.193. OCR commercial and private recreation overlay district.

(a) *Statement of intent.* The OCR district is intended to provide for both indoor and outdoor nongovernmental recreational uses that exceed the scope of those permitted in association with residential districts, and that involve both commercial operations that do not fit within the commercial districts, such as outdoor drive-in theaters, and private operations, such as membership golf courses. The wide variation in the impact of uses permissible under this district on the surrounding pattern of land use and transportation facilities requires limiting uses by right to existing uses, requiring extensions of such uses, or new operations, to be processed as conditional grants.

(b) *Permitted uses by right* are existing private and commercial recreational uses, including but not limited by enumeration to golf courses, campgrounds, swimming and tennis clubs, athletic fields and stadiums, outdoor theaters, archery and firearm ranges, horse riding stables, etc., including the right to maintain and remodel the improvements involved with such uses; except that remodeling shall not involve a basic expansion of the use and any activity requiring a zoning permit shall require approval by the ETZ Committee of building, site and operational plans per article V of this chapter.

(c) *Permitted accessory uses* are the following, subject to approval by the ETZ Committee of building, site and operational plans per article V of this chapter:

- (1) Off-street parking and loading areas per article VIII of this chapter.
- (2) Signs as regulated in article IX of this chapter.
- (3) Residential quarters for the owner or caretaker.

(d) *Uses permitted by conditional grant* are:

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

Sec. 95.194. OIP institutional and public service overlay district.

(a) *Statement of intent.* The OIP district is intended to permit in those basic districts in which such uses are appropriate, specifically defined areas where churches, schools, libraries, and other uses of a public or institutional nature shall be permitted subject to such regulatory standards as will ensure compatibility with the underlying basic district uses, often residential.

(b) *Permitted uses by right* are the following uses, subject to approval by the ETZ Committee of building, site and operational plans per article V of this chapter:

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

(c) *Permitted accessory uses* are the following, subject to approval by the ETZ Committee of building, site and operational plans per article V of this chapter:

- (1) Off-street parking and loading areas per article VIII of this chapter.
- (2) Signs as regulated by article IX of this article.
- (3) Bar, restaurant or other service facilities accessory to a permitted use, and intended solely for the convenience of members and guests and not operated as a business nor open to the general public. Where such facilities are accessory but are open to the public, they may be permitted as a conditional use.
- (4) Any other structure or use normally incident or accessory to the permitted overlay use.

(d) *Uses permitted by conditional grant* are:

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

Sec. 95.195. OC-1 conservancy overlay district

(a) *Statement of intent.* The OC-1 district is intended to provide adequate natural areas for the drainage of surface and storm waters, and to protect and promote the general health, safety and welfare of the community and to protect natural resource areas containing swamp, wildlife habitat and natural water or drainage courses.

(b) *Permitted uses by right* are the following uses, subject to the approval by the ETZ Committee of building, site and operational plans per article V of this chapter:

- (1) Stream bank protection.
- (2) Hunting, trapping and fishing where not otherwise prohibited.
- (3) Wildlife preserves.
- (4) Public water measurement and water control facilities.
- (5) Fences.
- (6) Other uses which would not impair the natural fauna, flora and water regimen.

(c) *Uses permitted by conditional grant* are, subject to all of the regulations of articles VI and VII of this chapter:

- (1) Roads.
- (2) Bridal & hiking paths.
- (3) Parks or other open recreation areas.
- (4) Accessory structures provided the structures will not be designed for human habitation and will be constructed to offer the minimum encroachment on the resource.

(d) *Other requirements.* Any use allowed in the C-1 Conservancy Overlay District shall meet the regulations of this district and the other articles of the zoning ordinance as determined by the ETZ Committee.

(e) *Warning and disclaimer of liability.* The degrees of flood protection intended to be provided by this ordinance is considered reasonable for normal water or flooding levels. This ordinance does not imply that areas adjacent to district boundaries or uses permitted within such a district will always be free from flooding or water damage. Nor shall this ordinance create a liability on the part of the Village or any official or employee thereof for any flood or water damages that may result from reliance or compliance with this ordinance.

Sec. 95.196. OAH airport height overlay district.

(a) *Statement of intent.* The OAH district is intended to restrict the otherwise permissible height of buildings, structures and landscaping or other natural growth in the path of airport runways regulated by the state aeronautical function within the department of transportation so as to minimize restrictions to the free and safe flight of aircraft taking off or landing upon the runways. This district also restricts certain land uses that act as hazards to aircraft flying at low levels, or that interfere with the navigational aspects of airport operation; and this district may prohibit or discourage land uses which might be adversely affected by airport operations.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Airport owner means that municipal, county, state or private owner or combination which owns an approved airport.

Airport runway affected zone means that area contiguous to the ends of existing or planned runways extending outward five times the length of the existing or planned runway, and extending to one-half mile on either side of said runway corridor.

Approved airport means that existing or proposed airport that has been approved as an airport site by appropriate state and federal aeronautical regulatory agencies, and that has:

- (1) Been included on the state airport system plan.
- (2) Its fee simple title vested in the airport owner.

Height restriction maps means maps prepared as part of the airport development plan that are approved by appropriate state and federal aeronautical regulatory authorities and the ETZ Committee, which maps show allowable heights for obstructions to air traffic within the airport affected runway zone.

Land use restriction maps means maps and text prepared in the airport development plan, which set forth uses to be prohibited or modified within the airport affected runway zone so as to minimize interference with safe flight or navigation of aircraft. These maps and text may also recommend land uses to be prohibited or discouraged by the undue danger or annoyance of aircraft operations, particularly noise.

(c) *Permitted uses by right* are all uses as permitted by the basic and overlay districts lying within this OAH overlay district, subject to the height or land use modifications as may be adopted by the board upon recommendation of the ETZ Committee as an amendment to this district in connection with adoption of any approved airport development plan.

(d) *Permitted accessory uses* are all accessory uses as permitted by the basic and overlay districts lying within this OAH overlay district, subject to the height or land use modifications as may be adopted by the board upon recommendation of the ETZ Committee as an amendment to this district in connection with adoption of any approved airport development plan.

(e) *Uses permitted by conditional grant* are all uses as permitted by basic and overlay districts lying within this OAH overlay district, subject to the height or land use modifications as may be adopted by the board upon recommendation of the ETZ Committee as an amendment to this district in connection with adoption of any approved airport development plan.

(f) *Special regulations:*

- (1) Application of this district shall be by petition of the airport owner, following the procedures set forth under article XIV of this chapter.
- (2) Prior to petition or prior to scheduling of any public hearing on the petition, the airport owner shall cause to be prepared an airport development plan, which provides the information described in subsection (a) of this section, and any related information required by the state aeronautical board responsible for approval of such plans. The ETZ Committee shall be provided with a copy of the plan no later than the owner's filing of the plan with the state.
- (3) Following adoption of the airport development plan in its original or amended form by the board, after positive recommendation of the ETZ Committee, and preparation of specific restrictions to be enforced under the terms of this district, the petition shall proceed to public hearing and consideration for action as set forth in article XIV of this chapter.
- (4) Application of the OAH overlay district to the official zoning map as described in section 95.172 shall implement the restrictions found in the adopted airport development plan as if they were part of this chapter and this district. The zoning administrator may prepare excerpts from the plan to aid the ETZ Committee and owners of affected property to understand the regulations being implemented by this district.
- (5) Amendments to this district once in place shall not be effective until such time as the airport owner has been notified by the town and given a reasonable opportunity to comment upon the proposed amendment.

Sec. 95.197. OWC woodlands conservation district.

(a) *Statement of intent.* The OWC district is intended to protect and enhance the remaining significant woodlands in the ETZ Area in order to preserve one of the important scenic elements of the village's character, to sustain the remaining wildlife that depends upon such woodlands, to help protect steep topography in some cases and to retard soil erosion in other cases, and to retain some natural diversity in the man-affected environment of urban development and farmed rural areas.

- (1) Economic value to be retained. Preservation of the ETZ Area's remaining woodlands is not intended to unfairly penalize the economic value of the properties on which the woodlands occur. Accordingly, this district provides for a variety of techniques that both preserve woodlands while allowing for economic value of land to be realized.
- (2) Variety of preservation methods. Subject to approval by the ETZ Committee of building, site, and operational plans under article V of this chapter, the examples under subsection (e) of this section may be used alone or in combination to retain the ETZ Area's remaining quantity of woodlands while providing the owner with fair economic value.

(b) *Permitted uses by right* are any use as permitted in the basic or overlay districts falling within this district; except that all uses, whether required or not by the other district regulations, if located within this district, shall be subject to approval by the ETZ Committee of building, site and development plans as set forth in article V of this chapter for the purpose of woodlands preservation. Once having established a basic plan to preserve woodlands in an area being subdivided, the ETZ Committee may delegate to the zoning administrator the review of individual plans within each lot to assure conformance with the overall subdivision preservation plan.

(c) *Permitted accessory uses* are any accessory uses as permitted in the basic or overlay district falling within this district, subject to the same requirement for principal uses of subsection (b) of this section that they be processed under article V of this chapter.

(d) *Uses permitted by conditional grant* are any use as permitted by conditional grant in the basic or overlay districts falling within this district; except that the existence of this district shall be weighed as part of the criteria of article VI of this chapter whether or not to grant the petitioned use, and the conditions established under article VI of this chapter may substitute for a separate processing under article V of this chapter.

(e) *Special regulations.* In application of any or all of the following methods of woodlands preservation and enhancement, the ETZ Committee, under its powers of building, site and operational plan review and approval of article V of this chapter, or as appropriate article VI of this chapter, shall always require that covenants be placed upon the deed of the property describing protected areas so that subsequent owners are informed of the tree zone to be protected and managed for preservation. The ETZ Committee may, in consultation with the U.S. Forest Service, U.S. Soil Conservation Service or state department of natural resources, provide tree management guidelines for use by owners with protective covenants.

- (1) *Minimized destruction.* In cases where all or a high percentage of the property is wooded, leaving in the commission's judgment no alternative to some woodland destruction, the ETZ Committee shall seek to limit the destruction to the smallest amount possible by requiring limited construction areas around buildings and other improvements, narrower drives and roadways, and building and road levels that cause the least amount of tree loss from grading.
- (2) *Clustering-repositioning.* In cases where woodlands are in groups mixed with open space, the ETZ Committee shall seek to encourage and allow alternative arrangements of the roadway and subdivision plan, including modification of lot size or shapes and of the location of buildings and parking lots within those lots or within the tract if subdividing is not involved, so as to cause the least destruction of woodlands, for example arranging that the trees fall in required yard areas rather than in the buildable portions of lots. Where necessary, the ETZ Committee shall encourage application of the OPD planned development project overlay district to effect any necessary modifications in lot size, building placement or substitution of other building types to accomplish the tree preservation plan.
- (3) *Replacement.* In cases where in the ETZ Committee's judgment some tree loss is unavoidable, the ETZ Committee shall require replanting on the same or nearby properties as the petitioner is able to arrange. Replanting shall be at the ratio of two acres of new plantings for each acre of lost mature woodlot. The ETZ Committee may prepare tree planting plans in anticipation of such reforestation planting so that isolated tree groups become connected,

bare steep slopes become tree planted, and other objectives of woodland preservation are achieved.

Sec. 95.198. OWP wellhead protection district.

(a) *Statement of intent.* The OWP district is intended to protect from contamination the groundwater recharge zone of the village's existing and planned municipal groundwater wells, which wells supply the potable water to the village's many residential, business, institutional and other utility customers. This district is necessary because the water utility by geological necessity must draw its water from the ground levels lying closest to the surface, which grounds contain soil types that rapidly transmit pollutants, thereby threatening the entire groundwater supply being drawn upon by the municipal wellhead.

- (1) *Supremacy of this district.* The choice of regulation employed via this overlay district is to entirely prohibit certain uses that otherwise may be permitted by basic and other overlay districts falling within the confines of this overlay district. The regulations of this district shall supersede the regulations of all other such districts occupying the same geographic area.
- (2) *Uses prohibited.* The uses prohibited by this district have been identified in geologic surveys as risks for groundwater contamination. This method of regulation by complete prohibition is employed to provide the greatest assurance that inadvertent discharge of pollutants into the groundwater supply will not occur, since groundwater cleanup is often prohibitively expensive, and liability for such cleanup is often hard or impossible to establish.
- (3) *Use list not exhaustive.* The uses prohibited by this district represent the state of present knowledge and most common description of such uses. As other polluting uses are discovered, or other terms of description become necessary, it is the intention to add them to the list of uses prohibited by this district. To screen for such other uses or terms for uses, no use shall be permitted in this district without first submitting its building, site and operational plans for ETZ Committee review and approval under article V of this chapter.
- (4) *Changing technology.* The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by that class of uses, which technology causes the uses as a class to be groundwater pollution risks. As the technology of identified use classes changes to nonrisk materials or methods, upon petition from such a use, and after conferring with expert geological and other opinion, it is the intention to delete from the prohibited list, or allow conditionally, uses that demonstrate convincingly that they no longer pose a pollution hazard.
- (5) *Substitution of hazards prohibited.* In dealing with uses or classes of uses that attempt to become permissible, under the terms of this district, by continuing to utilize pollutant materials but altering their methods of storage or handling, for example transferring materials storage from leak prone but explosion-resistant underground tanks, to leak-resistant but explosion-vulnerable aboveground vessels, it is not the intention to accept such alternate hazards as the basis for making a use permissible. It is the intention to continue the ban on such uses until the technology of the class of uses removes reliance upon the pollutant materials or processes.

(b) *Permitted uses by right.* All uses permitted by underlying basic or other overlay zones are permitted, subject to review of the building, site and operational plans of such uses by the ETZ Committee pursuant to article V of this chapter, whether required or not by the underlying and other overlay districts, except the following uses, which are specifically prohibited by this district:

List of Prohibited Uses

- (1) Animal waste storage areas and facilities.
- (2) Asphalt ingredients storage or processing plants.
- (3) Automobile or truck fuel sales or service stations.
- (4) Cemeteries.
- (5) Chemical storage, sales, processing or manufacturing plants.
- (6) Dry cleaning establishments.
- (7) Electronic circuit manufacture or assembly plants.
- (8) Electroplating operations.
- (9) Exterminating supply, storage or application shops.
- (10) Fertilizer manufacturing or storage operations.
- (11) Foundries and forge plants.
- (12) Garages for repair and servicing of motor vehicles, including body repair, painting or engine rebuilding if not on village sewer and water systems.
- (13) Industrial liquid waste storage areas.
- (14) Junk/recycling yards, motor vehicle salvage yards.
- (15) Landfills, areas for dumping or disposal of garbage, refuse, trash or demolition material.
- (16) Metal reduction and refinement plants.
- (17) Mining operations.
- (18) Motor and machinery service and assembly shops if not on village water and sewer systems.
- (19) On-site soil absorption sewage treatment systems on new lots under 40,000 square feet.
- (20) Paint products manufacturing.
- (21) Petroleum products storage or processing.

- (22) Photography studios, involving the developing of film or pictures.
- (23) Plastics manufacturing.
- (24) Printing and publishing establishments.
- (25) Pulp and paper manufacturing.
- (26) Septage and municipal sewage sludge disposal sites.
- (27) Storage, manufacturing or disposal of toxic or hazardous materials.
- (28) Underground petroleum products storage tanks for industrial, commercial, residential or other uses.

(c) *Permitted accessory uses.* All accessory uses permitted by the underlying basic or other overlay zones are permitted, subject to review of the building, site and operational plans of such uses by the ETZ Committee pursuant to article V of this chapter, whether required or not by the underlying and other overlay districts, except those uses prohibited in subsection (a) of this section, which are hereby prohibited whether judged to be principal or accessory uses.

(d) *Uses permitted by conditional grant.* Any class of uses prohibited by this district may become a use permitted by right, or an individual use within a class potentially may be permitted by conditional grant pursuant to subsection (a)(4) of this section. However, the ETZ Committee shall not favorably recommend to the board a petition to remove a use from the prohibited list of this district, nor favorably process a petition for conditional use status, notwithstanding any of the provisions of article VI of this chapter, without being sure beyond a reasonable doubt that the action will not materially violate the intent of this district, resulting in exposure of the public water supply to pollution.

Sec. 95.199. OME mineral extraction overlay district.

(a) *Statement of intent.* The OME district is intended as the regulatory method for establishing minimal controls for existing operations, and for permitting proposed new operations, involving either removal of earth materials or for filling, the regulations in this district being particularly oriented to assuring safe, nuisance-free operations leading systematically to a restored site having future usefulness, either for agriculture where so basically zoned, or for urban uses where so planned or zoned.

(b) *Permitted uses by right* are the following, subject to approval by the ETZ Committee of building, site and operation plans (see article V of this chapter), new uses involving:

- (1) Quarrying and removal of sand and gravel, including washing, crushing and similar processing, provided that all new excavations shall be at least 200 feet from any right-of-way or property line; and all accessory uses such as office, parking areas, or stockpiles shall be at least 100 feet from right-of-way and property lines.
- (2) Stripping of topsoil.

(3) Mining of minerals.

(c) *Permitted accessory uses* are the following, subject to approval by the ETZ Committee of building, site and operational plans per article V of this chapter:

(1) Office, outside storage of machinery and equipment.

(2) Stockpiling of extracted materials or soil covering material.

(3) Power supply and other such uses normally auxiliary to the permitted uses.

(4) Signs as permitted in the underlying district.

(5) Residential quarters for the guard or caretaker.

(d) *Uses permitted by conditional grant* are:

(1) Existing extractive operations as enumerated under permitted uses by right or existing filling operations may apply for legal conforming status under this section.

(2) New site filling operations greater than can be handled under a developer's agreement under the village's subdivision code.

(e) *Special regulations*:

(1) *Existing operations*. Whether intending to conform to this chapter or to remain legal nonconforming, within 180 days after adoption of this chapter, all such uses shall be required to file with the ETZ Committee data showing:

- a. The present operations, including boundaries of the ownership and of the areas and depths of the actual operation, a full and adequate description of all phases of the operation and the specific mention of type of machinery and equipment that are necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition, shall be made a part of this description.
- b. Any restoration plan for the site that existed prior to the adoption of this ordinance or which occurred subsequent to this ordinance. Such existing operations shall be required to conduct their operations, procedures and their restoration plans in conformance with those minimum requirements existing for said site at the time of the adoption of this ordinance to assure safety, minimization of nuisances, and restoration of the site, provided that such requirements shall not be economically and engineeringly unreasonable with respect to existing conditions.

(2) *Proposed operations operational plan*. Application for rezoning to this district, or for a conditional use under this district, shall augment the data required under articles V, XIV and, where appropriate, article VI of this chapter by supplying at least the following:

- a. A written description of the nature of the proposed operation, including type and amount of machinery and equipment to be used; the source, quantity and disposition of water to be used; and the nature of proposed fill materials, if any.
- b. A map showing existing contours at vertical intervals of at least five feet, plus existing trees.
- c. The depth, by area, of proposed excavations or filling.
- d. Proposed visual screening method, including earth berms, fences, plantings.
- e. Drainage plan during operations.

(3) *Proposed operations restoration plan.* The restoration plan shall include:

- a. Proposed stages of excavation and filling by area.
- b. Estimated timetable for commencement and restoration.
- c. Proposed contours of the land after completion.
- d. General use plan such as proposed roads and lots for future urban development if so zoned or planned.
- e. Depth of restored topsoil and location of proposed planting or reforestation.

(4) Existing and new operations performance guarantees. Guarantees in the form of a surety bond or other such method acceptable to the board and approved by the village attorney, and ETZ Committee upon advice of the village engineer must be included.

- a. The applicant in designing a plan of operation shall give consideration to operating in compact stages to minimize the required amount of performance guarantee in any one guarantee period.
- b. Such guarantees shall be for periods not to exceed two years, with renewals allowable. With each renewal, the town/village engineer shall advise the town on the proper amount of guarantee to cover restoration of operations existing and proposed for the next period.

(5) *Approval of rezoning.* Rezoning to this district, or other actions under this section, shall be premised on concern for:

- a. The effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety and efficiency.
- b. The effect of the proposed operation on drainage and water supply, and the possibility of soil erosion as a result of the proposed operation.
- c. The practical possibility of restoration of the site, in keeping with probable land use after restoration.

Sec. 95.200. OFP floodplain overlay district.

Marathon County has jurisdiction over floodplains in the Town of Weston. Chapter 17.32 of the Marathon County Zoning Code regulates shorelands.

Sec. 95.200.1. OCS County shoreland overlay district.

Marathon County has jurisdiction over shorelands in the Town of Weston. Chapters 17.30 and 17.31 of the Marathon County Zoning Code regulate shorelands.

ARTICLE XII. NONCONFORMING LOTS, BUILDINGS AND USES

(a) *Previously lawful conditions.* Within the districts established and mapped by this chapter or amendments to this chapter, there may exist lots, buildings, structures, or uses of lands or buildings, which were lawful before this chapter or amendments were enacted, but which do not now conform to the regulations in this chapter. As set forth in Wis. Stats. § 62.23(7)(h), such nonconforming conditions may be continued, but may not be extended, repaired or altered beyond the limitations set forth in that statute and as enumerated in this article. It is the intent of this chapter to permit such nonconformities to continue in accordance with Wis. Stats. § 62.23(7)(h) and the provisions under this article, until the nonconformities are removed or corrected by economic forces or otherwise, except that structures that are not buildings may be required to conform if provided for in this chapter.

(b) *Nonprecedent status of nonconformities.* It is not the intent of this chapter to encourage the undue survival of nonconformities since it has been determined that they are incompatible with the character of the district in which they are located. In particular, existing nonconformities shall not be used as the basis for justifying deviations from district regulations on other properties.

Sec. 95.202. Classification and regulation.

For the purpose of equitable administration of Wis. Stats. § 62.23(7)(h), nonconforming conditions are classified and separately regulated as follows:

(1) Nonconforming lots.

- a. Lots of record that are nonconforming (also called "substandard lots") as to the minimum numerical regulations of the district in which they are placed may be built upon so long as the regulations relating to location and minimum sizes of buildings and uses will still be met, and the required open space is not reduced by a ratio more than the ratio which the lot area fails to meet the district regulation for minimum lot size.
- b. Vacant lots in common ownership that do not meet the minimum numerical requirements as to area or width shall not be conveyed separately to others except in conformity with the applicable provisions of the subdivision ordinance. Any such lots that fail to meet the

following minimum criteria shall be denied a zoning permit until the lots are resubdivided to conform, or more nearly conform, to the district requirements:

Area, square feet	5,000
Average width:	
Sewered, feet	50
Unsewered, feet	65
Depth, feet	100
Rear yard, feet	15
Side yard, feet (noncommon wall construction)	5
Setback:	
To building, feet	15
To garage, feet	20
Street access, feet of frontage width	10

- c. Wetland or floodplain lots of record shall not be issued zoning permits that would require destruction of the wetland or invasion of the floodplain unless in conformance with the terms of the WPD and OFP districts or an action by the board of zoning appeals granted in the spirit of those districts.
- d. Buildings on substandard lots, which buildings otherwise conform to all the locational, open space, floor area and parking regulations of the district, shall not be considered nonconforming buildings for purposes of Wis. Stats. § 62.23(7)(h).

(2) Nonconforming use of land.

- a. No such use shall be expanded or enlarged. Expansion or enlargement examples include:
 - 1. Greater primary floor area;
 - 2. Longer hours of operation;
 - 3. More employees;
 - 4. More output of emissions that adversely affects surrounding land uses, such as dust, odor, noise, traffic volume, etc., as listed in article IV of this chapter;
 - 5. More trucking volume per unit of time; and

6. Similar evidences.

- b. Upon petition to and approval of the ETZ Committee, such use may be changed to another use provided the board determines that the new use would result in the same or less degree of nonconformity as the previous use; provided further that if the new use is less nonconforming, such new use shall thereafter determine the degree of legal nonconformity.
- c. Where any such use is discontinued for a period of 12 consecutive or for 18 cumulative months during any three-year period, any future use of the land shall conform to the regulations of the district in which it is located.

(3) *Nonconforming buildings* include buildings that contain too little or too much floor area, buildings that encroach upon floodplains or upon required setbacks and yards and buildings which have too much height.

- a. No such building shall be repaired or altered during its lifetime to an extent, including the cost of floodproofing, that exceeds 50 percent of its full market value at the time it became nonconforming. If such a building is damaged to more than 50 percent of its full market value, it shall be razed unless the reconstruction would bring the building into compliance with the district regulations.
- b. Alterations or extensions allowable within the limits of subsection (3)a. of this section shall not increase the degree of nonconformity, for example, making an extension farther into an inadequate yard, adding more fill to the floodplain, adding floor area to a building that already exceeds the floor to land area ratio, converting more space to primary floor area without increasing already inadequate parking space, etc.
- c. Alterations that tend to reduce the degree of nonconformity, for example enlarging buildings that are too small, reducing buildings that are too large, removing portions which encroach upon floodplains or required yard spaces, may be approved by the ETZ Committee if the board first finds that the alteration makes a substantial reduction in the degree of nonconformity; does not prolong an overall nonconformity that would best be discouraged from survival; and as part of the alteration improves other shortcomings of the building or premises as enumerated in article V of this chapter. Where the board is inclined to make such a finding involving article V of this chapter, it shall condition its approval upon receipt from the ETZ Committee of a favorable recommendation on the alterations as reviewed under article V of this chapter.

(4) Nonconforming use of buildings that may or may not be nonconforming as defined in subsection (3) of this section, but which contain uses which do not conform to the use regulations of the district in which the property is located, for example, an improper commercial use in a building designed for and located within a residence district and otherwise conforming to the district numerical regulations.

- a. No such use shall be expanded or enlarged. Expansion or enlargement of use shall be defined as described in subsection (2)a of this section. Exception: Single-family homes in R-3 zoning (R-3 setbacks must be used).

- b. Structural repairs or alterations to a building containing a nonconforming use shall not, as long as such use continues, exceed 50 percent of the full market value of the building; and if the building is damaged to more than 50 percent of value, the building shall not be restored unless the nonconforming use is removed. Exception: Single-family homes in R-3 zoning.
 - c. Repairs or alterations allowable within the limits of subsection (4)b. shall not increase the degree of nonconformity, for example devoting more floor space to the nonconforming use, changing the appearance and function of the building away from a conforming use or toward the nonconforming use, or other changes such as enumerated in subsection (2)a.
 - d. Alterations that tend to reduce the degree of nonconformity, for example reducing the floor space devoted to a nonconforming use in a mixed use building, may be approved by the ETZ Committee if they first find that the alteration makes a substantial reduction in the degree of nonconformity; does not prolong an overall nonconformity that would best be discouraged from survival; and as part of the alteration improves other shortcomings of the building or premises as enumerated in article V of this chapter. Where the board is inclined to make such a finding involving article V of this chapter, it shall condition its approval upon receipt from the ETZ Committee of a favorable recommendation on the alterations as reviewed under article V of this chapter.
 - e. Upon petition to and approval of the ETZ Committee, such use may be changed to another use provided the board determines that the new use would result in the same or less degree of nonconformity as the present use, and provided further that such new use shall thereafter determine the degree of legal nonconformity.
 - f. Where any such use is discontinued for a period of 12 consecutive or for 18 cumulative months during any three-year period, any future use of the building shall conform to the regulations of the district in which it is located.
- (5) *Nonconforming structures other than buildings* includes signs, fences, lightpoles, buried or aboveground tanks, and similar facilities that do not conform to the regulations of the district in which the property is located, or are accessory to a principal building or use that is nonconforming. Such structures shall not be repaired or altered to an extent exceeding 50 percent of their individual full market value, and if damaged to more than 50 percent of their value shall be removed or replaced with a facility that conforms to the district regulations. Notwithstanding these provisions and in conformance with section 95.201(a), if the district regulations or other sections of this chapter so provide, a nonconforming structure that is not a building may be required to be removed or made to conform before the 50 percent level of repair, alterations or damage has been reached, for example a fence that blocks a vision corner, a lightpole fixture that causes glare to traffic on public streets, a tank that is leaking, etc.

Sec. 95.203. Removal of hazards.

Where, upon complaint to the zoning administrator, any nonconforming building, structure or use shall be found by the board of appeals as a matter of fact to be a detriment to the public health, safety or general welfare, especially as defined by one or more of the performance standards of article

IV of this chapter, the hazardous aspect shall be ordered to be corrected or such aspect to be discontinued within such time as the board may deem reasonable. Upon failure to carry out such order, the village may take such steps as are necessary to remove such hazardous aspect or discontinue such use and assess the cost against the property owner.

Sec. 95.204. Conditional use status.

Subject to the procedures set forth in article VI of this chapter, nonconforming uses of land or of buildings, as classified in this chapter, may petition to achieve conforming status by becoming a use permitted by conditional grant, notwithstanding the use regulations of the district in which the property is located. The ETZ Committee in processing such a petition shall conclude that the existing nonconforming status is very unlikely to become conforming for the foreseeable future, that with the imposition of conditions the most deleterious aspects of the use which make it nonconforming in its circumstances can be largely ameliorated, and that deterioration of the use that may result from imposition of the 50 percent limit on repair or alterations imposed by Wis. Stats. § 62.23(7)(h) over time may cause more damage to adjacent properties or the neighborhood than granting conforming conditional use status.

ARTICLE XIII. BOARD OF ZONING APPEALS*

Sec. 95.205. Establishment and purpose.

There is established a zoning board of appeals as authorized by Wis. Stats. § 62.23(7)(e), for the purpose of hearing appeals from any person aggrieved or from any officer, department, board committee or commission of the village affected by a decision of the zoning administrator or ETZ Committee, provided the appeal is taken within a reasonable time, as provided by the rules of the zoning board of appeals. The board may also decide special exceptions, other than conditional uses, or grant special condition variances from the terms of this chapter.

Sec. 95.206. Membership.

(a) *Size, appointment and removal.* The zoning board of appeals shall consist of five members and two alternates appointed by the village president and approved by the board. The village president shall make his/her nominations at least one month prior to their appointment, or within one month of vacancies. Members may be removed by the village president for cause upon written charges and after public hearing. Cause may include excessive absenteeism.

(b) *Terms of office.* Terms shall be for staggered three-year periods, beginning June 1 of each year.

(c) *Eligibility.* Members shall reside within the village.

(d) *Chairman.* The village president shall designate one of the members as chair annually.

(e) *Alternates*. Two alternate members shall be appointed by the village president for a term of three years each, designating one as first alternate and the other as second alternate. The first alternate shall act only when a regular member is absent or refuses to vote because of personal interest in a matter to be decided. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The provisions of subsection (a) of this section with regard to removal and the filling of vacancies shall apply to such alternates.

(f) *Attendance*. The zoning administrator shall attend all meetings for the purpose of providing technical and secretarial assistance as requested by the board.

(g) *Oaths*. Official oaths shall be taken by all members in accordance with Wis. Stats. § 19.01 within ten days of receiving notice of their appointment, or before their first board meeting.

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

Sec. 95.207. Operation.

(a) *Rules*. The zoning board of appeals shall adopt rules for the conduct of its business, which rules shall be in accordance with the provisions of this chapter and statute. Such rules of operation shall require approval by a majority of the board.

(b) *Meetings*. Meetings shall be held at the call of the chair or at such other times as determined by the board's rules, and shall be open to the public within the provisions of the state open meeting statutes, Wis. Stats. ch. 19, subch. V.

(c) *Minutes*. Minutes of the proceedings and a record of all actions shall be kept by the board, showing the vote or the absence or abstention of each member upon each question, the reasons for the board's determination, and its findings of facts. These records shall be immediately filed in the office of the board and shall be a public record.

(d) *Voting*. The concurring majority vote of members of the board of appeals shall be necessary for all of its actions other than setting its rules of operation. Such votes and discussions between members shall comply with the open meeting law, Wis. Stats. §19.82.

Sec. 95.208. Powers.

(a) *Listed*. The zoning board of appeals shall have the following powers:

(1) *Errors*. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator or by the ETZ Committee.

(2) *Special condition variances*. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship. Such variance shall not be contrary to the public interest and shall be so conditioned that the spirit and purposes of this chapter are observed.

- (3) *Substitutions of conforming uses.* To hear and grant applications for substitution of the same or more restrictive nonconforming uses for existing nonconforming uses as provided for in section 95.202. Whenever the board permits such a substitution, the use may not thereafter be changed without reapplication to the board.
- (4) *Permits.* To reverse, affirm wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue, revoke, or direct the issuance or revocation of a permit.
- (5) *Oaths and testimony.* To administer oaths and compel the attendance of witnesses by the chair or in his absence the vice-chair.
- (6) *Staff assistance.* To request assistance from other village officers, departments, commissions and boards, as well as from non-village agencies such as town, county, regional, state or federal entities, or as its budget allows, from private sources.

(b) *Limitation of powers.* The authorization of special condition variances in subsection (a)(3) shall not have the practical effect of permitting uses that are otherwise prohibited in a district; of granting or denying a conditional use, including the modifications of any of the conditions if granted, which powers are granted by this chapter solely to the ETZ Committee; or of changing the district classification of a property or of amending the textual regulations of this chapter. Furthermore, in exercising its powers to grant special condition variances, the board shall take care to grant only the minimum variation necessary to relieve the practical difficulty or unnecessary hardship it finds, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.

Sec. 95.209. Procedure.

(a) *Appeals.* Appeals to the zoning board of appeals shall be filed in the office of the zoning administrator within 30 days after the date of the decision or order of the zoning administrator or ETZ Committee, which is being appealed. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. Such appeals and application shall include the following:

- (1) Name and address of the appellant or applicant and all abutting and opposite property owners of record as found on the tax roll or assessment records.
- (2) Plat of survey prepared by a registered land surveyor in the state or other map drawn to scale and approved by the zoning administrator, showing all of the information required under this chapter for a zoning permit. Where the aggrieved party filing the appeal is not the applicant for the zoning permit or other decision in dispute, this requirement is waived.
- (3) Grounds claimed for the appeal and any other additional information required by the zoning administrator or zoning board of appeals.
- (4) Fee receipt from the zoning administrator required by section 95.119.

(b) *Requests.* Special condition variance requests shall include items in subsection (a)(1)--(4) of this section, except that the appellant in the case of special condition variance request shall also be very specific under subsection (a)(3) to set forth the facts which purport to show where literal enforcement of the terms of this chapter would result in practical difficulty or unnecessary hardship.

(c) *Stay of proceedings.* An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the zoning board of appeals after the notice of appeal shall have been filed with that office, that by reason of facts stated in the certificate a stay would, in the administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the zoning board of appeals or by a court of record on application, notice to the zoning administrator, and on due cause shown.

Sec. 95.210. Hearing.

The zoning board of appeals shall fix a reasonable time and place for the hearing, giving notice by:

- (1) Publishing class 2 notice in a newspaper of general circulation.
- (2) Mailed notice to parties in interest including the appellant and to abutting owners, including those opposite and fronting on the subject lands across a right-of-way. Such mailed notice shall be postmarked at least ten days before the date of hearing.
- (3) Written notice to the appropriate regional office of the state department of natural resources at least ten days prior to hearings on proposed floodplain and shoreland/wetland variances, special exceptions (conditional uses), appeals for map or text interpretations, and map or text amendments, and submission to the same office of the department of copies of decisions on floodplain and shoreland/wetland variances, special exceptions (conditional uses), appeals for map or text interpretations, and map or text amendments within ten days after they are granted or denied. Floodplain map and text amendments shall not become effective until reviewed and approved by the state department of natural resources.

Sec. 95.211. Standards and findings.

Pursuant to Wis. Stats. § 66.23(7)(e)1., wherein the creation of a zoning board of appeals by ordinance may include establishing appropriate conditions, safeguards, and general or specific rules to guide the board, the following standards, in addition to the limitation of powers of section 95.208, are imposed to provide the board with direction consonant with this chapter in the conduct of the board's powers; and the board in each case in granting a petition shall first render findings that satisfy itself that all of the following facts and conditions exist and the board shall so indicate in its minutes:

- (1) *Physical conditions v. convenience.* That there are present actual physical conditions applying to the lot, parcel, building, structure, use or intended use on that premises that are creating the practical difficulty or unnecessary hardship in the application of this chapter, as distinguished from a mere inconvenience to the owner if the strict letter of the regulations are required.

- (2) *Unique versus general conditions.* That the conditions of subsection (1) of this section are unique, exceptional, extraordinary or unusual circumstances applying only or primarily to the property under appeal and are not of such a general or recurrent nature elsewhere in the same zoning district as to suggest or establish the basis for changes or amendments to this chapter, or of having that effect if relied upon as the basis for granting an appeal.
- (3) *Absence of precedent.* That in granting an appeal, there will not be created a general precedent that encourages the filing of similar appeals to take advantage of the precedent without the existence of properly qualifying conditions.
- (4) *Absence of detriment.* That in granting an appeal there will not be created initial detriment to the subject, adjacent, or neighborhood properties or to the general public interest. (See section 95.218(b) 1 for public interest criteria.)
- (5) *Conditions not created by appellant.* That the alleged conditions of subsection (1) of this section creating the difficulty or hardship were not caused by the appellant nor by any person still having an interest in the property.
- (6) The purpose of the variance is not based exclusively upon a desire to make more money out of the property.
- (7) The alleged difficulty or hardship is caused by this ordinance and has not been created by any persons presently having an interest in the property;
- (8) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- (9) The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- (10) The zoning board of appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

Sec. 95.211.1 Authorized Variances.

Variances from the regulations of this ordinance shall be granted by the zoning board of appeals only in accordance with the standards established in Section 95.210, above, and may be granted only in the following instances and in no others:

- (1) To permit any yard or setback less than a yard or a setback required by the applicable regulations.
- (2) To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than 80 percent of the required area and width.

- (3) To permit the same off-street parking facility to qualify as required facilities for two or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.
- (4) To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading space, or 20 percent of the applicable regulations, whichever number is greater.
- (5) To increase by not more than 25 percent the maximum distance that required parking spaces are permitted to be located from the use served.
- (6) To increase by not more than 10 percent the maximum gross floor area of any use so limited by the applicable regulations.
- (7) To permit a reasonable variation in the height restrictions on fences.
- (8) To permit the height of a building or structure to be greater than the maximum heights required by the applicable regulations.
- (9) To permit variations from the density requirements of the applicable regulations.
- (10) To permit the floor area of a building or structure to be less than the minimum required by the applicable regulations.

The concurring vote of a majority of the zoning board of appeals shall be necessary to grant a variance. No order of the zoning board of appeals granting a variance shall be valid for a period longer than six (6) months from the date of such order unless the building permit is obtained within such period and the erection or alteration of the building is started or the use is commenced within such period.

Sec. 95.212. Decision.

(a) *Time of decision.* The zoning board of appeals shall decide all appeals and applications within 15 days after the final hearing and shall transmit a signed copy of the board's decision to the appellant or applicant and the zoning administrator.

(b) *Conditions.* Conditions may be placed upon any zoning permit ordered or authorized by this board.

(c) *Expiration of permits.* Permits granted by the board shall expire within six months unless substantial work has commenced pursuant to such grant.

Sec. 95.213. Review by court of record.

Any person aggrieved by any decision of the zoning board of appeals may present to the court of record a petition, duly verified, appealing such decision as provided for in Wis. Stats. § 62.23(7)(e)10. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the board. Filing shall consist of the completion of the transcription of the minutes of the meeting

wherein the board decision being appealed from was finally made, the accuracy of the transcription to be first reviewed by the zoning administrator.